



**THE NEW DEVELOPMENTS OF THE VIETNAM LEGISLATION SYSTEM
SINCE 2005 UP TO NOW**

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The Politburo of the Vietnam Communist Party promulgated Resolution No. 48-NQ/TW dated May 24, 2005 on the Strategy for building and improving Vietnam legislation system to 2010 and with the view to 2020 (here after called Resolution No.48-NQ/TW). First time Viet Nam has a long term strategy with rather basic steps and solutions for building up and executing legislation in Viet Nam. Together with Resolution No.49 dated June 2nd, 2005 on Strategy of Justice reform to 2020, Administrative reform Program 2001- 2010, first time the solutions on legislation building and organizing law execution and resources(human, financial, information etc.) have been deposited in the one whole complex with reasonable steps and road map . Although there is not an official conclusion on the promotion of the Resolution No. 48-NQ/TW but after 4 years coming to life the Resolution affirmed its position, important role as well as active impacts with revolutionary and strategy character and creates practical strong movement on activities building up and improving legislation system of Viet Nam.

First of all it has to talk about the innovation in thinking and the way of working out schedule, plan for building up legislation of the National Assembly and Government. In the last 4 years(since May 2005 to June 2005), The National Assembly of Viet Nam issued the Program of building legislation, Ordinance of Session XII of NA for the period 2007- 20110, 4 Programs of legislation building and yearly Ordinance of NA, Permanent Committee of NA. Government also issued yearly plan on legislation building. Accordingly, 96 legal documents, ordinances, hundreds of Circulars guiding execution of laws, ordinance have been promulgated (1). If compared to totally 7 laws, 133 acts, 151 ordinances promulgated within 20 years of Innovation (1986- 2005) these are significant numbers about quantity and speed of legislation worked out. But more important , it is a basic innovation in optioning the documentations to be worked out to be inserted to the program of legislation building up for 5 year period and every year period of N.A. and Government. The Law on promulgating the legal normative acts in 2008 has created breakthrough innovation to overcome the administrative , formality character



of proposed activities, “ writing in the name” in process of legislation working out, changed the process of setting up schedule, legislation and regulation planning to a process having high scientific- practical character . The proposals for working out legislation must be discussed, explained clearly with the view on policy, the legislation needs and solutions and considered based on forecast of economic and social impacts to secure the feasibility of the proposals if accepted to insert to program or plan. Other wide the Law also creates the mechanism for reasonable adjustment of program, assures the practical efficiency of the legislation building activities in conformity with the needs of practice. Therefore, although there are still some problems and limitations in the proposals bud the ratio of fulfilling program schedule during competence period and in every year continuously increased.

The simplifying formality and changing the process of legislation working out and promulgating the legal normative acts is the next important success of the innovative legislation setting up thinking in accordance with Resolution No.48/NQ-TW. According to the Law on promulgating the legal normative acts 2008, the competence and formality of promulgation of legal normative acts have been simplified, each agency belonging to the central system of execution and justice has the right to promulgate only one (instead of 2 or 3 previously) form of legal normative acts. The process of building and promulgating the legal normative acts has basic reform, for example : the evaluation and forecast of social- economic impacts of the acts are conducted in both proposal stage (for building up laws, ordinances, circulars) and stage of working out these acts; the democracy, public and transparent character of legislation activities have been improved by attracting participation of people in stages of acts’ working out, assessment, investigation, approval in the same time by regulating the explaining responsibility of the authorized organ as well as accepting the feat back , opponent of agencies, organizations and individuals; by applying the a technical method “ based on one act to correct various acts” in order to increase effectiveness, combination, unification of legal system etc. In practice the work of working out legal normative acts step by step has been standardized by process, procedure; the setting up Board for drafting acts, process of drafting firstly meet the requirement of democracy, mobilizing the knowledge of experts, enterprises, people; procedure of checking and approval has been shorted; quality and time schedule have been improved.

However, the process of legislation still have various limitations. The promotion of Law on promulgating legal normative acts 2008 requires innovative thinking, doing of mass amateur people taking part in braches, various levels therefore it can not terminate soon.



More over, the conditions on financial, information infrastructure for soon conducting new regulations such as evaluation of social- economic impacts forecast, consultation with public are also big challengers. So, based on practice conducting laws on promulgating legal normative acts, there is a need to study to implement a direction stated in Resolution No.48/NQ-TW for period after 2010, that is to unify Law on promulgating legal normative acts 2008 and Law on promulgating legal normative acts of People Council and People Committee in 2005 to the only one law for the purpose of creating a common standard for process of building up acts, securing effectiveness in legislation and unification, complex of the national legal system.

Concerning content, the legal acts promulgated for the last 4 years focused on 6 directions stated in the Strategy on building and improving legal system reflecting new thinking of legislation to assure balance and complex development among economic, political, social, environment conditions and human right protection in conformity of requirement on stable development of country. The system of legal normative acts previously promulgated together with legal execution process have positively impacted on diversified development of economic- social life of country, on time serving the need of building up the socialist legal right state, industrialization, modernization, economic integration, protection of the legal right of citizens. There are examples in few main fields:

+ To improve market economy institution directed forwards to socialism : in 2006 Viet Nam has been recognized as an official member of WTO and recently ASEAN countries accepted market economy status of Viet Nam. Getting the above stated success in the pass time Viet Nam has had to make big effort in promulgating a lot of legal acts to create the legal safety corridor for developing market -economy in line with the international requirements. Together with legal acts promulgated in the pass period (for example Cooperative Law in 2003, Law on state enterprises 2003, Construction Law 2003, Land Law 2003, Bankrupt Law 2004, Competition Law 2004, Ordinance on anti-dumping 2004, Ordinance on anti-subsidize 2004 etc), for the last 4 years the NA has promulgated series of important acts , for example : Civil Law 2005, Commercial Law 2005, Enterprise Law 2005, Security market Law 2006, Individual income Law 2007, Product and Goods quality Law 2007, SCT Law (amended) 2008, VAT Law (amended) 2008, Enterprise Income Tax Law (amended) 2008 etc. and execution guiding acts created important legal framework for operation of market economy which is being established and developed in Viet Nam and step by step making clearly regime and various forms of ownership, legal post of enterprises, free business right, mechanism for



competition against monopolization, mechanism encouraging investment and securing investment, gradual decreasing government intervention by administrative measures to the civil economic, commercial relationship, releasing the bidings in production and business activities, healthy development of security, real state, labor etc. market.

It is necessary to talk about that the efforts made by Viet Nam in creating legal corridor flexible and safety in economic field have contributed mostly in process of executing, developing social-economy of Viet Nam, especially in current global economic crises. “ The US and global economy and finance face many changes at beginning of this year, therefore many countries are strongly influenced by increasing inflation. However Viet Nam overcame difficulties by successful manage of inflation, stabilized macro economy, secured social safety life and strengthened growth, created a clear and equal environment for investors”. That was the judge of ASEAN Financial Ministers in unofficial meeting in Dubai and Investment promotion Conference with the title “ A dynamic ASEAN – partners for stable growth” organized in occasion of the yearly conference of IMF/WB in 2008.

In order to create stable and solid development of economy in the forthcoming time Viet Nam will give priority for improvement of market economy institution directed toward to socialism, especially for creation of legal mechanism for equal development of all economic sectors, forms of enterprise, business professions, building and executing standards in trade competition, stability of development etc.

+ In the field of human right protection. Viet Nam pays attention to observe common standards of jurisdiction state and protection of freedom, democracy right of citizens. After issuing Newspaper Law 1999, Publication Law 2004 the newspaper and publication agencies have got new development by both printing products and quality. Two way communication from citizens to competent agencies and from state to citizen has been improved. Various pressing issues of society have been on time exchanged and solved for shorter period of time. Amended and added Law of Law on National Assembly election 2001, Law on People council election 2003, amended and added ordinance of Democracy Ordinance in commune, ward and town 2007 etc. regulated more clear the political right of citizens, securing their freedom and democracy right in election and participation in state duty by the way of making clear state role, the role of social political organizations, role of local community, which matter better done by social associations and community that let them to do, the state will organize, support finance, human resource, experience etc. only. Law on marriage and family 2000, Law on children



protection, care and education 2004, Civil law 2005, Law on sex equality 2006, Law on prevention and protection of family forcing 2007, Ordinance on religion 2004, amended and added ordinance of ordinance on incentives for individuals devoted to state 2007 etc. prove very clearly social, religion, family policy of state and party of Viet Nam in mobilizing positive tradition value of Vietnamese family, promoting the movement of children's care, education and protection by the whole society, to help children living in safety, healthy environment, developing in harmony of body, intelligence and moral; old people care, especially single ones, invalid family care, orange agent infected people care; care of children without family; observe and protect the religion right of citizens, realize the national solidarity policy etc.

+ *To improve institution on state apparatus*, to set up a progressive, modern, capable and efficient state management, respect human right, administrative reform with thinking of state management serving people, state of people, by people and for people in order to change the way of thinking, doing of part of carders who want to make people difficult, to allocate people in order to enjoy their payment. The promulgation and conduct of Law on National Assembly organization 2002 (amended 2007), Laws on organization of government, of people's court, of people's procuracy 2002, Laws on organization of people's council, people's committee 2003, Law on carders and public servants 2008, amended and added law of the Law on prevention of and fighting with corruption 2007 etc and their guiding acts have contributed to improve the state apparatus in line with thinking of building a socialist jurisdiction state mentioned in Administrative reform program, Strategy for improvement of legal system and Strategy of justice reform.

The target of the next period is to issue acts to create new picture of a jurisdiction state, modern administration and justice, for example to study, amend the laws on state apparatus, law on administrative procedure, and law on prevention of and fighting with corruption, to clean state apparatus.

+ In the field of culture, education, training, science, technology, human resource development, social equality etc. Viet Nam also promulgated many import acts. Promulgating Education Law 2005, amended and added law of the Labor Law 2007, Law on expatriated Vietnamese 2006, Law on job's training 2006 etc. contributed to increasing education quality, innovation of organization structure, management mechanism, lecture content and pedagogic method, basic change of job training quality, accessing to progressive level of the region and the world; conduct socialization of education, mobilize social resource and intelligence for education, encourage diversified and flexible



job training such as non state job training, job training in enterprises or in trade village etc. Promulgating High Tech Law 2008, Law on diversified biology 2008, Law on Technology transfer 2006, Law on Information technology 2006, Law on Intellectual property right 2005 etc. targeted on development of natural science, technology science, focusing on application, especially where Viet Nam has demand and advantage, mean while to set up policy attracting multinational corporations to invest or to transfer new technology to Vietnamese enterprises; focusing in import of modern technology; gradually develop local technology, develop system of national information on human resource and technology.

State encourages innovative activity, improvement and application of new technology by policies supporting development, recognizing and protecting IPR. Besides, policies on social progress and equality, building diversified system of social safety life, development social insurance, medical insurance, forward to medical insurance for all people etc. also step by step have been improving through promulgating Law on sex equality 2006, Law on social insurance 2006 etc.

+ In the fields of national defence, security and foreign relation, Viet Nam also issued various acts to show its independence, sovereignty and international integration determination. Law on national border 2003, Law on National security 2004 etc. have standardized requirement of border and territory protection and national security. Law on legal assistance 2007, Law on signing to joint and conduct international treaties 2005 contribute to realizing independence foreign policy, self-control, peace, cooperation and development; open foreign policy, multilateral, diversified international relation. Viet Nam is friend, confidential partner of countries in international community. Actively takes part in international and regional cooperation.

First steps of active changes in organizing execution of legal system in accordance with Resolution No.48/NQ-TW are recognized. According to plan No. 900/2007/UBTVQH11 and conducting Resolution No.48/NQ-TW, Government and N.A. pointed out the tasks and road map for relating organs in enforcement of capability of institutions building and executing Laws.

Capability of N.A., Permanent Committee of N.A, National Council, other committee of N.A., and assistance apparatus of N.A. are paid big attention. Center of assistance for deputies and other functional organs of N.A. worked out many programs for assistance to use policies, legislation for deputies of N.A. and People's Council. The Institute for legislation belonging to the N.A. Permanent Committee which has been established in



2008 is a important institution contributing to legislation and improvement of strategic directions on creating legal system and democratic environment for effective mobilizing intelligence and attention of society to legislation activities of N.A.

Content and road map of improvement of capability of institutions organizing execution of Laws belonging to justice and execution branches, have been conducted in accordance with the general Program of Administrative Reform 2nd stage (2006-2010) and Strategy for Justice Reform to 2020. Conclusion of 3 year implementation of Resolution No.48 of Politburo made by The Committee for guiding justice reform confirmed that there is active movement in understanding of society and of party leadership, organization, carders and public servants on post and role of justice agencies in developing social – economy, in building a socialist jurisdiction state, in preventing and fighting with legal violation, criminal, protecting legal right and benefit of citizens, protecting justice(with special topic). In order to conduct better function organizing legal execution in the whole country, Government has ordered Ministry of Justice to help Government to manage legal execution with the task to generally monitor legal execution and ask ministries, branches and local authorities to follow the legal execution and periodically report to Government, point out measures to increase the effectiveness of legal execution. Currently Ministry of Justice is preparing Proposal on monitoring legal execution to submit to Government to create the base for effective promotion of this task in 2009 and coming years.

Development of information system and education on legislation, improvement of accessing state legal system by people are considered as frequent and continuous task of Government. In the previous time Ministry of justice and party, branch, central agencies of social- political organizations have actively promoted information, education activities of legislation in conformity with 5 year Program and yearly plan of Government and in line with content and time schedule of Strategy on building and improving legal system in accordance with Resolution 48. It contributed to promotion of legal execution thinking of carders and people. The number of lawyers strongly increased to 5000 persons acting in 62 bar associations in the whole country. The 1st congress of deputies of lawyers has been hold with the coming out of the Lawyers' Association of Viet Nam which is mile stone in the road to integration and development of Vietnamese lawyers. Together with Planning system for legal assistance approved by Government the lawyers and their associates are confident support of Government and people in intensifying access of people to legal system.



Development of HR doing legislation is one of central tasks of strategy in legal and justice fields. Proposal on changing the Hanoi Law university to be central University to teach legal carders and proposal on Building up the Justice Institute to be big center of educating justice titles has been done and submitted to Government. Besides educating profession, these bases have to pay attention to educate professional moral for students to meet requirements of building a socialist jurisdiction state . Ministry of Justice also submitted to Government the Proposal on organizing system of legal middle schools in the whole country to meet the demand of legal carders in local levels.

As stated above Viet Nam has been taking part and participates in international institutions such as WTO,APEC, ASEAN etc. Accordingly, the requirement of integration does not allow Viet Nam to delay the building and promulgating legal institutions in harmonize with international institutions. Therefore the urgent task of improving capability of carders working for signing, assessing and conducting international treaties, consulting international laws and solving international disputes is a need of not only State bud also enterprise community, business and bar association, lawyers etc. Government is mobilizing sources to support finance, experience, skill of legal and justice professional organizations in Viet Nam and out side to enlarge the cooperation in the field of legal education and justice titles education. The international integration program for lawyers has been organized in several market economy countries. Study of suitable policy for attracting foreign legal and justice experts to take part in process educating laws and justice titles has been pointed out as well.

Besides the above stated successes, after 4 year implementation of Resolution No.48, practice showed that the legal system and implementation of laws still have many pressing issues compared to demand of country's development. Stepping to new ten years of country's development , in the context of global crises there is a need to have middle term report in order to fully evaluate the process and efficiency of promotion of Strategy on building and improving legal system based on practice and then point out proposals and petitions to identify the directions of building and improving legal system of Viet Nam in the period 2011- 2020 stated in Resolution No.48/NQ-TW and to assure to insert the strategic targets, contents of improvement of legislation and socialist jurisdiction state in to Strategy of social- economic development in the period 2011-2020.

