



**CRIMINAL JUSTICE REFORM IN VIET NAM.
ACHIEVEMENT AND LESSON.**

**Nguyen Thi Thuy, Ma.
Institute of Supervisor Science.
Supreme People's Procuracy**

Target of criminal justice is to improve effect and efficiency of fight against and prevention of crime meanwhile to observe and assure full human right in criminal procedural activities, securing full conduct of international treaties which Viet Nam participated in as a member country relating to crime fight and prevention. In the pass years the criminal justice in Viet Nam needed to be strongly reformed in the fields of justice procedural procedure, criminal justice apparatus organization, improvement of quality, level and responsibility of justice carders as well as issues relating to justice assistance etc. in order to meet this requirement, the justice reform in general and criminal justice reform in particular in Viet Nam has been conducting persistently, continuously with high determination and achieved significant results, contributing to the target of building a socialist jurisdiction state in Viet Nam, persuading procedural agencies to find out and dispose crime and assure human right better and better in criminal procedural. Especially, by conducting Resolution No.08-NQ/TW dated January 2nd 2002 of Politburo and Resolution No. 49/ NQ-TW dated June 2nd 2005 on Strategy on justice reform to 2020. In conformity with such long time strategy, by conducting general reform steps and solutions for justice system, the criminal justice reform process in Viet Nam has strong evolution.

Firstly, human right and democracy character in criminal procedural activities gradually increase.

One of the targets of criminal justice reform pointed out and conducted by Viet Nam Communist Party and State of Viet Nam is to secure more democratic character in criminal procedural activities to protect legal right and benefit of citizens.

Being a process discovering, investigating, prosecuting, judging crime the criminal procedural has to play the role of sharp, powerfull tool for State and society in the fight against, prevention of crime to secure social order and security. However this target is not to be reached by any price. In order to meet the target, the agency and individuals



authorized by state to conduct procedural activities have to follow a tight criminal procedural order and procedure to assure discovering and disposing precisely, on time, strictly criminal person but not wrongfully for innocent, absolutely respect the right of suspected one.

Principle of securing the right of wrongful person to be compensated and his honor recovered by the agency doing wrongly has been added to the Criminal procedural Law 2003 in article 29 and 30. The Permanent Committee of NA promulgated Resolution 388/2003/NQ-UBTVQH dated March 17,2003 to identify order, procedure, form, responsibility of compensation made by agency doing wrongly and by individual conducting wrongly criminal procedural as well as regulated measures to recover legal right of wrongful suspected person. Updating to June 18, 2009, NA of Viet Nam approved Law on compensation, responsibility of state replacing previous acts. Practice showed that there is active evolution in understanding and acting of agencies and individuals doing criminal procedural, the number of wrongful cases is basically reducing, the legal right of prisoners, arrestee, accused persons is protected in practice.

More strictly to regulate the conditions applying preventive measures, to uphold effectiveness of “prevention” measures, to replay measures “temporary arrest”, to limit application of measure “arrest” and “temporary arrest”, to increase responsibility of competence organization in applying prevention measure, especially responsibility “to ratify” of Procuracy is an important result in criminal justice reform. Accordingly, the Criminal procedural Law 2003 eliminates competence “to issue order to arrest arrestee, accused person” made by deputy of head of district police. Judge who is chairman of court must be of province level and above. To increase responsibility of Procuracy in ratifying the order to “urgently arrest” through adding regulation “Procuracy has the right to meet directly arrested person in order to make decision to ratify or not ratify the order “to urgently arrest” during 12 hours from receiving proposal on ratification including attached documentation relating to urgent arrest. To short period of time of agency having competence to send decision “temporary arrest” to Procuracy from 24 down to 12 hours from issuing decision. To regulate clearly principle “do not arrest temporarily” toward persons falling in special conditions such as old people, pregnancy woman etc. except the cases relating to national security.

The Criminal Procedural Law 2003 added principle “activities of criminal procedural must be strictly controlled by state and society”. There is also a separated part regulating claim, accuse activities in crime procedural. These amendments and adds



show the target of government to assure democracy in crime procedural activities and protection of legal right and benefit of citizens.

Secondly, reform of criminal justice contributed to bring up the position and role of defender.

In the last ten years Viet Nam has paid attention to strengthen the role of defenders to assure equality among accuse - defender – judge. This regulation is important measure to secure the legal right of temporary prisoner, arrestee, accused person. Participation of defender in process of solving lawsuit is an important channel of society to monitor conducting state power from public side.

According to Criminal Procedural Law 2003 and Law on lawyer 2006 defender can take part in procedural process sooner and has 10 rights : 1/To participate in questioning process. 2/ To ask investigation agency about timing a location for questioning . 3/To propose to change participants in questioning. 4/ To collect information and evidence relating to defence. 5/ To show material, objects, request 6/ To meet temporary prisoner, arrestee, accused person . 7/ To read, write down, copy material after investigation. 8/ To ask, discuss in court .9/ To claim 10/ To refuse decision of the court if accused person is teenage etc.

In the same time the Law also regulates sanctions applied to agency, individual conducting procedural in case of violation of defender's right.

Thirdly, competence of agency conducting procedural in various level is allocated reasonably

In Viet Nam the concept thinking of reallocation of procedural competence has came out 50 years ago. In sixty years of last century district court could judge lawsuit with punishment 2 years in prison, after that increased up to 5 years and then 7 years(1998) The Law on criminal procedural 2003 has broken out by increasing judge competence of district court. Investigation, prosecution , judge must be done in district level, hearing an appeal must be conducted in province level. Supreme court must do reconsidering, conclusion, guidance of judgment only. Article 170 of Criminal procedural Law eliminates some crimes having highest punishment under 15 year in prison but still in competence of courts of province level and military zone level.

District people's court can judge 84% punishment framework (in 1988 it was 51,2% only). Courts of province and military zone level can judge 16% only(49,6% in 1988). Allocation of higher competence to district level has been evaluated positively.



Report No. 01/ BC/CCTP dated 18 February 2008 of the Board for guiding Justice reform showed that most of lawsuit has been judged on time.

Fourthly , activities of judging criminal lawsuits have been improved, time and procedure for procedural and have been shorted significantly.

One important requirement of justice reform is to speed up criminal lawsuit and meet principles “ on time”, “precise” and “ economic “. In order to standardize these matters Law on criminal procedural 2003 has amended and added some contents for example : To short period of time in investigation, prosecution , judge.To reduce period of “ temporary prison” for the case violating national security. To add timing for procedural etc.

Fifthly, the responsibility of Procuracy in solving criminal case by conducting state function of prosecutor’s supervision and oversee for justice activities is increasing.

In other country prosecution agency does not involve in investigation. In Viet Nam, according to Criminal Law 2003, in process of investigation Procuracy conducts two functions : state procurator’s supervision and oversee legal conformity in criminal investigation activities. Therefore, The Law adds stronger competence to Procuracy. For the forthcoming time in order to realize Justice reform it is necessary to improve the Law by adding direction so that Procuracy by itself can involve in investigation more actively.

Sixthly, Justice reform creates concrete procedural procedures in international cooperation in the fight against and prevention of crime and being important legal base for Viet Nam to fully conduct bilateral and multilateral treaties on criminal justice.

Viet Nam has been taking part fully in international institutions such as WTO,APEC, ASEAN etc and signing international treaties , including fight against crime. The urgent issue is to build up capacity of justice carders to meet requirements on criminal justice assistance, promulgating local acts on competence, order, procedure etc. to cooperate with foreign partners. Criminal Law 2003 and Justice interdependent Law 2007 regulate rather enough principles, competence, order to realize justice interdependent. Practice of international cooperation in previous time showed that there was closed and effective cooperation between Viet Nam and foreign partners in fight against and prevention of crime.



Besides the above stated successes there are still issues to be solved compared to the needs of country to develop. Conducting Strategy on justice reform to 2020, Viet Nam is working out various proposals on justice innovation, justice HRD, justice infrastructure development etc. Especially proposal named “Model of criminal Procedural in Viet Nam” is under study.

Target of Proposal “ Model of Criminal Procedural in Viet Nam” is to evaluate current criminal procedural model applied . Based feet back and petitions the new model will be proposed to apply after 2010. The Model must avoid current basic obstacle, assure to force criminal procedural agencies to increase efficiency, effect of criminal procedural activities to secure better human right in criminal procedural.