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Criteria for Evaluating the Effectiveness of Law Implementation by Citizens in Vietnam Today

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Abstract

The effectiveness of law implementation by citizens serves as a metric reflecting the strictness of the legal system and the level of social legal culture. This article focuses on analyzing theory and practice to construct a set of criteria for evaluating the effectiveness of law compliance by Vietnamese citizens in the context of building a Rule-of-

Law State. On that basis, the author outlines the effectiveness of law implementation in Vietnam while proposing the concept, requirements, and content of criteria for evaluating the effectiveness of law implementation by citizens in Vietnam today.

Keywords: Law implementation, Evaluation Criteria, Effectiveness, Citizens, Vietnam

1. Introduction

In the process of building and perfecting the Socialist Rule-of-Law State of Vietnam, the requirement for the supremacy of law is always placed at the center. The Vietnamese legal system in recent times has made significant strides in both the quantity and quality of normative legal documents. However, the practical value of the law lies not in the documents on paper, but is realized through the behavior of law implementation by subjects, particularly citizens.

Reality shows that the gap between legal regulations and social life remains a major challenge. Current law implementation effectiveness is often evaluated based on inconsistent criteria and fragmented statistical data; there is a lack of a scientific, unified, and comprehensive system of criteria to measure the degree of change in the legal behavior and consciousness of citizens. This leads to limitations in policy formulation and the organization of law enforcement.

Stemming from that urgent requirement, the article focuses on clarifying theoretical connotations, thereby establishing specific criteria to evaluate the effectiveness of law implementation by citizens, serving as a basis for proposing solutions to improve the effectiveness of state management in Vietnam in the current period.

2. Overview of the effectiveness of law implementation in Vietnam

2.1 Concept and forms of law implementation

Law implementation is viewed as a conscious, intentional process of activity by legal subjects to bring legal norms into life, turning them into actual activities. In this process, organizations and individuals (legal subjects), when encountering factual situations anticipated by the law, based on their perception, creatively transform those general rules of conduct into specific situations of life through their actual lawful behavior. In other words, the demands, prohibitions, or permissions of the law regarding organizations and individuals are manifested into actual acts of exercising rights and performing obligations of legal subjects.

Law implementation is considered a form for the State to perform its functions and duties, to manage and protect society; for other organizations or individuals, it is the exercise of their rights, freedoms, or legal obligations as prescribed by law. Therefore, law implementation is a rational and volitional activity process of legal subjects making legal regulations enter life to achieve certain goals for the benefit of each member as well as the entire social community.

Law implementation is conducted through 04 forms: Observance of law, Execution of law, Use of law, and Application of law. Each type of legal subject has a different method of law implementation:

For individuals and organizations without state authority, law implementation takes forms such as observance, execution, and use of law.

For state agencies and persons with positional authority, law implementation takes the form of application of law.

It can be said that there is always an interlacing, encompassing, and close connection between the forms of law implementation; they are not isolated from one another. Subjects typically must simultaneously implement legal regulations under various forms, because failing to implement one legal regulation may make it impossible to implement others. For example: to implement substantive law regulations, one cannot fail to implement procedural law regulations; to accurately apply the provisions of the Penal Code, one must proceed on the basis of the provisions of the Criminal Procedure Code...

Therefore, when constructing criteria to evaluate the effectiveness of law implementation by citizens, this thematic study primarily evaluates 03 forms of law implementation: Observance of law, Execution of law, and Use of law. These forms of law implementation by citizens are understood as follows:

Observance of law: This is the form in which legal subjects implement prohibitory legal norms through inaction. In other words, organizations and individuals restrain themselves and do not do what the law forbids. Prohibitory legal norms and protective legal norms (requiring subjects not to conduct certain activities) are implemented in this form. This is a passive form of law implementation.

Example: Clause 3, Article 26 of the 2013 Constitution stipulates: "Discrimination based on gender is strictly prohibited." Organizations and individuals implement this regulation by not conducting any action aimed at gender discrimination. Similarly, Clause 2, Article 38 of the 2013 Constitution stipulates: "Acts threatening the life, health of others and the community are strictly prohibited." Organizations and individuals implement this regulation by not conducting any act aimed at threatening the life and health of others and the community...

Execution of law: This is the form in which legal subjects implement legal regulations through action. In other words, organizations and individuals are compelled to perform certain actions to fulfill legal obligations (Older documents in legal science often called this *thi hành pháp luật*. We believe it should be unified as *chấp hành pháp luật* to avoid confusion, as *thi hành* is just one of the forms of implementation). This is an active, positive form of law implementation. Obligatory legal norms (norms prescribing that subjects must perform certain positive acts) are implemented in this form.

Example: Article 47 of the 2013 Constitution stipulates: "Everyone has the obligation to pay taxes according to the law." To implement the above regulation, citizen A trading in plant protection drugs must have the obligation to go to the competent authority to pay full taxes to the State as prescribed by law. Similarly, a person with an obligation to supply goods has supplied full goods at the correct time and location to the partner; a subject has completed tasks according to a signed contract...

Use of law: This is a form of law implementation in which legal subjects conduct acts permitted by law (exercising their legal rights and freedoms). Legal norms prescribing the legal rights and freedoms of subjects are implemented in this form.

Example: Clause 1, Article 30 of the 2013 Constitution stipulates: "Everyone has the right to lodge complaints and denunciations with competent agencies, organizations, and individuals against illegal acts of agencies, organizations, and individuals." Accordingly, citizen B implemented the above regulation by denouncing to the competent state agency the illegal house search by police of ward X (citizen B used his right of denunciation prescribed by law). Article 27 of the 2013 Constitution stipulates: "Citizens who reach the age of eighteen have the right to vote and those who reach the age of twenty-one have the right to stand for election to the National Assembly and People's Councils." Citizen C, twenty-five years old, implemented the above regulation by participating in the election of deputies to the National Assembly and People's Councils when the election was organized. Naturally, because legal rights and freedoms are acts that the law permits the subject to perform, the legal subject may perform or not perform those rights and freedoms depending on their will, and is not compelled to perform them (people are not forced to do what the law allows).

2.2 Concept of effectiveness of law implementation

Legal regulation always begins with law-making activity, meaning creating rules of conduct for organizations and individuals in society. These rules relate not only to the interests of the entire community but also to the interests of each individual. Therefore, law-making is a vital, important activity for every nation, greatly influencing the stability and development of the country; it is both political and technical in nature, conducted according to complex orders and procedures. However, the important issue is not enacting many laws, but implementing them. In the "Letter to cadres and employees of the justice sector on the occasion of the 50th anniversary of the sector's establishment," the late General Secretary Do Muoi emphasized: "Having a complete and synchronous legal system is only having a necessary element of a rule-of-law state, but it is not enough. The Vietnamese rule-of-law state of the people, by the people, and for the people requires that the law must be executed seriously, uniformly, and fairly, according to the principle that everyone is equal before the law"¹.

It can be said that law implementation is an extremely complex issue because to implement a legal regulation, it often requires the participation of many different organizations and individuals, through many different stages and procedures, with interlaced relationships regarding material, legal, organizational, technical, psychological, and other aspects. Therefore, building a complete, high-quality legal system is difficult, but implementing the law accurately, strictly, and with high effectiveness is many times more difficult.

To understand the concept of effectiveness of law implementation, we first need to understand the term "effectiveness". According to linguists, effectiveness is understood as: "actual result; result as required by the

¹ Do Muoi, "Letter to cadres and civil servants of the Judiciary sector on the occasion of the 50th anniversary of the sector's establishment," *Democracy and Law Journal*, No. 12-1995, p. 1.

work"²; "creating the desired or intended result"; "is the result achieved in performing a specific task." The term effectiveness is closely related to the term productivity, as productivity is understood as "the efficiency of activity, of the production process, of work, measured by the quantity of products or volume of work produced in a certain unit of time," and the term quality, as quality is understood as "that which creates the character, value of a person, a thing, an event; that which creates the nature of a thing, making this thing different from that thing; that which distinguishes from quantity"...

Thus, the effectiveness of law implementation must be a comparative magnitude, expressing the result and quality of the implementation of legal regulations in reality. Therefore, to evaluate the effectiveness of law implementation, one must identify: (1) the purposes and requirements desired to be achieved when implementing the law; (2) the positive actual results achieved due to law implementation; and (3) the actual costs to achieve the results when implementing the law.

Identifying the purposes and requirements desired to be achieved when implementing the law: This identification is to contrast and compare them with the actual results achieved by law implementation; at the same time, this review also assesses the quality of the law to forecast the ability to achieve results when implementing it in reality. Friedrich Engels affirmed: "In the history of society... the actors are all endowed with consciousness, are men acting with deliberation or passion, working towards definite goals; nothing happens without a conscious purpose, without an intended aim"³.

Therefore, it can be affirmed that when implementing any legal norm or legal document, subjects aim to achieve certain purposes. Subjects must anticipate what will be achieved in the future? How much will it cost to achieve those purposes? Naturally, the purpose of implementing each legal norm, group of norms, legal institution, branch of law, or the entire legal system will differ. Purposes at a lower level, strictly speaking, are sometimes means to achieve purposes at a higher level, on a larger scale. In most cases, the purpose set for law implementation is mainly qualitative with little quantification, so determining the purpose when implementing the law is only relative in terms of both quality and quantity.

Due to the existence of many different purposes and requirements at different scopes and levels when implementing the law, research on evaluating the effectiveness of law implementation needs to be set at different levels and scopes, such as the effectiveness of implementing a single legal norm, a legal document, a legal institution, a branch of law, multiple branches of law, or the entire legal system... Note that when determining the purposes and requirements to be achieved for the implementation of legal regulations, attention must be paid to the possibility of achieving them in reality. Subjects should only set for themselves purposes that they have the conditions to realize, or at least the conditions for realizing them are being formed in reality. However, in reality, we

will encounter purposes in law implementation that aim not only at immediate results but in many cases also towards future results.

Identifying the actual results achieved due to law implementation in social life: This identification is to contrast and compare it with the desired purposes and requirements. The result of law implementation is determined based on the change in the state of social relations before and after the law has been implemented. Therefore, determining the result of law implementation in reality requires comparing the state of social relations when legal regulations had not yet been implemented and when they have been implemented. Changes in the state of social relations are manifested in the behavior and legal consciousness of legal subjects; in the quantity and quality of material and spiritual wealth created thanks to the impact of the law; in the status of values and interests protected by law; in the level of order in social life; and in other phenomena and processes subject to the impact of law.

Examining the actual results achieved due to law implementation must be linked to achievements and changes in the economic, political, and social fields... of the country. It should be noted that law implementation can create positive changes (good results) and can also create negative changes (consequences). Therefore, it is necessary to compare positive changes with non-positive changes (consequences) when evaluating the actual results achieved due to law implementation. In all cases, when implementing any specific legal regulation, it is necessary to calculate in advance the benefits it brings (positive changes), the costs for that activity, and also the harms and bad influences (negative changes) that may occur due to the implementation of that legal regulation to strictly have preventive and remedial measures.

It must also be emphasized that in reality, impacting social relations is not only the law but also other regulatory tools such as: morality, customs and habits, regulations of social organizations, or religious dogmas... These regulatory tools impact social relations in a direction that may be concurrent with the law (positive) or counter to the law (negative); therefore, it must be noted that changes in social life (both positive and negative) are not only the result of the impact of the law but the combined result of many different regulatory tools acting together.

The results of law implementation can change over space and time, meaning that in different territories, law implementation may differ, and in different periods, the results of law implementation may also differ. Legal regulations may be implemented well in this territory but may not be implemented well in other territories; achieve high results at this time but may achieve low results at another time. Determining the result of law implementation at which scope and level (regarding time, space) depends on the will of the evaluating subject.

Identifying the costs for law implementation: This aims to evaluate the quality of activities to achieve those results. The effectiveness of law implementation is demonstrated not only in resolving the purposes and requirements set out when implementing the law in reality but also in resolving them with minimum costs in terms of material, spirit, time, and other costs related to law implementation activities at all stages of the process of implementing and applying the law. All expenses and costs for the process of achieving the set purposes and requirements when implementing the law must

² Institute of Linguistics, Centre for Lexicography, *Dictionary of Vietnamese*, Da Nang Publishing House, 1998, p. 424.

³ Karl Marx and Friedrich Engels, *Collected Works*, Vol. 21, National Political Publishing House, Hanoi, 1995, p. 435.

be at the lowest level but must ensure that the law promotes its effect at the highest level, and the impact result obtained must be the greatest.

Costs for the law implementation process include everything from the initial stage to the end of the law implementation process. Those costs can be of the State, state agencies, and can also be of social organizations, collectives, and individual citizens or other legal subjects. Costs for the law implementation process can also be losses and damages caused by the law implementation activities themselves to the State, society, or each citizen. Typically, the implementation of legal regulations, besides the advantages and benefits they bring, can also have certain limitations and damages (the dual nature of implementing legal regulations). This shows that when examining the effectiveness of law implementation, attention must be paid to the usefulness and economic efficiency in their implementation.

Therefore, when enacting, amending, or implementing any legal normative document or specific legal regulation, the State must also pay attention to its usefulness, accounting for material costs, political and moral influences, and other possible influences, so that those costs and damages are acceptable and suitable to the socio-economic conditions of the country. However, to protect human life, health, and honor, one cannot calculate the effort, time, money, as well as other costs spent on legal activities because those things are priceless.

From the above analysis, it shows that law implementation is considered effective when the results achieved in reality due to law implementation align with the purposes and requirements desired to be achieved when implementing the law. Whether the effectiveness of law implementation is high or low depends on the correlation between those two factors. That means, if the positive actual results obtained due to law implementation are greater and better, the effectiveness of law implementation is considered higher, and vice versa; positive changes in social relations are always more numerous and better compared to negative changes due to law implementation in social life; costs for achieving the desired purpose are always at the lowest and most reasonable level. In which, the cost of law implementation is the sum of costs in terms of money, time, effort, opportunity, and risks that all subjects (including the State, citizens, and society) must spend to implement the provisions of the law. Effective law implementation is the process of implementing regulations that helps minimize the costs of subjects.

It should be noted that when examining the effectiveness of law implementation, it needs to be limited within specific scopes of space and time with certain quantities and qualities across all forms of law implementation.

Regarding space: Examination and evaluation must be limited to specific territorial scopes (in each locality, nationwide); then we will evaluate the effectiveness of law implementation in that territorial scope.

Regarding time: Examination and evaluation must be limited to certain periods. Determining whether the period is long or short depends on the evaluating subject. However, the period determined to evaluate the effectiveness of law implementation requires that the economic, political, social situation or legal system be relatively stable.

Regarding quantity: The examination and evaluation of the effectiveness of law implementation can be conducted for a

legal norm, a group of legal norms, a legal institution, a branch of law, a group of branches of law, or the entire legal system. With such quantitative determination, we can evaluate the effectiveness of law implementation at different levels.

Regarding quality: The effectiveness of law implementation can be evaluated in this aspect or that aspect, from this angle or that angle (economic, political, moral, social...). This also depends on the intention of the subject conducting the evaluation.

Examining and evaluating the effectiveness of law implementation by citizens needs to be conducted under all forms of law implementation: observance of law, execution of law, and use of law. This is the combined result of law implementation by all organizations and individuals in society.

Thus, the effectiveness of law implementation is the positive actual result achieved brought about by law implementation, consistent with the purposes and requirements desired to be achieved of law implementation within certain scopes and conditions with the most reasonable, optimal cost level. In other words, law implementation is considered effective when it has achieved the set objectives, creating more positive changes for social relations compared to negative changes; material costs and time costs for achieving the desired purpose are the most reasonable and optimal.

Because the law is a system, the impact of the law on social relations is also systemic; therefore, the effectiveness of law implementation is not a simple sum of the effectiveness of separate elements of the process of implementing and applying legal regulations but constitutes a special legal phenomenon; they depend on many factors and relationships related to their implementation. This shows that if a certain legal norm is not implemented effectively, it may affect the effectiveness of implementing other legal norms, and conversely, if it is implemented effectively, it may make the implementation of other legal norms effective. Therefore, synchronization in law-making and law implementation by all agencies, organizations, and individuals has an extremely important significance for improving the effectiveness of law implementation in practice.

Evaluating the effectiveness of law implementation is also only relative, because the result of law implementation always changes over space and time, not to mention that legal regulations themselves are always linked and closely attached to each other, so effective implementation of these legal regulations will be a condition for effective implementation of other legal regulations and vice versa.

The activity of examining and evaluating the effectiveness of law implementation is very complex and difficult. It requires going deep into the reality of legal life, collecting official information and informal information on related issues; only then can one evaluate relatively accurately the effectiveness of implementing a legal norm, a legal institution, or a legal document... within a certain scope of space and time.

3. Concept, requirements, and content of criteria for evaluating the effectiveness of law implementation by citizens in Vietnam

3.1 Concept and requirements set for criteria to evaluate the effectiveness of law implementation by citizens

The concept of "criteria" has been and is being widely used in social life in our country today. In Vietnamese

dictionaries, the concept of criteria is understood as the nature or sign serving as a basis for recognizing and classifying a certain object or phenomenon. According to the Dictionary of Vietnamese: "Criteria (noun) is the property, sign serving as a basis for recognizing, classifying an object, a concept"⁴.

In the legal field, on November 1, 2017, the Minister of Natural Resources and Environment issued Circular No. 28/2017/TT-BTNMT prescribing criteria and indicators for evaluating the quality of public non-business services on natural resources and environment monitoring... Clause 2, Article 3 of Circular No. 28/2017/TT-BTNMT stipulates: "Evaluation criteria are the contents and requirements that the service provider must meet to complete the set objectives. Criteria have evaluation indicators."

Thus, the concept of "criteria" is understood with the connotation of being a characteristic property or sign to recognize, consider, or classify a certain object or phenomenon. The concept of "criteria" in connotation has a closeness to the concept of "standard" but is not identical. "Standard" is a prescribed condition, a model for evaluation or classification.

From the above analysis, we derive the concept of criteria for evaluating the effectiveness of law implementation as follows: Criteria for evaluating the effectiveness of law implementation are characteristic properties, signs, and indicators to recognize, consider, classify, and evaluate the positive actual results achieved brought about by law implementation, consistent with the purposes and requirements desired to be achieved of law implementation within certain scopes and conditions with the most reasonable cost level.

To ensure scientific character, suitability with social reality, and requirements in evaluating the law implementation process in our country today, when determining criteria for evaluating the effectiveness of law implementation, it is necessary to be based on the following bases:

First, dialectical materialism is the methodological basis: Law implementation is a phenomenon, a social process, so it also has the nature of movement, change, and taking place in the form of a process (with a beginning, progression, and end in a certain period, at a certain location). The characteristics of the process and the time the activity takes place are identified as criteria for recognition and evaluation. The difference in perception and behavior of the legal subject before and after implementing the law is also considered a criterion.

Second, the basis of legal science: Legal science clarifies basic issues such as: subjects of law implementation; forms of law implementation; stages of the law implementation process. This helps identify general criteria and specific criteria for each form.

Third, the basis of social psychology: Psycho-social studies on legal consciousness; legal psychology and behavior of subjects; attributes of legal relations; social circumstances; psychological attitudes of subjects regarding their own behavior and that of others; and consequences of improper law implementation are bases for determining criteria.

When constructing criteria for evaluating the effectiveness of law implementation, the following requirements must be ensured:

First, ensuring Reasonableness: Criteria must be based on clear scientific and practical bases, not merely on the researcher's emotional inference. They must help achieve the main objective of accurately evaluating effectiveness without generating unwanted bad consequences.

Second, ensuring Consistency: Criteria must not overlap or contradict other criteria, nor contradict provisions in current legal normative documents regarding evaluation criteria (if any). This creates logical consistency and facilitates the evaluation process.

Third, ensuring Feasibility: Feasibility is determined based on the level of implementation in reality, the ability to determine by quantitative tools and means. The evaluating subject needs to anticipate costs, risks, and difficulties to increase feasibility.

Fourth, ensuring Transparency: Transparent criteria are simple, easy to understand, not interpreted in many different meanings, can be applied immediately, and minimize the need for interpretation through guiding documents.

3.2 Content of criteria for evaluating the effectiveness of law implementation by citizens

3.2.1 Criteria for evaluating the effectiveness of law observance by citizens

Criterion regarding citizens' cognitive aspect regarding prohibitory regulations: Evaluates the level of awareness (understanding) citizens have about the prohibitions of the law (% of citizens knowing the regulation).

Criterion regarding citizens' psychology, attitude, and sentiment: (Agree/disagree; support/do not support; criticize, condemn/do not criticize, condemn) regarding law observance/non-observance behaviors of themselves and other subjects (% of total citizens surveyed).

Criterion regarding citizens' behavior of violating/not violating prohibitory regulations: Evaluates the level of behavior (%) of citizens violating legal regulations (in general).

Criterion regarding the severity of violations: (Civil violations; administrative violations; criminal violations).

Criterion regarding costs incurred by citizens: (Material, spiritual, and time costs) to observe the law.

3.2.2 Criteria for evaluating the effectiveness of law execution by citizens

Criterion regarding citizens' cognitive aspect: Regarding legal regulations on obligations that citizens must actively perform (% of citizens knowing the regulation).

Criterion regarding psychology, attitude, and sentiment: (Agree/disagree...) regarding law execution/non-execution behaviors of themselves and other subjects.

Criterion regarding citizens' behavior of violating/not violating regulations on obligations: Evaluates the level of behavior (%) of citizens violating regulations (in general), failing to perform or improperly performing their obligations.

Criterion regarding costs incurred by citizens: (Material, spiritual, and time costs) to execute the law.

3.2.3 Criteria for evaluating the effectiveness of law use by citizens

Criterion regarding citizens' cognitive aspect: Regarding legal regulations on rights citizens are entitled to and the

⁴ Institute of Linguistics, Centre for Lexicography, *Dictionary of Vietnamese*, Da Nang Publishing House, 1998, p. 956.

method to exercise those rights (% of citizens knowing the regulation).

Criterion regarding psychology, attitude, and sentiment: (Agree or disagree...) regarding law use behaviors of themselves and other subjects.

Criterion regarding citizens' behavior of using their rights: Evaluates the level of behavior (%) of citizens actually using their rights, and the types of rights frequently used.

Criterion evaluating the level of convenience/difficulty: When citizens exercise their rights; which type of right is most difficult/most convenient to exercise.

Criterion regarding costs incurred by citizens: (Material, spiritual, and time costs) to use the law to exercise their rights prescribed by law (mainly costs to go to state agencies to exercise rights, e.g., business registration or land use right transfer procedures...), and which right is most expensive to exercise.

4. Conclusion

Law is an important tool in state management and the protection of human rights and citizens' rights will lose its value and meaning if not implemented in reality. Law implementation is therefore an important link to bring law into life. Law implementation is the lawful behavior of the subject, aimed at bringing law into life and realizing the contents of the law in reality. According to the purpose and requirement of each legal norm in specific sectors and fields, law implementation can be conducted under different forms; legal science identifies four forms including: Observance of law; Execution of law; Use of law; and Application of law. Citizens mainly perform the first 3 forms, while the form of Application of law is reserved for subjects that are state agencies, persons with authority in state agencies, or persons authorized by the state.

The effectiveness of law implementation by citizens is the positive actual result achieved brought about by law implementation, consistent with the purposes and requirements desired to be achieved of law implementation within certain scopes and conditions with the most reasonable, optimal cost level. To evaluate the effectiveness of law implementation, it is necessary to construct appropriate evaluation criteria. The criteria are constructed according to the forms of law implementation; each form has a number of specific criteria.

On that basis, the author of the article has identified a number of criteria for evaluating the effectiveness of law implementation by citizens.

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