

# Exercise the Right to Participate in State Management in the Spirit of the Resolution of the 13<sup>th</sup> National Congress of the Communist Party of Vietnam

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**Abstract:** *Enabling citizens' engagement in state management is an important tool to achieve full citizenship and improve the performance of the state apparatus as well. The article provides an analysis of achievements and limitations in enabling citizens' engagement in state management in Vietnam over the past time. On that basis, it also proposes some quality-driven solutions for this task in the coming time in an effort to promote the implementation of the Resolution of the 13<sup>th</sup> National Congress of the Communist Party of Vietnam.*

**Keywords:** Engagement in State Management, Right to Engage in State Management, Enabling Citizens' Engagement in State Management, Communist Party of Vietnam, 13<sup>th</sup> National Congress, Resolution

## Introduction

The instruments of the 13<sup>th</sup> National Congress of the Communist Party of Vietnam (2021: 173) have set forth the objectives “to promote the socio-political activeness, the intellect, rights, and responsibilities of the people in building up, revamping the Party, building up the socialist rule of law State...”. The right to participate in state management is the essential means to drive toward a truly democratic state and improve the state machinery's quality, effectiveness, and efficiency. The right to participate in

state management of citizens is exercised through means including citizen's comments, deliberation on policies and laws; deliberation on public affairs of the country on the nationwide and local scale; submission of petitions and reflections to state organs regarding the organization and operation of the state apparatus and socio-economic development matters. The exercise of the right to participate in state management is the process of materializing the legal regulations on this right into legal and specific conduct in real life.

### **1. The Actual situation of the right to participate in state management of citizens in**

Up to now, the realization of the right to participate in state management of citizens has attained critical achievements as follows:

- Regarding citizens' participation in the deliberation and giving comment on the formulation of policies and laws: Individuals with different positions and roles have participated directly or through their representative organizations to make suggestions, petitions, and complaints on the policies enshrined in legal documents through the Internet, mass media, conventions, conferences, scientific seminars, etc. For example, during the process of gathering the people's opinion on the draft amended Constitution of 2013, after four months into the implementation of Resolution 38/2012/QH13 of the National Assembly on soliciting the people's opinion on the draft amended Constitution of 1992 (from 2<sup>nd</sup> January 2013 to 30<sup>th</sup> April 2013), there were 26,091,276 feedbacks from organs, organizations, and individuals, coupled with 28,149 conferences, conventions, and seminars (See: The Committee on the Draft Constitution of 1992, 2013). According to the report of the Fatherland Front's Central Committee, there were 8,071,913 feedbacks. According to the compiled report on direct feedbacks submitted to the Committee on the draft Amended Constitution, there were 1,106 feedbacks (via post and email), 1,878 feedbacks on the website Du Thao Online (Draft Online), and 1,343 articles, interviews, comments on mass media (Cited in The Institute of

Public Policy and Law - The Institute of Rosa Luxemburg Stiftung, 2013: 60). The gathering of people's opinion on the Draft amended Constitution of 2013 has shown the activeness of the entities, state bodies, and the people. Besides that, lately, there have been important legal documents drawing the scrupulous attention of individuals and organizations in society. Until 5<sup>th</sup> May 2015, there were 8.5 million feedbacks on the draft Civil Code (Cited in Thu Hang, 2015); Till 20<sup>th</sup> September 2015, (over 2 months after having started to gather opinions), in the Northern region only, there were three million feedbacks on the Criminal Code (Amended) (Cited in Phung Huong, 2015). Through deliberation and comment on the development of policies and laws, citizens have contributed to establishing an increasingly democratic and feasible legal system compatible with reality.

- Regarding citizens' petitions and complaints to state bodies, cadres, and civil servants through citizen reception: According to the Government Inspectorate's report, in the last three years, administrative state agencies at all levels have paid great attention to the reception of citizens. In 2017, state administrative agencies at all levels received 415,383 visits (up 14% compared to 2016) with 310,633 cases (up 66% compared to 2016)<sup>1</sup>; in 2018 there were 394,224 visits (down 5% compared to 2017) with 271,249 cases (down 15% compared to

<sup>1</sup> See more Institute of Public Policy and Law - Rosa Luxemburg Stiftung Institute, 2013; Government Inspectorate, 2017; Government Inspectorate, 2018; Government Inspectorate, 2019; Nguyen The Chung, 2019; Tao Thi Quyen, 2020.

2017)<sup>1</sup>; in 2019 it received 424,985 visits (up 1.6% compared to 2018) with 256,231 cases (down 5.5% compared to 2018)<sup>2</sup>. Among the citizens' petitions, there have been various solution initiatives submitted to competent agencies, organizations, units, and individuals on issues related to the implementation of policies, laws, and management and administration affairs. Thereby, it has helped the management and administration of state bodies attain more effectiveness and of better service to the people.

- Regarding citizens' discussion and decision-making of local affairs: Local authorities at the grassroots level have closely coordinated with the Fatherland Front and socio-political organizations to organize conferences for the people to discuss and decide directly on matters that are practically related to their interests, such as formulation of village regulations and conventions for the neighborhoods and hamlets; setting out eligibilities for cultural households; annual assessment of poor households; plans for building rural roads, houses of great solidarity, shelters of love, assessment on loans for production and business or welfare works, etc. Governments of communes, wards, and townships also often meet and discuss with the people on the plans and the amount of financial contribution for public welfare works such as the installation of street lighting system in the village, residential quarters, the construction of hamlet-based

culture house; mobilization of the people to protect the environment, participate in the movements of emulation patriotism, registration of cultural families, etc. In addition, the election, suspension, and dismissal of the heads of the neighborhood/hamlet, members of the People's Inspectorate Committee, the Community Investment Supervision Board, are organized periodically, achieving results in line with the spirit of Joint Resolution 09/2008/NQLT-CP-UBTWMTTQVN of the Government and the Central Committee of the Vietnam Fatherland Front (See: Tao Thi Quyen, 2020).

The majority of the People's Committees of communes, wards, and townships have fully carried out the procedures for collecting people's opinions before making decisions such as on annual socio-economic development plans, for five years at the commune level; draft master plan and detailed plan on land use; policies and plans on compensation and support for site clearance, draft master plans, schemes, national target programs on building new rural areas and sustainable poverty reduction, etc. Thereby, policies of the local government are more specific and practical and create a high consensus in the implementation.

However, the practice of the exercise of the right to participate in state management of citizens still has many limitations and bottlenecks. Specifically<sup>3</sup>:

First, the discussion and comment in formulating policies and laws are still wasteful, formalistic, and not adequate.

<sup>1</sup> Government Inspectorate (2017), *Report No. 152/BC-TTTP summarizing the work of 2017 and the direction for 2018 of the Inspectorate*.

<sup>2</sup> Government Inspectorate (2018), *Report No. 100/BC-TTTP summarizing the work of 2019 and the direction for 2019 of the Inspectorate*.

<sup>3</sup> Government Inspectorate (2019), *Report No. 100/BC-TTTP summarizing the work of 2019 and the direction and tasks for 2020 of the Inspectorate*.

Few people have paid attention, spent time and effort to actively learn about policies and laws, and give opinions to protect their interests from the impact of the policies in draft legal documents.

Secondly, the exercise of citizens' right to petition and complaint to state agencies in many cases is not in accordance with the law. A number of citizens, when making petitions and complaints, have not seriously performed their obligations such as failure to provide information and documents related to the content of petitions and complaints; Many cases of complaints and denunciations have been adequately resolved in line with the policies and laws, inspected, reviewed, concluded and informed in written form and directly interpreted and instructed by the central bodies for many times, however, the citizens have persisted on the complaints and denunciations, pressuring the local government bodies. There remains the situation in which people violate the legal provisions on the reception of citizens, such as when complaints and denunciations do not meet their desires and preferences, they have a pressing attitude, insult, disrespect the reception cadres, slander the regime, overreact, curse; There are many cases of abusive complaints, denunciations, petitions, and reports to insult and slander leaders and reception cadres, causing insecurity, social disorder and unsafety.

Thirdly, the application and implementation of the laws on citizen reception have not been strictly observed. According to the law, the head of an administrative state agency shall receive citizens "at least for one day a month"; however, many have not observed and delegated to his/her deputy instead. Besides that, the reception,

explanation, handling of proposals, and reports of the citizens have not been fully adhered to, lacked persuasiveness, thus resulting in low effectiveness. Furthermore, several organs and their heads have shown resistance to face difficulties, conflicts, dialogues with the citizens, failed to pay heed to the opinions and aspirations of the people, resulting in untimely handling of complaints and reports of the people.

The number of citizens' petitions on the organization and operation of state agencies submitted to agencies and bodies, such as the National Assembly's Committee on People's Aspirations and the Government Inspectorate, are high. Still, the rate of petitions being resolved remains low, not as desired by the citizens. According to statistics from the National Assembly's Judiciary Committee, the rates of the administration's failure to converse with citizens and attend court trials have increased over the years. From 2015 to 2017, since the Law on Administrative Procedures took effect, the country had 11,180 administrative decisions and administrative acts canceled in whole or in part by the courts (Cited in Nguyen The Chung, 2019).

## **2. Solutions to implement the right to participate in state management of citizens in Vietnam in the spirit of the Resolutions of the 13<sup>th</sup> Party Congress**

First, continue to perfect the law and issue guiding documents on the right of citizens to participate in state management.

It is necessary to review and amend, supplement and perfect the legal provisions on the right to participate in state management of citizens to ensure the constitutionality, legitimacy, and consistency of the law; Ensure adequate and timely institutionalization of the views

and policies of the Communist Party of Vietnam on citizens' right to participate in state management, with special emphasis on the policy; Ensure the people's participation at all stages of the decision-making process related to the interests and lives of the people, from taking initiatives, participating in discussions and debates to monitoring the implementation process. Focus on developing legal documents directly related to the people's mastery right (The Eleventh Party Congress's Central Committee, 2016). At the 13<sup>th</sup> Congress, the Communist Party of Vietnam (2021: 137) held the standpoint: "The Party and State promulgate guidelines, lines, policies and laws to create a political and legal basis to respect, promote and protect the people's mastery right."

Ensure objectivity and scientificity in formulating and perfecting the law on citizens' right to participate in state management. In the drafting of legislation on this issue, special attention should be paid to the preparation of policy impact assessment reports, analysis reports of relevant policies to ensure the compatibility and objectivity of the alternatives. At the same time, emphasis should be placed on the calculation of the conditions to ensure the exercise of the right to participate in state management of citizens; Satisfactorily and harmoniously reconcile the management and administration capabilities of the State with the requirements to ensure the rights of citizens to participate in state management. There is a need to promulgate legal documents on competence, order, and procedures for collecting people's opinions; provide the forms of collecting people's opinions; responsibility for gathering, receiving, and responding to

people's opinions. In addition, establish a mechanism so that the entities within the governing scope of the legal documents have the right to participate in the process of developing legal documents actively.

Continue to perfect regulations on collecting people's opinions on the development planning and plans of local governments. Clearly define the process of collecting people's opinions on planning; Stipulate the responsibility of synthesizing and absorbing the people's comments; Establish an accountability mechanism to explain the people's comments on the local socio-economic development planning and plans. Provide various forms for people's direct discussion and decision-making, ensure flexibility and suitability for many types of geographical areas, including remote and sparsely populated areas, or regions where many go away for work, etc. Provide legal responsibility, sanctions, or legal consequences to which entities are subject when they fail to perform or improperly perform obligation concerning the people's discussion and decision-making, or organization for collecting people's opinions. Clearly define the roles and responsibilities of local authorities, especially at the grassroots level, in enforcing citizens' right to participate in state management, specifying sanctions for handling violations. Clearly define the mechanism for coordination among agencies and organizations in undertaking tasks to ensure the exercise of the right to participate in state management of citizens.

Continue to improve the law on citizen reception, promulgate documents on sanctioning administrative violations in the field of citizen reception. Amending a number of provisions in the Government's

Decree No. 64/2014/ND-CP dated 26<sup>th</sup> June 2014 detailing the implementation of a number of articles of the Law on Reception of Citizens. For example, according to Article 8 of Decree No. 64, the head of the district-level citizen reception agency is assumed by a leader of the Office of the People's Council, the People's Committee of the district. Given that the head of the citizen reception agency must shoulder various positions, (s)he, therefore, could not focus on the citizen reception. In the revised Decree, it has been amended in that the deputy head of the district-level citizen reception agency is added so as to ensure this work in the absence of the head for a business trip.

Second, propagate, popularize and educate the law on citizens' right to participate in state management.

For better implementation of this measure, central and local organs and agencies need to carry out the following tasks: 1/ Foster, train in skills, propagation and popularization, legal education in general and of the law on the right to participate in state management in particular for legal reporters and propagandists; 2/ Compile and publish various types of documents on legal propagation, popularization and education suitable to each audience; 3/ Integrate the propagation, popularization and education of the law on citizens' right to participate in state management in programs and activities of bodies, organizations and agencies; 4/ Organize trainings in legal popularization and education on the right to participate in state management for cadres, civil servants, public employees and people of all classes under the guidance of superior state bodies; 5/ Coordinate and organize the implementation of legal education at all

educational levels and degrees, ensure that officials, teachers and students understand the law about the right to participate in state management; 6/ Arrange staff with sufficient professional qualifications in law, with good skills in legal propagation, popularization and education at all levels, sectors and localities; 7/ Invest adequate funds for the propagation, popularization and education of the law at all levels, sectors, agencies, organizations and units; 8/ Promote the role and heighten the responsibility of the Council in coordinating the work of legal popularization and education at all levels, sectors and localities.

Third, publicity, transparency, facilitation, and democratization of organizing the exercise of citizens' right to participate in state management.

The democratization, publicity, and transparency create favorable conditions for citizens to exercise their right to participate in state management. Discussing and giving comments on law-making and local and grassroots affairs must be carried out from the stage of drafting a law-making program to the drafting of a document, local laws, and socio-economic schemes and plans, to the stage of consultation and discussion; followed by the stage of appraisal, revision, the stage of compiling, receiving, giving feedback and editing the documents; to the approval, publication, and implementation of legal documents. Publicity and democracy in all such stages are necessary for all groups of citizens to easily access and grasp the content and spirit of the drafts for the sake of discussions and comments. Discussions and suggestions need to be publicized, considered; Regardless of being accepted or not, they also need to be fully explained.

Fourth, strengthen the leadership, direction, guidance, and supervision as to the implementation, inspection, control, and preliminary review and conclusion, reward, and handling of violations in exercising the right to participate in state management of citizens.

The timely and comprehensive leadership and direction of Party committees and local authorities at all levels must be ensured for all contents of citizens' participation in state management. There should be a mechanism to monitor and evaluate the activities of agencies and organizations that carry out the contents of the involvement of people in state management. At the same time, the National Assembly and People's Councils at all levels need to strengthen supervision over the process of organizing the exercise of citizens' right to participate in state management. Establish and enforce a mechanism for statistics, reporting, conducting preliminary and final reviews, managing rewards, and handling violations in the exercise of citizens' right to participate in state management.

Fifth, consolidate the reception of citizens, strengthen the responsibility of the heads of state agencies in receiving citizens, handling petitions and complaints of citizens.

Establish a convenient, friendly, and open environment to receive citizens and settle complaints and denunciations of citizens so that people can promptly make proposals and reports to state agencies; Gain people's confidence in contributing to the construction of the government; Handle complaints and denunciations in the exercise of the right to participate in state management of citizens; Ensure the objective, comprehensive, fair, lawful and timely settlement.

Raise the responsibility of the heads of state agencies concerning the citizen reception, handling of petitions, and complaints of citizens. To attain high efficiency of the heads of the agencies receiving citizens, the agencies and units with the advisory function to the leaders need to prepare well, meticulously analyze and forecast the situations, implement and properly apply the provisions of the law on receiving citizens, handling petitions and petitions of citizens.

Sixth, strengthen the participation and coordination of socio-political organizations, social organizations, and institutions of residential groups, villages, communes, wards, and hamlets to implement the right to participate in state management of citizens. The Fatherland Front and its member organizations organize the reception of citizens' petitions and complaints, contributing to improving the quality of citizens' participation in state management. Institutions of residential groups, villages, communes, wards, and hamlets continue to take the initiative, promote their roles, actively contribute ideas to developing policies and laws whenever superior state agencies organize meetings for collection of people's opinions, especially at meetings of residential groups, villages, communes, wards, and hamlets, etc. to discuss documents related to people's lives; actively participate in discussions and comments on important issues at the grassroots level, in residential groups, villages, and hamlets, etc. This is the level closest to the people that can quickly receive people's recommendations and reflections on the issues directly related to their lives.

Seventh, increase the budget investment, ensure the material conditions for the

organization and the exercise of citizens' right to participate in state management. Funds, facilities, and resources are essential guarantees for the effective exercise of citizens' right to participate in state management. The State needs to increase the budget for organizing the collection of people's opinions in the formulation of policies and laws, and to increase budget spending on legal propagation, popularization, and education; Increase investment in ensuring material facilities for the reception of citizens, and organize discussions on important local and grassroots issues. Procurement of information technology equipment such as computers, telephones, voice recorders, video recorders, etc. Among the abovementioned guarantees, the places for the reception of citizens are the key. Modernization of citizen reception offices would create favorable conditions for citizens to show up in person for submitting petitions and complaints to state agencies, improving management efficiency of state agencies and greater service to the people. In conclusion, the right to participate in state management is one of the important political rights of citizens, which can be exercised through the following forms: Comment, discuss to develop policies and laws; participate in the discussion of the general affairs of the country at the national and local level; propose and report to state agencies on the organization and operation of the state apparatus and socio-economic development. The proper organization and implementation of this right in practice is one of the measures to materialize the policies set out at the thirteenth National Congress on promoting democracy and ensuring the people's right to mastery.

To continuously promote the results and overcome the limitations and inadequacies in the exercise of citizens' right to participate in state management, and to organize the implementation of the rightful policy of the Communist Party of Vietnam on this issue, it is necessary to carry out coherently various solutions with the involvement of the whole political system. Thereby, the people can promote their role as the power holder, and at the same time, contribute to improving the operational quality of the state apparatus □

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