

**MINISTRY OF EDUCATION  
AND TRAINING**

**MINISTRY OF JUSTICE**

**HANOI LAW UNIVERSITY**

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**IMPROVING LAW ON COMPLAINTS AN  
COMPLAINT SETTLEMENT OF LAO PEOPLE'S  
DEMOCRATIC REPUBLIC – LESSIONS LEARNED  
FROM VIETNAM**

**Specialty: Constitutional Law and Administrative Law**

**Code: 938 01 02**

**SUMMARY OF DOCTORAL THESIS IN LAW**

**HANOI - 2019**

**This project has been completed at:**

**HANOI LAW UNIVERSITY**

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This thesis will be defended in front of the University-level thesis evaluation council at Hanoi Law University at: .../... dated .../.../...

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## **INTRODUCTION**

### **1. Reasons for choosing research topic**

Complaints are an inevitable objective phenomenon in social life. From distant past to present, any state, independent of the trend of development of any political regime, all hope for their regime to be permanent. Therefore, in a certain aspect, the State must pay attention to the people to exercise their right to complaint and consider to settlement those complaints in order to ensure the rights of the people and maintain social stability. At the same time, through complaints and complaints settlement, phenomena of law violations are discovered in time to preserve discipline and social order.

The policy and path of the Lao's People Revolutionary Party are to build a socialist rule-of-law state of the people, by the people and for the people to step by step improve the effectiveness of state management by law. Therefore, building and perfecting the law is always concerned by the Lao State along with the general administrative reform program and judicial reform in particular. Especially building, supplementing and completing legal documents relating to the rights and legitimate interests of citizens, one of which is the right to complain and denounce.

The state of Laos promulgated the Law on Settlement of Complaints in 2005 which is practically enforced through the adjustment of social relations related to the field of complaints and complaint settlement. However, after a period of implementation time, many difficulties and shortcomings have arisen in practice.

Currently, in Laos, the Law on Complaint Settlement 2014 has been issued on the basis of inheriting the Law on Complaint Settlement in 2005. However, basically, the regulations on resolving existing complaints in Laos have not yet a clear distinction between complaints letter, denunciations letter and petitions reflecting letter. Therefore, the implementation efficiency of these regulations is currently not comprehensive. In addition, it still has to confront many difficulties

Vietnam's law on complaint settlement has gone through a long time of developing and improving. Currently, the Law on Complaints in 2010 of Vietnam is relatively complete, covering basically the issues and situations arising in resolving complaints in Vietnam.

In fact, the Communist Party of Vietnam, the State, the people and the Vietnam People's Armed Forces are friends, comrades and brothers of the Laotian tribesmen, sharing experiences with Laos in all conditions, circumstances, in all aspects of activities including legislation. Therefore, appropriate practical lessons learned from Vietnam as well as other countries in the world related to the law on complaints and complaint settlement will be important bases for the legislature of Laos in perfecting laws in general and laws on complaints and resolving complaints in particular.

For the above reasons, the author has chosen the topic "Improving law on complaints and complaint settlement of Lao People's Democratic Republic - Lessons learned from Vietnam" as a doctoral thesis topic. The study of the theoretical basis and issues raised from the practice of law on complaints and complaint settlement are not only theoretical meaning but also valuable in practical terms.

## **2. Research objectives and research questions**

### **2.1. Research objectives**

On the basis of studying the theory and practical of law and law enforcement, PhD student has given directions and solutions to improve law on complaints and complaint settlement on the basis of awareness, organization of implementation, specific legislative proposals in Laos in the context of building a law-governed State, promoting the program of administrative reform, judicial reform and international economic integration in Laos.

### **2.2. Research questions**

In order to achieve the research objectives, the dissertation focuses on research questions: Have the law on complaints and complaint settlement of Laos improved on the basis of theory and practice yet? What experiences will Laos learns from Vietnam to improve law on complaints and complaint settlement?

## **3. Subject and Scope of the Research**

The thesis focuses on researching general theoretical issues related to law on complaints and complaint settlement; history of formation and development of the law on complaints and complaint settlement; contents of current provisions of Laos law on complaints and complaint settlement; achievements as well as inadequacies in the implementation law on complaints and complaint settlement.

In order to have a basis for comparison, the thesis also concentrates on researching legal practices and enforcement of Vietnam's complaints and complaint settlement based on analyzing the process of formation, development of laws, contents of legal regulations as well as practical implementation of the law on complaints and complaint settlement of Vietnam and lessons experience for Laos.

On the basis of the above analysis content, the dissertation brings the views, directions and solutions to improve the law on complaints and resolving complaints in the context of building a law-governed state, promoting the administrative reform program, judicial reform and international economic integration of Lao People's Democratic Republic.

## **4. Research methodology**

The thesis is based on the methodology of Marxism-Leninism and Ho Chi Minh ideology on the state and the law, views of the Lao Revolutionary Party on national administrative reform and completion legal system.

The thesis uses traditional research methods such as summarizing, analyzing, and statistics, especially the comparison method to draw experiences to improve the law on complaints and handling complaints in Vietnam and then apply into law practice and law enforcement in Laos. The thesis also uses sociological survey methods such as group discussions, in-depth interviews (Lao legal experts) to shed light on the issues related to the aspects of the thesis content.

### **5. Theoretical and Practical significance of the Thesis**

The research results of the thesis supplements the theory of perfecting the law on complaints and resolving complaints, directly contributing to perfecting the law and enforce the law on complaints and resolving complaints in Laos, contributing to the reform of the administrative apparatus and the construction of law-governed state in Laos.

Research results of the thesis can be exploited and used in research activities of law training institutions in Vietnam and Laos. With the recommendations of the thesis, the Lao Government can reference to apply into the administrative reform program, improve the law on complaints and settle complaints.

### **6. The structure of the Thesis**

In addition to introduction, conclusion and references, the Thesis consists of 05 Chapters

Chapter 1: Overview of research situation

Chapter 2: Theoretical issues of law on complaints and complaint settlement

Chapter 3: Law on complaints and complaint settlement of Laos and shortcomings and limitations to overcome

Chapter 4: Law on complaints and complaint settlement of Vietnam and some lessons experiences

Chapter 5: Orientation and solutions to improve Laos's law on complaints and complaint settlement

## **CHAPTER 1**

### **OVERVIEW OF STUDIES RELATED TO RESEARCH TOPIC**

#### **1.1. Scientific research works related to the doctoral thesis topic**

##### **1.1.1. Research situation in Vietnam**

There are many works in Vietnam studying the law on complaints and resolving complaints in the form of monographs, scientific research topics, theses and articles published in specialized scientific journals, research reports. These works have focused on researching theoretical issues about complaints, resolving complaints and laws on complaints and resolving complaint, law status and practical implementation of the law on complaints and complaint settlement as well as the improvement of the law in this area in Vietnam. From a research perspective, these are valuable references for the formulation and improvement of theoretical issues as well as Laos' complaints and complaint settlement legislation.

##### **1.1.2. Research situation in Laos**

Following research some projects on complaints and settlement of complaints in Laos, there is currently only one project: Khamsing Xaysomphaeng (2013) "Strengthening the role of the National Assembly in resolution complaints of people", Graduation thesis.

#### **1.2. Evaluate the research situation related to the thesis topic**

##### **1.2.1. Evaluate the works that have studied the law on complaints and complaint settlement in Vietnam and Laos**

In Vietnam, basically, the theoretical basis, the law and the implementation of the law on complaints and complaint settlement are quite complete. Some results have been confirmed and agreed as follows:

Firstly, asserting in theory, complaints are citizenship. Citizens have the right to complaints and must be guaranteed to exercise this right in democratic society, in the context of building a law-governed state.

Secondly, Complaints and resolving complaints are jobs arising in state administrative management activities, arising on the basis of state administrative management and to serve service of state administrative management.

Thirdly, it is necessary to differentiate complaints from denunciations, reflections and recommendations of citizens.

Fourthly, the competence and procedures for complaint and complaint settlement are stipulated are relatively complete and strict.

Fifthly, the practical review is executed regularly.

Vietnam's achievements in developing and implementing the law on complaints and complaint settlement are still valuable lessons for Laos to learn in perfecting the law on complaints and resolving complaints.

For Laos, although in Laos there has been a Law on Settlement of Grievances 2014, but this Law has not differentiate between complaints and denunciations, reflecting citizens' petitions in handling types of complaint application. A Legal expert in Laos has not an interest in studying complaints and complaint settlement. Therefore, in theory, there have not been many studies on complaints and administrative complaint settlement in Laos, which result in lack of a theoretical background for the formulation and promulgation of legal regulations on complaints and complaint settlement in Laos. In addition, there has not been any research work on the experience of other countries, including Vietnam to improve the effectiveness of implementing the law on complaints and complaint settlement in Laos.

In terms of practice, the provisions on complaints and complaint settlement in Laos are still incomplete, still at a primitive level, not yet divided the types of complaints, denunciations, reflections and petitions to specify a specific resolution process. In addition, the practical review is slow, the regulations are inadequate, unreasonable and inappropriate in the law on complaints and grievance redress not modified, supplemented so the implementation efficiency is not high.

Thus, the theoretical and practical foundation to improve the law on complaints and complaint settlement in Laos is currently very weak and lacking.

### **1.2.2. The focused issues on research in the doctoral thesis**

- In terms of theoretical: The thesis will inherit the theoretical foundation that has been studied in Vietnam as well as in Laos related to the law on complaints and complaint settlement, especially the concepts and characteristics of complaints, resolving complaints, the role of complaints, resolving complaints and laws on complaints and complaint settlement in state administrative management, as well as the criteria for level of perfection. In addition, the thesis will also develop and improve theoretically to meet the requirements of completing the law on complaints and complaint settlement of Laos.

- In term of Practice: In addition to generalizing and evaluating the law and the practice of implementing Vietnam's law on complaints and complaint settlement, the thesis will draw valuable experiences to contribute to perfecting the law on complaints and resolving complaints of Laos. The thesis will also assess the current law on complaints and complaint settlement in Laos, especially will point out the inadequacies and irrationalities that need to be completed such as the separation of types of complaints, denunciations, reflections and petitions; the way understand about administrative complaints and there is no specific process in receiving and resolving complaints. Since then, based on the achievements and experiences drawn from the assessment of complaints and complaint settlement laws of Vietnam, combined with the research results to improve the above theory of complaints and

propose solutions to improve the law and improve the effectiveness of implementing the law on complaints and complaint settlement, in particular, promulgating the Law on Administrative complaints in Laos in the future.

Thus, the research hypothesis can be set as follows: The theoretical, law and practical foundation of implementing the law on complaints and complaint settlement in Vietnam is relatively complete and developed; meanwhile, in Laos, there is still a lack of theoretical foundation, the provisions of law and the practice of law are incomplete and highly effective. Therefore, it is necessary to learn from the experience of Vietnam to improve and advance the efficiency of implementing the Law on complaints and resolving complaints to meet the requirements of Laos' socio-economic development.

## **CHAPTER 2**

### **THEORETICAL ISSUES OF LAW ON COMPLAINTS AND COMPLAINT SETTLEMENT**

#### **2.1. The basic problems of complaints**

##### **2.1.1. Definition of Complaints**

Complaints are individuals, agencies and organizations requesting competent persons to reconsider decisions, public-service acts and the performance of tasks of competent persons they have grounds to believe such decision or acts are illegal, infringing upon their legitimate rights and interests.

##### **2.1.2. Characteristics of Complaints**

Firstly, complaints are the rights of individuals and organizations to protect their legitimate rights and interests.

Secondly, complaints only arise when the complainant has grounds to believe had behavior violated the law of the complained subject.

Thirdly, complaints appear in the relationship between a state agencies or a competent person in a state agency and the other party is individuals and organizations under the management of state agencies and people authorized in that state agency.

Fourthly, complaints are guaranteed implementation by the State by law.

##### **2.1.3. The role of complaints**

The exercise of the right to complain, agencies, organizations and individuals directly prevent the phenomenon of abuse of power and violations by competent state agencies infringing upon the lawful rights and interests of agencies organizations and individuals.

Complaints are a form of democracy through which people participate in state management, building a clean and strong state apparatus.



When agencies, organizations and individuals exercise their right to complain, state management subjects have important feedback from the management subjects.

## **2.2. The basic problems of Complaint settlement**

### **2.2.1. Definition of Complaint settlement**

Settlement of complaints is the activity of checking, verifying and concluding on the legality and rationality of decisions, complained acts falling under the settling competence of competent state agencies to take measures to settle according to law provisions, to protect the legitimate rights and interests of citizens, agencies and organizations and interests of the State and society in the common.

### **2.2.2. Characteristics of Complaint Settlement**

Firstly, complaint settlement only arises after have the complaint of the complainant.

Secondly, complaint settlement is the operation of a competent State agency implemented according to the order and procedures prescribed by law.

Thirdly, the object targeted to the settlement of complaints is administrative decisions and administrative acts of state agencies and persons competent to administer state administration.

Fourthly, the results of complaint settlement are reflected in the decision of the agency settling complaints about review of the legality and reasonableness of administrative decisions and administrative acts being complained about.

### **2.2.3. The role of complaint settlement**

Firstly, executive and operating activities are activities of organizing law enforcement, bringing the law to life, using laws to manage and organize social activities.

Secondly, the situation of resolving complaints reflects the reality of the national administration, reflecting the performance of public duties by officials and public employees.

Through complaints activities, superior state agencies inspect and supervise the activities of subordinates, and take measures to correct and overcome shortcomings, weaknesses and handle illegal acts law to build a strong, clean, professional, effective and effective administration.

Thirdly, implementing the settlement of complaints not only ensures the right to complain of citizens, promote socialist democracy, the power and wisdom of the people in participating in state management, but also ensure disciplines and disciplines to strengthen legislation in state administrative management.

## **2.3. Law on complaints and complaint settlement**

### **2.3.1. Definition of Law on complaints and complaint settlement**

The law on complaints and complaint settlement includes synthesizing legal regulations to regulate social relations arising in the process of complainants exercising the right to complain; legal regulations governing the organization, powers and responsibilities of state agencies and persons competent to settle complaints; legal regulations governing the sequence and procedures for handling complaints and other social relations related to complaints and complaint settlement.

### **2.3.2. The role of Law on complaints and complaint settlement**

Firstly, the law on complaints and complaint settlement is a legal tool for complainants to protect their legitimate rights and interests.

Secondly, the law on complaints and settlement of complaints is the legal basis for management and administration activities of state agencies and organizations effectively.

Thirdly, the Law of complaint and complaint settlement is the basis for the state to verify the correctness, suitability and feasibility of the legal policy issued by itself and audit the implementation of that legal policy in the state agencies.

Fourthly, the law complains and complaint settlement contributing to improving the quality of the contingent of cadres and civil servants in the apparatus of state agencies.

### **2.3.3. Criteria for assessing the level perfection of the law on complaints and complaint settlement**

Firstly, comprehensive and synchronous

Secondly, must always be unified

Thirdly, legal documents on complaints and complaint settlement promulgated are suitable nature

Fourthly, legislation level when developing legal documents on complaints and complaint settlement.

Fifthly, the provisions of the law on complaints and complaint settlement must be feasible.

## **CHAPTER 3**

### **LAW ON COMPLAINTS AND COMPLAINT SETTLEMENT OF LAOS SHORTCOMINGS AND LIMITATIONS TO OVERCOME**

#### **3.1. An overview of the administrative apparatus model of Laos**

##### **3.1.1. *Central administrative apparatus (Government and ministries, ministerial-level agencies)***

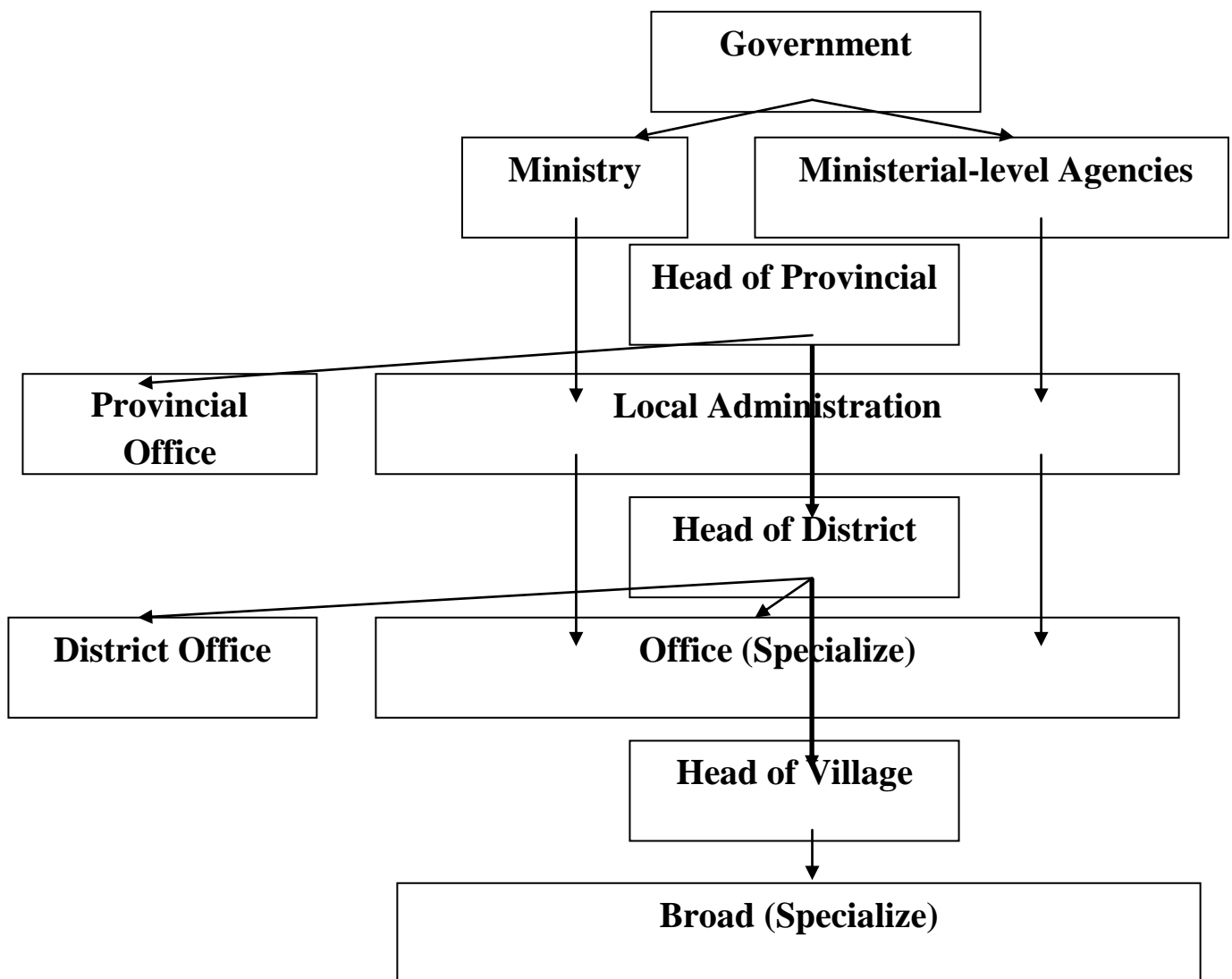
##### **3.1.2. *Local administrative apparatus***

##### **3.1.3. *Provincial Administrative apparatus***

##### **3.1.4. *District Administrative apparatus***

##### **3.1.5. *Village Administrative apparatus***

**Diagram of Laos administrative apparatus**



**3.2. Overview of the process of forming laws on complaints and complaint settlement in Laos**

*\* The period time from 1975 to 1990s*

The state of Laos is not interested in promulgate a legal document to regulate complaints and complaint settlement activities.

*\* The period time from 1990 to 2005s*

The right to complaints is recorded in Article 28 of the Lao Constitution of 1991 and Article 41 of the Lao Constitution in 2003. However, this period has not been elaborated and issued specific provisions as a legal basis for resolving complaints, administrative complaint

*\* The period time from 2005 to present*

The 5th annual meeting of the Laos National Assembly passed the Law on Settlement of Complaints on November 9, 2005

On December 15, 2014, the National Assembly of the Lao People's Democratic Republic passed the Law on Settlement of Complaints 2014 No. 012 /NA.

### **3.3. Regulations of the current law on complaints and complaint settlement of Laos**

#### ***3.3.1. General provisions on handling complaints in Laos***

The policy of the Lao State for the complaint settlement of citizens is reflected in Article 5 of the Law on complaint settlement in 2014. Accordingly, The State creates favorable conditions for citizens and organizations to exercise their rights make complaints to relevant agencies for consideration and handling in order to protect the rights of the state, the collective or their legitimate rights and interests, making the state apparatus strong and transparent, performing the task proper and fair services, preventing and combating negative phenomena in society.

The Law on Complaints Settlement in 2014 is the same as the Law on Complaints Settlement in 2005, which determined that the complaint has three types: the proposal letter, the petition letter and the complaint letter for fairness (Article 2). Whereby:

- The proposal letter is a type of complaint letter submitted to the state administrative agency,
- The petition is a complaint letter submitted to investigating agency, The People's Procuracy or The People's Court,
- A complaint letter for fairness is a complaint letter submitted to The National Assembly,

The settlement of a complaint letter under the Law on Complaint Settlement 2014 is carried out in the following four basic principles (Article 6):

- Firstly, ensure the correctness according to law and reality
- Secondly, ensure fairness, comprehensiveness, completeness, objectivity and timeliness

- Thirdly, ensure the provision of complete, accurate information, cooperative and create favorable conditions the processing of complaints.

- Fourthly, ensure the notification of results processed by the relevant authorities to the complainant and the person complained by written.

According to Article 13 of the 2014 Law on Complaint Settlement, complainants have the following rights and obligations:

*The Rights: Self-complaints or through your representative in accordance with the law; Be protected from coercion, intimidation and confidentiality of what you have reported, including your name, surname and address; To be restored to their rights and be offended and receive compensation for damage caused by violators according to law and regulations; Withdrawal of his complaint in the process of handling; Received the guidance and results of handling written complaints from relevant agencies.*

*The Obligations: Provide the name, last name, date of birth, occupation, nationality and place of residence; Explain your complaints clearly and truthfully, and provide information and evidence to the relevant authorities in a complete and timely manner; Responsible for the contents of complaints, information and evidence that they submit to the relevant authorities in accordance with laws and regulations; Follow the invitation or letter of arrival from the relevant agencies by time and place. In case of failure to follow the invitation or the summons letter three consecutive times without any reason, the litigant will to give up his rights; Respect the provisions of law; Implementing the regulations on the handling of complaints letter with legal effect.*

In addition, complainants also have rights and obligations in accordance with the laws and other relevant regulations.

At the same time, the Law on complaint settlement in 2014 also specifies the rights and obligations of the defendant as follows (Article 14):

- The Rights of defendant: *Recognize the content of the complaint and handle the complaint letter; Protect yourself by providing verifiable information and evidence; To be restored to honor and benefits damaged by complaints without basis to accuse according to the provisions of law; Proposing the relevant agencies to apply measures to the complainant without the actual basis under the laws and regulations; Recognize the results of processing written complaints from the relevant authorities.*

- The Obligations of defendant: *Indicate and explain the complaint, and provide information and evidence to the agency; Follow the invitation or summons letter of the relevant authorities. In case of failure to comply with the invitation or summons letter until three consecutive times without any reason, the litigant shall be*

*held responsible before law; respect the provisions of law at the agencies; Implementing the regulations on the handling of complaints letter with legal effect.*

In addition, the defendants also have rights and obligations in accordance with the laws and other relevant regulations.

Regarding the jurisdiction to settle complaints, Article 15 of the Law on Complaint Settlement in 2014 is stipulated as follows:

- State administrative agencies receive and consider processing application proposal letters,
- Investigation agencies, People's Procuracy, People's Courts receive and consider processing petition,
- The National Assembly delegation in the constituency or the Standing Committee of the National Assembly receives and considers the handling of applications for complaints letter for fairness.

### ***3.3.2. Resolve the proposal letter***

The proposal letter is one of a citizen or organization letters that submits to the relevant public administrations to consider and resolve the behavior or decision of an individual or organization have signs of violation of law, causing damage to the interests of the state, collectives or their legitimate rights and interests (Article 17)

The proposal letter may be submitted to the state administrative agency within one year from the date of the violation or acknowledgment of the violation (Article 21)

Proposal letters made under regulations are handled by state administrative agencies at all levels. According to Article 18, it is: Village administrative office; District administrative agencies; Provincial administrative agencies; Ministries or Agencies at ministerial level; Government.

The resolution of the proposal letter shall be carried out in the following order and procedures (Article 19):

The village authorities proceed by mediation or compromising, if the parties agree on the settlement agreement of the village. In cases where it is impossible to reach agreement, the parties may request the superior to consider and settle them according to the time limits prescribed by law.

If the District Government to be the first level to resolve the proposal letter, but the parties still not satisfied, it is possible to propose second level - the provincial government.

If the Provincial Government to be the first level to resolve the proposal letter, but the parties still not satisfied, it may be proposed second level, the Ministerial level or relevant authorities of the state to consider.

If the Ministry or the relevant authorities of the state to be the first level to resolve the proposal letter, but the parties are not satisfied, it can be proposed to the Government to consider as the second and the last level.

In case of dissatisfaction with the above settlement, the person who have proposal letter has the right to sue in court or request fairness to the National Assembly delegation in the constituency or the Standing Committee of the National Assembly.

### ***3.3.3. Resolve the petition***

A petition is an application of a citizen or organization that submits to a settlement agencies a claim in accordance with regulations (Investigation Agency; People's Procuracy; People's Court) for consideration and settlement of the act of The individual or decision of an organization that have signs of violation of law, damages to the interests of the state, the collective or the rights and interests of their legitimate.

The consideration of the petition, the provisions in the settlement, the rights and obligations of resolving complaints and the legal validity of the judgments must comply with the Law on Civil Procedures and the Law on Criminal Procedures and relevant Laws (Article 25). In Laos, only have the Civil Procedure Law and the Criminal Procedure Law are currently available. Therefore, civil and criminal lawsuits are resolved according to the provisions of these laws. For administrative-related lawsuits, there is currently no administrative procedure law that should be resolved by relevant legal provisions, mainly using the Law on civil procedure.

### ***3.3.4 Resolving applications for fairness***

An application for fairness is an application of a citizen or organizations to be submitted to the National Assembly delegation in the constituency or the Standing Committee of the National Assembly to request a re-examination of the results of the application or the lawsuit which has legally valid, that a citizen or organizations found that the resolution was not exact and fair (Article 26).

The application for fairness must be submitted to the National Assembly delegation in the constituency or the Standing Committee of the National Assembly within one year after the decision of the state administrative agency is legally valid or the Supreme People's Procuratorate decided to restore the case or the Court's decision to enforce the case in the absence of a request to restore the case of the Supreme People's Procuratorate. In case of an application for fairness is submitted to other agencies expired the date, the time limitation is counted from the occurrence of the above events to the submission of the application to that agency (Article 30).

The authority to settle applications for fairness belongs to the elected bodies of the National Assembly, the People's Council agencies at all levels are not competent

in resolving applications under Law on Complaint Settlement 2014 in general and the application for fairness in particular.

The competent authorities to resolve applications for fairness include: National Assembly delegations in the constituency or the local People's Council (in case of establishment of the local People's Council) will be responsible for resolving applications for fairness; Relevant Committees of the National Assembly; the Standing Committee of the National Assembly (Article 27). Law on Complaint Settlement 2014 stipulates the authority to settle applications of these agencies (Article 32, 33, 34).

### **3.4. Assessment of Law on Complaint Settlement 2014**

Through the analysis of Law on Complaint Settlement 2014 of Laos and the relevant legal documents in the above section, the author considers that current law on complaints and complaint settlement in Laos has some advantages as follow:

Firstly, it has affirmed the institutionalization of the right to complaints of individuals and organizations.

Secondly, regarding the subject of complaints, Law on Complaint Settlement 2014 of Laos stipulates that the subject of complaints includes citizens and organizations because in reality, not only citizens but also agencies economic organizations, and social organizations are also under the influence of decisions of state agencies. Such decisions may be illegal, causing damages to their legitimate rights and interests, so they have the right to complain.

Thirdly, there have been relatively adequate and strict regulations on determining competence, time limitation and procedures for handling complaints.

Fourthly, there has been a clear and complete mechanism for resolving complaints; a settlement mechanism and post-inspection mechanism to ensure the centralized state power on resolving complaints.

#### **\* *Restrictions***

- Resolving complaints mechanism does not fully ensure objectivity, openness and democracy in the settlement process; Lawsuits of citizens at the Court are limited; The order and procedures for settling complaints are not specific and clear; The time limitation for handling complaints are still long and has not yet been facilitated for citizens, does not promote the role of political organizations, socio-political organizations and lawyers in the process of resolving complaints; lack of specific sanctions in handling responsibilities for implementing complaints settlement; effectiveness of implementing decisions to resolve complaints is not good enough; The responsibilities of heads of state agencies have not yet been attached to organizing citizen reception. Besides, there are lack of guiding documents



and other related documents have regulations on complaints and complaint settlement, especially in the field of land ...

- Regarding the scope of adjustment, as above analysis, Law on Complaints Settlement Laos has not yet adjusted the mass complaints.
- Regulations on complaints and complaint settlement are still incomplete.
- Law regulations on resolving complaints are not unity on how to resolve complaints and procedures for settling complaints.
- The system of specialized agencies for handling complaints in Laos is currently not systematically organized.

The cause of the above shortcomings is due to general weaknesses of the current legal system of Laos. In order to thoroughly resolve a complaint, it is not possible to rely solely on the legal provisions on complaints but also base on many other legal documents to serve as a legal basis to conclude that claims are right or wrong. However, the current Laos legal system itself is not synchronized, unstable and lacks of regulatory documents; the promulgation of legal documents guiding the implementation of the law is still delayed.

## **CHAPTER IV**

### **LAW ON COMPLAINTS AND COMPLAINT SETTLEMENT OF VIETNAM AND LESSONS LEARNED**

#### **4.1. Overview of the process of forming law on complaints and complaint settlement in Vietnam**

Citizens' right to complaint is recognized in the 1946 Constitution, the 1959 Constitution, the 1980 Constitution, the 1992 Constitution, the 2013 Constitution and institutionalized in the Ordinance regulating the consideration and resolution of complaints and denunciations of citizens 1981, Ordinance on complaints and denunciations of citizens, Decree No. 38 / HDBT issued on January 28, 1992, Law on Complaints and Denunciations in 1998 which has been amended and supplemented twice on June 14, 2004 and November 29, 2005, Law on Complaints 2011.

#### **4.2. Provisions of law on complaints and complaint settlement of Vietnam (Law on Complaints 2011)**

##### ***4.2.1 Scope of adjustment and application of law on complaints and complaint settlement***

Law on complaints has a wide range of adjustments. However, it focuses on complaints about administrative decisions and administrative acts.

##### ***4.2.2 General mechanism of complaint settlement***

Law on complaints has built a simple, public, democratic and effective complaint process in order to promote people's democratic rights and create favorable conditions for agencies, organizations and individuals to make effective complaints.

### ***4.2.3 Subjects to complain***

Under the provisions of Clause 2, 4 Article 2, Law on Complaints 2011, the subjects have the right to complain are "*a citizen, agency, organization, cadre or civil servant who exercises the right to complaint. state agencies, political organizations, socio-political organizations, social organizations, socio-professional organizations, economic organizations and people's armed forces units*".

### **\* Regulations on many people complain about the same content**

In order to receive and resolve complaints about many people complaining about the same content, the Government has stipulated the implementation in Chapter III of Decree 75/2012 / ND-CP issued on October 3, 2012.

### ***4.2.4 Complaints not eligible to be accepted for settlement***

Regulated in Article 11 of Law on Complaint

### ***4.2.5 Rights and obligations of complainants, the complained subject, complaint settlers, lawyers and legal aid officers***

*a. Rights and obligations of complainants (Article 12)*

*b. Rights and obligations of the complained subjects (Article 13)*

*c. Rights and obligations of complaint settlers (Article 14 and 15)*

*d. Rights and obligations of lawyers and legal aid officers (Article 16)*

### ***4.2.6 Competence to settle complaints (Articles 17 to 24)***

### ***4.2.7 Orders and procedures for resolving complaints***

Acceptance of complaints for settlement

Verification of complaint contents

Organization of dialogs

Making complaint settlement decisions

Sending and publicizing complaint settlement decisions

Making complaint settlement dossiers

### ***4.2.8 Execution of legally effective complaint settlement decisions***

### ***4.2.9 Complaints and their settlement about disciplinary decisions against cadres or civil servants (from Article 49 to Article 53)***

### ***4.2.10 Responsibilities of competent agencies, organizations and individuals for settlement of complaints and coordinate in settling complaints***

### ***4.2.11 Handling violations***

## **4.3 Assessment of law regulations and the implementation of law on complaints and complaint settlement in Vietnam**

### ***4.3.1 General assessment of the provisions of Law on Complaint 2011***

Law on Complaints and legal documents guiding the implementation of Vietnam's Law on Complaints have a scope to fully adjust the aspects and elements of complaints and complaint settlement, are suitable with the main characteristics and

situation of politics - economy - society development as well as international integration of Vietnam. In particular, Law on Complaints focused on administrative complaint settlement which has been specialized and professionalized.

Law on Complaints 2011 has been supplemented many new and progressive regulations to overcome the limitations and shortcomings of previous regulations, meeting the requirements of administrative reform and international integration such as expanding the adjustment scope, object of application, clearly stating procedures, defining the roles and responsibilities of all levels, branches and heads of organizations in settling complaints.

Complaint settlement is more and more publicity and transparency.

Law on Complaints and complaint settlement created conditions to mobilize the participation of professors, experts or managers in solving complaint.

Regulations on enforcement of complaint settlement decisions are legally enforceable to ensure that decisions are taken seriously.

Specifying regulations of the competence on complaint settlement of state administrative agencies, the responsibilities of state inspection agencies on the settlement of complaints and denunciations and the inspection of responsibilities in implementing law on complaints and denunciations.

Law on Complaints also meets the basic requirements of regional and international integration.

#### ***4.3.2 Overall assessment on the results of implementing Law on Complaint 2011***

The state agencies have organized the implementation of Law on Complaints in association with the direction of political tasks of their branches and localities.

The settlement of complaints was carried out with a combination of solutions and participation of the whole political system from the central to local levels, and got many positive changes.

The settlement of complaints has concentrated on competence of complaint settlement in local levels and focus on reviewing and resolving complicated cases in order to ensuring social security.

The dissemination and legal education on complaints have been strengthened with various and numerous forms.

#### **4.4 Experience in building, issuing and organizing the implementation of Law on Complaints and Complaint Settlement in Vietnam**

Firstly, the State of Vietnam is always compliance with Marxism-Leninism, the views of the Communist Party of Vietnam and Ho Chi Minh's Ideology in building, promulgating and organizing the implementation of law on complaints and complaint settlement.

Secondly, deriving from objective reality as well as demands and benefits of the State and people to build, improve and organize the implementation of law on complaints and complaint settlement.

Thirdly, building and developing law on complaints and resolving complaint settlement must ensure the completeness of the law, inherit and complete legislative techniques as well.

Fourthly, learning experiences of other countries and the previous periods to build, improve and strengthen the effectiveness of implementing law on complaints and complaint settlement.

Fifthly, promoting the strength of the political system, increasing the leadership of the Party committees, the responsibility of the government and the supervision of the National Assembly, People's Councils at all levels, the Fatherland Front of Vietnam and its member organizations in building and improving the law, especially organizing the reception of citizens and settling complaints.

Sixthly, synchronously completing the mechanism of resolving complaints and settling administrative complaint settlement.

Seventhly, agencies and units actively review, understand the situation, promptly detect and have solutions to handle cases of mass complaints, or overtaking at the grassroots level to minimize cases of mass complaints and level up.

Eighthly, strengthening the state management on citizen reception, settlement of complaints and denunciations; improving the quality of inspection and examination of the responsibility of implementing law on citizen reception, settling complaints and denunciations of agencies, organizations and heads of state management agencies.

Ninthly, strictly and thoroughly implementing legally effective decisions on settlement of complaints and denunciation-handling decisions.

Tenthly, strengthening and enhancing the responsibility in the state management, focusing on correcting shortcomings and weaknesses in state management in order to gain publicity, transparency, democracy and fairness on the process of constructing, issuing and implementing policies and laws.

Eleventhly, well organizing the citizen reception, as well as seriously implementing regular and irregular citizen reception according to the provisions of law.

## **CHAPTER V**

### **ORIENTATION AND SOLUTIONS TO IMPROVE LAWS ON COMPLAINTS AND COMPLAINT SETTLEMENT OF LAOS**

#### **5.1. The objective necessity of improving law on complaints and complaint settlement in Lao People's Democratic Republic**

*First, deriving from the impact of the process of building a socialist-oriented*

*market economy.*

*Second, deriving from the impact of the process of building a socialist rule-of-law state and the process of democratizing state life, social life.*

*Third, due to the impact of administrative reform and administrative modernization.*

*Fourth, due to the negative effects of the old management mechanism, bureaucracy in the state apparatus.*

*Fifth, the impact of integration and globalization trend.*

*Sixth, the impact of domestic and foreign political context.*

*Seventh, shortcomings and limitations of the current law on complaints and complaint settlement in Laos.*

## **5.2 Viewpoints to improve law on complaints and complaint settlement of Laos**

**5.2.1. Improving law on complaints and complaint settlement based on the views, lines and policies of the Lao Revolutionary People's Party**

**5.2.2 Improving law on complaints and complaint settlement must meet the objectives and requirement of the construction of a socialist rule-of-law state of the people, by the people and for the people.**

**5.2.3 Improving law on complaints and complaint settlement must meet the objectives and requirements of administrative reform and judicial reform, set in the political, economic, cultural and social context. of Laos and in relation to the development of world law in the context of international economic integration and globalization**

**5.2.4 Improving law on complaints and complaint settlement must ensure the specificity, uniformity and feasibility**

**5.2.5 Promulgating laws on handling administrative complaints in Laos**

## **5.3 Basic contents of Law on Complaints of Laos which need to be issued**

**5.3.1 Agree the concept of complaint and the scope of Law on Complaint regulations**

Law on Complaints of Laos will not adjust complaints of cadre of civil servant on disciplinary decisions which are adjusted by law on public employees. Law on Complaints only adjusts and regulates complaints and complaint settlement on administrative decisions and administrative acts of state administrative agencies and competent persons in state administrative agencies.

### **5.3.2 Subject of complaint**

The subject of complaint, also known as the complainants in Law on Complaints, will be issued by Laos including: individuals and organizations.

### **5.3.3 Object of complaint**

The object of complaints, prescribed in Law on Complaints will be issued, are

administrative decisions and administrative acts.

***5.3.4 Rights and obligations of complainants, the complained subjects, complaint settlers, lawyers and legal aid officers***

*5.3.4.1 Rights and obligations of complainants*

*5.3.4.2 Rights and obligations of the complained subjects*

*5.3.4.3 Rights and obligations of first-time complaint settlers*

*5.3.4.4 Rights and obligations of second-time complaint settlers*

*5.3.4.5 Rights and obligations of lawyers and legal aid officers*

***5.3.5 Orders of making a complaint***

Regarding to a general rule in resolving complaints, Law on Complaints should stipulates:

- When having grounds to believe that an administrative decision or administrative act is unlawful or directly infringes upon his/her rights and lawful interests, a person may make a first-time complaint with the person who has issued such administrative decision or the agency that manages the person who has committed such administrative act, or institute an administrative lawsuit at court in accordance with the Law on Administrative Procedures.

- In case the complainant disagrees with the first-time complaint settlement decision or the complaint remains unsettled although past the prescribed time limit, he/she may make a second-time complaint with the direct superior of the person competent to settle the first-time complaint or institute an administrative lawsuit at court in accordance with the Law on Administrative Procedures.

- In case the complainant disagrees with the second-time complaint settlement decision or the complaint remains unsettled though past the prescribed time limit, he/she has right to institute an administrative lawsuit at court in accordance with the Law on Administrative Procedures.

However, for some specific cases, complaints are resolved as follows:

- For an administrative decision or administrative act of a Minister, head of a Ministerial-level agency or Government- attached agency, the complainant may make a complaint with the Minister or institute an administrative lawsuit at court in accordance with the Law on Administrative Procedures. In case the complainant disagrees with the complaint settlement decision of the Minister or the complaint remains unsettled though past the prescribed time limit, he/she may institute an administrative lawsuit at court in accordance with the Law on Administrative Procedures.

- For an administrative decision or administrative act of the chairperson of the People's Committee of a province or centrally-run city, the complainant may make a first-time complaint with the chairperson of the provincial-level People's Committee

or institute an administrative lawsuit at court in accordance with the Law on Administrative Procedures.

In case the complainant disagrees with the first-time complaint settlement decision of the chairperson of the provincial-level People's Committee or the complaint remains unsettled though past the prescribed time limit, he/she may make a second-time complaint with the Minister managing the related sector or field or institute an administrative lawsuit at court in accordance with the Law on Administrative Procedures.

All cases after the second complaint has been resolved or the complaint remains unsettled though past the prescribed time limit or resolved at the competent court according to regulations but the complainant still disagrees with the results of the complaint resolution, the complainant has the right to lodge an application for fairness sent to the National Assembly for consideration and resolution. The Standing Committee of the National Assembly will coordinate with the Delegations of the place where the complaint takes place to consider and resolve. The resolution of the Standing Committee of the National Assembly is the supreme decision and must be enforced. It cannot be changed in all cases.

#### ***5.3.6 Form of complaint***

As in Vietnam, Law on Complaints of Laos also needs to regulate two forms of complaints: verbal complaint and written complaint.

#### ***5.3.7 Statute of limitation for making a complaint***

The statute of limitations for making a complaint is one year, counting from the date of receiving an administrative decision or knowing or being informed of an administrative decision or administrative act.

#### ***5.3.8 Complaints not eligible to be accepted for settlement***

#### ***5.3.9 Complaint-setting competence***

##### ***a. Principles for determining competence***

- The first time complaint settlers are the person to make the complained administrative decision or the head of the agency with the complained administrative act d about.

- The second time complaint settlers are the immediate superior head of the person competent to settle the first time complaint.

##### ***b. Competence to settle complaints***

The competence to settle complaints is as follows:

- Chairpersons of People's Committees of communes, wards or townships are competent to settle first-time complaints about their administrative decisions or acts or administrative decisions or acts of responsible persons who are directly managed by them.

- Heads of agencies of provincial departments and equivalent levels, chairpersons of district-level People's Committees are competent to settle first-time complaints about their administrative decisions or acts; to settle second-time complaints about administrative decisions or acts of chairpersons of commune-level People's Committees, which have been settled for the first time but still be complained or in case first-time complaints remain unsettled in spite the settlement time limit expires.

- Heads of agencies of Ministries, Ministerial-level agencies or Government-attached agencies (hereinafter referred to as heads of agencies of Ministries) are competent to settle first-time complaints about their administrative decisions or acts; to settle second-time complaints about administrative decisions or acts of chairpersons of district-level People's Committees, directors of provincial departments and equivalent levels which have been settled for the first time but still be complained or in case first-time complaints remain unsettled in spite the settlement time limit expires.

- Ministers are competent to settle first-time complaints about their administrative decisions or acts or administrative decisions or acts of cadres or civil servants who are directly managed by them; to settle second-time complaints about administrative decisions or acts of heads of agencies of ministries which have been settled for the first time but still be complained or in case first-time complaints remain unsettled in spite the settlement time limit expires.

- The Prime Minister is competent to settle second-time complaints about administrative decisions or acts that have been settled by the Minister, heads of agencies of Ministries or in spite the settlement time limit expires, the complaints remain unsettled by the Minister, heads of agencies of Ministries.

#### ***5.3.10 Competence of inspection agencies in settling complaints***

- Organizing the reception of complaints and reporting to competent persons for settlement of complaints for consideration and settlement;

- Helping heads of state management agencies at the same level to inspect, verify, conclude and propose the settlement of complaints under the competence of heads of state management agencies of the same level when assigned.

- Helping heads of state management agencies at the same level to monitor, inspect and urge agencies under the direct management of the heads in reception of citizens, settling complaints and enforcing legally effective decisions on settlement of complaints

#### ***5.3.11 Orders and Procedures for settling complaints***

##### ***a. The order and procedures for first-time complaint settlement***

- Acceptance of complaints for settlement



- Organizing the review and settlement of first-time complaints:
  - + Check the complained administrative decisions and administrative acts: the grounds for promulgation, the grounds for implementation, the contents of the incident, the executor ...

- + Verification of complaints.

- + Collect information and documents.

- + Organization of dialogs

- Issuing first-time complaint settlement decisions

#### *b. Order and procedures for second time complaint settlement*

- Acceptance of second-time complaints for settlement

- Verification of second-time complaint contents:

The organization of the review and settlement of the second complaint is stipulated as the first time complaint settlement, however, it should be added:

- + The second time complaint settler may establish an advisory council to consult experts and professors about the second complaint settlement;

- + Issuing compulsory regulations on meetings, contacts and exchanges between complainants and the complained subjects.

- Issuing second-time complaint settlement decisions

#### ***5.3.12 Special procedures to settle complaints decisions***

In the case of a second time complaint settlement decision, the complainant still disagrees with second time complaint settlement decision and does not initiate a lawsuit at the court or settled at the court level as prescribed but still disagree, he/she has the right to submit an application to the National Assembly for consideration and resolution.

#### ***5.3.13 Execution of legally effective decisions on settlement of complaints***

### **5.4 Solutions to improve the effectiveness of law on complaints and complaint settlement in Laos**

#### ***5.4.1. Awareness solution***

- \* *Raising awareness of law observance of citizens*

- \* *Raising awareness of law observance of cadres and civil servants related to the field of complaints and complaint settlement*

#### ***5.4.2. Implementation solution***

*Firstly, consolidating the apparatus for enforcing the law on complaints and complaint settlement*

*Secondly, renovating and raising the responsibilities of cadres and civil servants related to complaints and complaint settlement*

*Thirdly, strengthening inspection activities, inspect the implementation of complaints and complaint settlement*

## CONCLUSION

Law on Complaints and Complaint settlement plays an important role in ensuring citizens' right to complain and resolving conflicts between state agencies and individuals and organizations in state management activities.

Although legal documents were issued to serve as a basis for settling complaints arising in Laos state management, the system of these regulations is still relatively simple and has not yet been adjusted relationships between complaints and complaint settlement in Laos today.

Therefore, it is necessary to continue improving law on complaints and complaint settlement in the current period. This is an urgent issue and a long-term strategy in the process of building a prosperous, civilized and developed Laos.

Throughout the practice of implementing of law on complaints and complaint settlement of Vietnam, lesson learned for Laos as follow:

Firstly, to thoroughly grasp Marxism-Leninism, the views of the Communist Party of Vietnam and Ho Chi Minh's Ideology in building, promulgating and organizing the implementation of law on complaints and complaint settlement.

Secondly, deriving from objective reality as well as demands and benefits of the State and people to build, improve and organize the implementation of law on complaints and complaint settlement.

Thirdly, building and developing law on complaints and resolving complaint settlement must ensure the completeness of the law, inherit and complete legislative techniques as well.

Fourthly, learning experiences of other countries and the previous periods to build, improve and strengthen the effectiveness of implementing law on complaints and complaint settlement.

Fifthly, promoting the strength of the political system, increasing the leadership of the Party committees, the responsibility of the government and the supervision of the National Assembly, People's Councils at all levels, the Fatherland Front of Vietnam and its member organizations in building and improving the law, especially organizing the reception of citizens and settling complaints.

Sixthly, synchronously completing the mechanism of resolving complaints and settling administrative complaint settlement.

Seventhly, agencies and units actively review, understand the situation, promptly detect and have solutions to handle cases of mass complaints, or overtaking at the grassroots level to minimize cases of mass complaints and level up.

Eighthly, strengthening the state management on citizen reception, settlement of complaints and denunciations; improving the quality of inspection and examination of the responsibility of implementing law on citizen reception, settling

complaints and denunciations of agencies, organizations and heads of state management agencies.

Ninthly, strictly and thoroughly implementing legally effective decisions on settlement of complaints and denunciation-handling decisions as well.

Tenthly, strengthening and enhancing the responsibility in the state management, focusing on correcting shortcomings and weaknesses in state management in order to gain publicity, transparency, democracy and fairness on the process of constructing, issuing and implementing policies and laws.

Eleventhly, well organizing the citizen reception, as well as seriously implementing regular and irregular citizen reception according to the provisions of law.

For legal aspect, it is necessary to issue Law on Complaints of Laos to deal with administrative complaints that regulates the relationships arising in complaints and complaint settlement such as subjects of complaints, mass complaints, rights and obligations of complainants, the complained subjects and complaint settlers; orders and procedures for complaints and complaint settlement; competence to settle complaints and complaint settlement mechanisms; inspection and supervision of complaint settlement, etc.

Besides, in order to improve the enforcement effectiveness of law on complaints and complaint settlement, there must be solutions to improve awareness of law observance of citizens; to raise awareness of law observance of cadres and civil servants related to the field of complaints and complaint settlement; to consolidate the apparatus for implementing law on complaints and settling complaints; to renovate and raise the responsibilities of cadres and civil servants related to complaints and complaint settlement; to strengthen inspection activities, inspect the implementation of complaints and resolve complaints.