

MINISTRY OF EDUCATION AND TRAINING

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HANOI LAW UNIVERSITY

TRAN THUY DUONG

TOPIC

**PROTECTING THE RIGHTS OF WHISTLEBLOWERS
IN VIETNAM TODAY**

ABSOLUTE OF DOCTORAL THESIS

**Field of study: Theory and History of State and Law
Code: 9380106**

Scientific supervisors: 1. Prof. Dr. Vu Cong Giao

2. Dr. Bui Xuan Phai

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INTRODUCTION

1. The Urgency of the Research Topic

In Viet Nam, denunciation has been recognized as a constitutional right since the 1959 Constitution and has subsequently been inherited and reinforced in later constitutions. The current 2013 Constitution (as amended and supplemented in 2025) provides for the right to denunciation in Clause 1, Article 30. On that basis, the 2018 Law on Denunciation clearly stipulates the grounds, procedures, competence for applying protection measures, responsibilities of relevant agencies and organizations, as well as sanctions against acts infringing upon the rights of whistleblowers. Subordinate legal documents such as Decree No. 31/2019/ND-CP, Circular No. 03/2020/TT-BNV, and Circular No. 08/2020/TT-BLDTBXH further strengthen the legal framework for more comprehensive protection of whistleblowers' rights. In particular, information relating to the identity of whistleblowers has been included in the List of State Secrets under Decision No. 774/QĐ-TTg in 2020.

As a result, in recent years, together with the process of building a socialist rule-of-law State and intensifying crime prevention and control, especially anti-corruption efforts, citizens have increasingly exercised the right to

denunciation as an effective instrument for safeguarding justice and public interests. However, practice also shows that many individuals remain reluctant to exercise this right due to fears of retaliation, victimization, or social isolation within their communities and working environments. Moreover, the lack of timely legal protection and support mechanisms has caused some whistleblowers to suffer psychological, material, professional, and familial harm. This situation significantly undermines the effectiveness of denunciation activities, reduces the capacity to detect legal violations, and weakens anti-corruption efforts in Viet Nam.

To date, there has not yet been a comprehensive and systematic study in Viet Nam examining the protection of whistleblowers' rights from theoretical foundations, current legal frameworks, and practical implementation perspectives, considering whistleblowers as subjects of constitutional rights. This research gap necessitates more in-depth studies capable of providing scientific and practical grounds for improving the legal framework and mechanisms for protecting whistleblowers' rights in contemporary Viet Nam.

Originating from the aforementioned realities and demands, the doctoral candidate has chosen the topic

“Protection of the Rights of Whistleblowers in Contemporary Viet Nam” for the doctoral dissertation in the field of Theory and History of State and Law, thereby contributing to the improvement of the legal mechanism for protecting whistleblowers’ rights in Viet Nam in the coming period.

2. Research Objectives and Research Tasks

**** Research Objective***

To clarify the theoretical foundations concerning the protection of whistleblowers’ rights within the socialist rule-of-law State of Viet Nam; to analyze and evaluate the current legal framework and practical implementation regarding the protection of whistleblowers’ rights; and on that basis, to propose scientific and feasible solutions aimed at improving the law and enhancing the effectiveness of protecting whistleblowers’ rights in Viet Nam in the coming period.

**** Research Tasks***

- To review domestic and foreign studies related to the protection of whistleblowers’ rights, assess achievements, identify limitations and academic gaps, thereby determining the research orientation of the dissertation.

- To analyze and clarify the theoretical foundations and international legal standards concerning the protection of

whistleblowers' rights; comprehensively evaluate the current legal framework and practical implementation regarding the protection of whistleblowers' rights in Viet Nam; and identify strengths, limitations, and causes of such limitations.

- To selectively study and draw upon historical experiences of the Vietnamese nation across different periods, as well as international experiences concerning whistleblower protection, in order to derive lessons applicable to Viet Nam; and to propose viewpoints and solutions for improving the legal framework and mechanisms ensuring the protection of whistleblowers' rights in Viet Nam, thereby enhancing the effectiveness of whistleblower protection in the future.

3. Research Subjects and Scope

**** Research Subjects***

The dissertation focuses on theoretical, legal, and practical issues relating to the protection of whistleblowers' rights in contemporary Viet Nam.

**** Research Scope***

In terms of content: the dissertation focuses on theoretical, legal, and practical issues concerning the implementation of measures protecting whistleblowers' rights in Viet Nam.

In terms of space: the dissertation examines legal provisions and practical implementation of laws concerning the protection of whistleblowers' rights in Viet Nam.

In terms of time: to provide a comprehensive overview, the dissertation outlines the formation and development of legal provisions on whistleblower protection in Viet Nam since national independence in 1945; however, the main analysis focuses primarily on the period since the promulgation of the 2011 Law on Denunciation, particularly since the 2018 Law on Denunciation came into force.

4. Theoretical Basis, Methodology, and Research Methods

**** Theoretical Basis***

The dissertation is conducted on the basis of Marxism–Leninism and Ho Chi Minh Thought concerning human rights and citizens' rights; the viewpoints and policies of the Communist Party of Viet Nam on building a socialist rule-of-law State, anti-corruption, and public participation in controlling state power. The dissertation also applies international legal standards on human rights and anti-corruption promulgated by the United Nations.

**** Methodology***

The dissertation employs the dialectical materialist methodology of Marxist–Leninist philosophy to examine whistleblowers’ rights and mechanisms for protecting such rights within the dialectical relationship between theory, law, and practice; between state power, control of state power, and human rights protection. In addition, the dissertation utilizes several approaches and theoretical frameworks in the field of human rights to address specific research tasks.

**** Research Methods***

The dissertation employs analytical, synthetic, comparative legal, historical-legal, and case study methods.

5. Scientific Contributions of the Dissertation

The dissertation contributes to consolidating and supplementing the theoretical foundation concerning mechanisms for protecting whistleblowers’ rights in Viet Nam; identifying strengths, weaknesses, difficulties, and challenges in operating and improving this important mechanism, while clarifying the causes of such difficulties and challenges. The dissertation also develops viewpoints, proposals, and a comprehensive system of solutions aimed at improving the current mechanism for protecting whistleblowers’ rights in Viet Nam.

6. Theoretical and Practical Significance of the Dissertation

Theoretical significance: The findings of the dissertation contribute to strengthening and supplementing the scientific theoretical foundation for improving mechanisms protecting whistleblowers' rights in Viet Nam, particularly legal mechanisms.

Practical significance: The findings may serve as reference materials for Party and State agencies as well as social organizations. In addition, they may be used as reference materials for academic institutions, social organizations, and local authorities in teaching, research, and implementation activities concerning the protection of whistleblowers' rights.

7. Structure of the Dissertation

Apart from the Introduction, the Literature Review related to the dissertation topic, the Conclusion, and the References, the dissertation consists of the following chapters:

Chapter 1: Theoretical Foundations of the Protection of Whistleblowers' Rights

Chapter 2: Current Legal Framework and Implementation of Laws on the Protection of Whistleblowers' Rights under Vietnamese Law

Chapter 3: Viewpoints and Solutions for Strengthening the Protection of Whistleblowers' Rights in Contemporary Viet Nam

OVERVIEW OF RESEARCH WORKS RELATED TO THE DISSERTATION TOPIC

The dissertation reviews research works related to the theoretical issues concerning citizens' right to denunciation. In this regard, it surveys both domestic and international studies concerning citizens' right to denunciation and the protection of whistleblowers' rights.

The dissertation also reviews research works related to the current situation of protecting the rights of whistleblowers. Accordingly, it examines both domestic and international studies concerning the actual protection of whistleblowers' rights.

In addition, the dissertation reviews research works related to orientations and solutions for protecting the rights of whistleblowers. This includes domestic and international studies concerning orientations and solutions for the protection of whistleblowers' rights, as well as studies related to models, mechanisms, and measures for protecting whistleblowers' rights.

PART II. MAIN CONTENT

CHAPTER 1. THEORETICAL FOUNDATIONS FOR THE PROTECTION OF WHISTLEBLOWERS' RIGHTS

Chapter 1 consists of five sections, from Section 1.1 to Section 1.5. In this chapter, the author develops and analyzes the concepts of denunciation, whistleblowers, whistleblowers' rights, and the protection of whistleblowers' rights. The chapter clarifies the characteristics and significance of protecting whistleblowers' rights; the principles, contents, and methods of such protection; the subjects and mechanisms involved in protecting whistleblowers' rights; and the conditions ensuring the exercise of whistleblowers' rights. The dissertation also examines historical experiences of the Vietnamese nation across different periods, as well as international experiences regarding the protection of whistleblowers' rights. Furthermore, the author clarifies the protection of whistleblowers' rights in both the public and private sectors in Vietnam.

*** Subjects Responsible for the Protection of Whistleblowers' Rights**

- The State: The State is the primary duty-bearer in protecting human rights in general, including the rights of

whistleblowers. The State bears specific obligations to respect, protect, and fulfill human rights, including whistleblowers' rights.

- Agencies Receiving and Handling Denunciations: Agencies responsible for receiving and resolving denunciations (such as inspectorates, supervisory bodies, anti-corruption agencies, and competent administrative authorities) are the entities directly implementing the responsibility to protect whistleblowers' rights.

- The Judicial System: The judicial system, including courts and agencies responsible for investigation, prosecution, and adjudication, serves as the highest-level protector of whistleblowers' rights.

- Employers: Employers, in both the public and private sectors, are subjects bearing special legal obligations in protecting whistleblowers' rights.

- Social Organizations, Trade Unions, and Professional Associations: These organizations constitute important supporting actors in protecting whistleblowers' rights.

- The Media and Society: The media and society in general indirectly protect whistleblowers' rights through shaping public awareness, public opinion, and legal culture.

It can be affirmed that protecting whistleblowers' rights is the responsibility of multiple actors, among which the State plays the central role. However, the effectiveness of such protection depends on close coordination among public authorities, the judicial system, employers, social organizations, the media, and the broader social environment. Clearly defining the roles, obligations, and coordination mechanisms among these actors constitutes a prerequisite for establishing a substantive, effective, and sustainable mechanism for protecting whistleblowers' rights.

*** Mechanisms for the Protection of Whistleblowers' Rights**

(1) Legal Foundation: The legal foundation constitutes the primary and indispensable basis for the protection mechanism of whistleblowers' rights. The law plays the role of clearly defining the rights of whistleblowers, the obligations of responsible actors, as well as protective measures and sanctions applicable in cases of rights violations.

(2) Enforcement Institutions: Alongside the legal framework, enforcement institutions play a decisive role in realizing the protected rights of whistleblowers.

(3) Procedures and Processes: An effective mechanism for protecting whistleblowers' rights cannot exist without

clear, transparent, and accessible procedures and processes. Such procedures must cover all stages, including receipt of denunciations, risk assessment, decisions on protective measures, implementation of protection, and supervision of implementation.

(4) Protective Tools and Measures: The protection mechanism operates through a diverse system of protective tools, including confidentiality of identity and personal information; protection of employment positions and professional rights; protection of life, health, and personal security; and legal, psychological, and social support.

(5) Supervision and Accountability: Supervisory mechanisms may also be strengthened through the role of courts, inspection and supervisory bodies, as well as the participation of society and the media, provided that the identity of whistleblowers is not disclosed.

In summary, the mechanism for protecting whistleblowers' rights is a multi-layered structure that closely combines legal frameworks, institutions, procedures, tools, and supervisory mechanisms. The effectiveness of this mechanism not only determines the level of safety afforded to whistleblowers but also reflects the quality of national governance, the degree of respect for human rights, and the capacity to control state power.

Therefore, the establishment and improvement of mechanisms for protecting whistleblowers' rights should be regarded as a central task in the process of building the rule of law and combating corruption in all countries, including Vietnam.

Chapter 1 focuses on analyzing the theoretical and legal foundations for the protection of whistleblowers' rights, thereby clarifying the unique position of whistleblowers as subjects who both exercise rights and simultaneously face risks of rights violations precisely because of exercising such rights.

*** Principles for the Protection of Whistleblowers' Rights**

The principles governing the protection of whistleblowers' rights include: the principle of respecting and ensuring human rights; the principle of confidentiality and information security; the principle of prevention and prohibition of retaliation; the principle of comprehensive and multi-layered protection; the principle of independence and objectivity; the principle of good faith and reasonable grounds; and the principle of state accountability.

These principles constitute the theoretical and legal foundation governing the design and operation of protection mechanisms. Compliance with these principles

not only determines the safety of whistleblowers but also reflects the quality of the rule of law, the protection of human rights, and the effectiveness of power control within a country.

*** Contents of the Protection of Whistleblowers' Rights**

The protection of whistleblowers' rights includes: protection of identity and personal information confidentiality; protection of life, health, and personal security; protection of honor, dignity, and social reputation; protection of employment positions and professional rights; and the right to access justice and legal aid.

*** Methods for the Protection of Whistleblowers' Rights**

Methods for protecting whistleblowers' rights are understood as the aggregate of legal, organizational, and social measures implemented by the State and relevant actors to prevent, terminate, and remedy acts infringing upon whistleblowers' rights. Such methods include protection through law; administrative and organizational mechanisms; judicial protection; political and social protection; protection through media and public opinion; economic and financial protection; protection through information technology and digital means; protection

through international cooperation; and protection through public service ethics and legal culture.

CHAPTER 2. THE CURRENT SITUATION OF LAW AND LAW ENFORCEMENT REGARDING THE PROTECTION OF WHISTLEBLOWERS' RIGHTS IN VIETNAM TODAY

2.1. The Formation, Development, and Current State of Vietnam's Legal System on the Protection of Whistleblowers' Rights

*** The Formation and Development of Institutions and Laws on the Protection of Whistleblowers' Rights in Vietnam from 1945 to the Present**

This development has gone through the following periods: 1945–1954; 1954–1975; 1975–1986; 1986–2013; and from the 2013 Constitution to the present.

Overall, the formation and development of Vietnamese law on the protection of whistleblowers' rights reflects a transition from the recognition of denunciation rights as political-moral rights, to their constitutionalization, and ultimately to the legalization of protection mechanisms grounded in a human rights approach.

*** Overview of the Current Legal Normative System Governing the Protection of Whistleblowers' Rights in Vietnam**

The 2013 Constitution (amended and supplemented in 2025) recognizes the rights to complaints and denunciations, while requiring competent authorities to promptly receive and resolve complaints and denunciations and strictly prohibiting retaliation against complainants and whistleblowers (Article 30). From the perspective of legal approach, the 2018 Law on Denunciations marks a transition from the approach of “the right to denunciation + prohibition of retaliation” to “the right to denunciation + protection mechanisms.” This approach is significant as it provides the basis for the comprehensive and effective operation of measures protecting whistleblowers' rights in practice, consistent with the globally recognized logic of whistleblower protection mechanisms discussed in Chapter 1, namely: risk identification → protection decision → implementation → supervision of protection.

*** Subjects, Methods, and Mechanisms for the Protection of Whistleblowers' Rights under Vietnamese Law**

The author identifies and analyzes the subjects responsible for protecting whistleblowers' rights. Under the 2018 Law on Denunciations, denunciation-settling bodies (administrative

agencies, inspectorates, and heads of agencies and organizations) are both entities responsible for handling denunciations and institutions obligated to organize protective measures when risks of infringement arise.

In addition, judicial bodies, socio-political organizations, trade unions, and the press also play important roles in protecting whistleblowers' rights through supervision and support activities.

Methods of protection: The 2018 Law on Denunciations provides for methods of protecting whistleblowers' rights, including: (i) confidentiality of identity and information; (ii) protection of employment positions; (iii) protection of personal safety; and (iv) legal support within certain limits.

Protection mechanisms: The mechanism for protecting whistleblowers' rights in Vietnam is stipulated in various legal documents (the Constitution, the Law on Denunciations, the Anti-Corruption Law, the Criminal Code, the Law on Inspection, etc.), thereby creating a relatively comprehensive and interconnected legal framework.

2.2. The Current Practice of Implementing Laws on the Protection of Whistleblowers' Rights in Vietnam

The author provides general assessments and detailed analyses of the current implementation of laws

protecting whistleblowers' rights in Vietnam, including: implementation of laws on confidentiality of whistleblowers' identities; implementation of laws protecting employment positions, jobs, and working conditions of whistleblowers; implementation of laws protecting the life, honor, dignity, property, and safety of whistleblowers and their family members; implementation of laws handling acts of retaliation and victimization against whistleblowers; implementation of laws concerning the role of the press, public opinion, and social organizations in supporting or exerting pressure for the protection of whistleblowers' rights; and implementation of laws protecting whistleblowers' rights in the private sector.

2.3. General Assessment of the Current Situation of Protecting Whistleblowers' Rights in Vietnam and Emerging Issues

*** General Assessment of the Legal Framework Relating to the Protection of Whistleblowers' Rights in Vietnam**

Advantages: The current legal framework clearly recognizes the principle prohibiting all acts of retaliation and victimization; establishes protective contents (confidentiality of identity; protection of employment positions, jobs, and working conditions; protection of

physical safety, honor, and property; handling acts of retaliation); and allocates responsibilities to state agencies in receiving, resolving, and protecting whistleblowers' rights.

Limitations: Legal provisions protecting whistleblowers' rights remain fragmented and lack a specialized central protection institution. The law has not established an independent agency or unified focal point for whistleblower protection; nor has it reversed the burden of proof in cases where adverse consequences arise after denunciation. Whistleblowers still bear the burden of proving the causal link between their denunciation and retaliatory acts, even where adverse consequences occur immediately after the denunciation. The current scope of legal protection does not fully cover the range of risks faced by whistleblowers. Sophisticated forms of retaliation (social, psychological, online, etc.), as well as risks faced by whistleblowers' family members, are only recognized in principle, without clear identification criteria and enforcement tools. There are also shortcomings in legislative drafting techniques.

Causes of these limitations: Vietnamese law continues to be influenced by a traditional administrative governance mindset, which prioritizes organizational stability and risk

control over the empowerment and protection of individual rights. The absence of an independent whistleblower protection institution reflects institutional caution regarding the granting of authority for early intervention into internal administrative decisions. Vietnam's legal framework has not yet fully integrated a human rights-based approach.

*** General Assessment of the Practice of Implementing Laws on the Protection of Whistleblowers' Rights in Vietnam**

Advantages: State agencies have become increasingly cautious regarding requirements for confidentiality of whistleblowers' identities; several cases involving disclosure of whistleblowers' information have been inspected, concluded, and subjected to administrative accountability measures. Certain protective tools for whistleblowers' rights have been utilized, although their effectiveness remains limited.

Limitations: Slow response mechanisms; difficulties in identifying and addressing indirect retaliation; and weak protection of the physical safety, honor, dignity, and property of whistleblowers—particularly their family members—remain the most vulnerable aspects.

Causes of these limitations: The practical implementation of laws protecting whistleblowers' rights in

Vietnam has not yet matched the established normative framework. The fundamental bottleneck lies not in the “lack of legal provisions,” but rather in the lack of operational capacity to implement protection as a risk-prevention mechanism for whistleblowers’ rights.

*** Issues Arising from the Current Situation of Protecting Whistleblowers’ Rights in Vietnam**

These issues include: the absence of mechanisms reversing the burden of proof in cases where adverse consequences arise after denunciation; the narrow scope of protection compared to actual risks; the fact that protection of whistleblowers’ rights in Vietnam is still primarily approached within the logic of complaint-denunciation administration rather than human rights protection; and the need to choose an appropriate institutional reform direction regarding whistleblower protection.

CHAPTER 3.

VIEWPOINTS AND SOLUTIONS FOR STRENGTHENING THE PROTECTION OF WHISTLEBLOWERS' RIGHTS IN VIETNAM TODAY

3.1. Viewpoints on Strengthening the Protection of Whistleblowers' Rights in Vietnam Today

- Protecting whistleblowers' rights as an important and indispensable requirement of the rule of law state and good governance.
- Fundamentally shifting from an administrative management approach to a human rights-based approach.
- Prioritizing proactive, preventive, and risk-governance protection models.
- Linking the protection of whistleblowers' rights with accountability and control of power.
- Promoting the role of citizens, the press, and social organizations within a safe institutional framework.
- Ensuring compatibility with Vietnam's political-legal context and reform roadmap.

3.2. Solutions for Strengthening the Protection of Whistleblowers' Rights in Vietnam Today

- Improving the legal framework toward establishing the protection of whistleblowers' rights as an institution of the rule of law state.
- Redesigning protection mechanisms based on a human rights-based approach.
- Establishing proactive, preventive, and risk-governance protection models.
- Linking the protection of whistleblowers' rights with accountability and control of power.
- Developing protection mechanisms with the participation of multiple actors in society.

CONCLUSION

Overall, the dissertation entitled “Protection of Whistleblowers’ Rights in Vietnam Today” has achieved its stated research objectives, thereby contributing to the supplementation and development of the theoretical foundation, clarifying the current state of law and practice, and proposing orientations and solutions aimed at improving the mechanism for protecting whistleblowers’ rights in Vietnam. The findings of the dissertation are valuable not only from an academic perspective but also in practical terms for the ongoing process of building a socialist rule-of-law state, strengthening anti-corruption efforts, and ensuring human rights in Vietnam today.

Nevertheless, due to limitations in research scope and conditions, the dissertation has not been able to provide in-depth analysis of several specialized aspects, such as the protection of whistleblowers in the private sector, the protection of whistleblowers in the context of digital transformation, or the relationship between whistleblower protection and mechanisms for protecting information providers, reporters, and individuals reporting legal violations. These issues constitute meaningful directions for further research and should continue to be explored in future scholarly works.

IST OF PUBLISHED ARTICLES BY THE AUTHOR RELATED TO THE THESIS TOPIC

1. Tran Thuy Duong, “Protecting Whistleblowers and the Responsibilities of State Agencies Today”, Journal of State Management (ISSN, Research - Discussion, January 19, 2023).

2. Tran Thuy Duong, “Protecting Whistleblowers in State Agencies Today”, Journal of State Management (ISSN 2354-0761), No. 327, April 2023.

3. Tran Thuy Duong, “Experiences in Protecting Whistleblowers in Some Countries and Suggestions for Vietnam”, Journal of State Management (ISSN 2354-0761), No. 339, April 2024.

4. Tran Thuy Duong, “Protecting the Rights of Whistleblowers: International Standards and Suggestions for Vietnam”, Journal of State Management (ISSN 2354-0761), No. 346, November 2024.

5. Tran Thuy Duong, “Solutions to Strengthen the Protection of Whistleblowers' Rights”, Journal of State Management (ISSN 2354-0761), No. 352, May 2025.

6. Tran Thuy Duong, “Improving the Effectiveness of Whistleblower Protection in the Fight Against Corruption in Vietnam Today”, Monograph “Modern and Effective National Governance in Relation to the Fight Against Corruption in Vietnam Today”, Nguyen Quoc Van - Vu Cong Giao - Nguyen Van Quan (Co-editors). (Đã chỉnh sửa) Khôi phục văn bản gốc