

HO CHI MINH NATIONAL ACADEMIC OF POLICTICS

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**ADPL ON PREVENTING AND COMBATING WRONGFUL
CONVICTIONS AND OMISSIONS OF CRIMINALS
IN RESOLVING CRIMINAL CASES OF THE
PROVINCIAL PEOPLE'S PROCURACY IN VIETNAM**

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INTRODUCTION

1. The urgency of the thesis topic

In the process of building and perfecting the rule of law, Vietnam has determined the goal of "not allowing criminals to escape but also not allowing injustice to occur". In the socialist (socialist) rule-of-law state model, the People's Procuracy (People's Procuracy) is a special institution, "exercising the right to prosecute and supervise judicial activities", with the task of "protecting Protecting the law, protecting human rights, prosecuting rights, protecting the socialist regime, protecting the interests of the State, the legitimate rights and interests of organizations and individuals, contributing to ensuring that the law is complied with. strictly and uniformly" (Clauses 1, 3, Article 107, 2013 Constitution), thereby ensuring that socialist legislation is implemented uniformly, smoothly and strictly. After more than seven decades of building and developing the Socialist State of Vietnam, the People's Procuracy has gradually been formed, developed and perfected, and the function of exercising prosecutorial power and supervising judicial activities continues to be perfected. . Through clearly defining functions and tasks, the People's Procuracy has contributed to "Implementing proceedings increasingly better, limiting the situation of investigation, prosecution, unjust trial, wrongful conviction or omission of crimes." violation".

In recent years, with the increasingly complicated crime situation, in addition to the results achieved, in practice there are still some cases of injustice, wrong, and omission of criminals, causing frustration in public opinion. such as Huynh Van Nen case, Nguyen Thanh Chan case, Han Duc Long case, etc. In Resolution No. 96/2015/QH13 dated June 26, 2015, the XIII National Assembly commented: "Compared with the requirements Fighting crime, protecting human rights, legitimate rights and interests of citizens, preventing and combating injustice and wrongdoing is still limited and inadequate. The main reason for this reality is that in some criminal cases, the quality of the practice of prosecution, prosecution, investigation, prosecution and adjudication by some provincial-level People's Procuracy is still limited. Sometimes, there are tasks that are not regular or strict; etc. These limitations stem from limitations and weaknesses in APDPL activities on preventing and combating wrongful convictions and omissions of criminals of the Provincial People's Procuracy in the process of resolving criminal cases.

The above practice raises the need to strengthen the application of the law on preventing and combating wrongful convictions and omissions of criminals by the Provincial People's Procuracy in Vietnam in the coming time, so studying the issue of "*The application on preventing and combating wrongful convictions and omissions of criminals in resolving criminal cases of the Provincial People's Procuracy in Vietnam*" is truly meaningful both theoretically and practically in the process of promoting judicial reform to meet Meet the requirements of building and perfecting the current socialist rule-of-law state of Vietnam.

2. Research purposes and tasks

2.1. Research purposes

The thesis clarifies the theoretical basis of the application of the law on preventing and combating wrongful convictions and omission of criminals in resolving criminal cases of the People's Procuracy and the practice of application of law on preventing and combating miscarriage of justice and omission of criminals in resolving criminal cases of the Provincial People's Procuracy in Vietnam, thereby proposing solutions to strengthen the application of the law on preventing and preventing wrongful convictions and omissions of criminals in resolving criminal cases of the Provincial People's Procuracy in Vietnam during the period next.

2.2. Research mission

To achieve the above research purposes, the thesis focuses on solving the following contents: Overview, analysis, and evaluation of research works related to the application of the law issues on preventing and combating wrongful convictions and omissions of criminals in solving criminal cases of the People's Procuracy, thereby clearly indicating the achieved results that the thesis continues to inherit and develop, and the gaps that need to continue to be resolved in the thesis. Building a theoretical basis for the application of the law on preventing and combating wrongful convictions and omissions in resolving criminal cases of the People's Procuracy, in which the thesis clarifies the concept, characteristics, stages, and evaluation criteria and factors affecting the application of the law on preventing and combating wrongful convictions and omissions of criminals in resolving criminal cases by the People's Procuracy. Analyzing and evaluating the current situation of the application of the law in preventing and combating wrongful convictions and omissions of criminals in resolving criminal cases of the Provincial People's Procuracy in Vietnam in recent times, thereby pointing out the

results achieved and the achievements limitations and causes of this situation. Explain, propose solutions and solutions to strengthen the application of the law on preventing and combating wrongful convictions and omissions of criminals in resolving criminal cases of the Provincial People's Procuracy in Vietnam in the coming time.

3. Subject and scope of research

3.1. Research subjects

The research object of the thesis is the theoretical and practical issues of the application of the law on preventing and combating wrongful convictions and omissions of criminals in resolving criminal cases of the Provincial People's Procuracy in Vietnam.

3.2. Research scope

- Regarding content: the thesis researches legal regulations and activities of the application of the law on preventing and combating wrongful convictions and omissions of criminals in resolving criminal cases of the People's Procuracy.

- Regarding space: the thesis researches practical issues of the application of the law on preventing and combating wrongful convictions and omissions of criminals in resolving criminal cases of the Provincial People's Procuracy in Vietnam.

- Regarding time: the thesis researches practical issues of the application of the law on preventing and combating wrongful death and missing criminals in solving crimes.

Listing criminal cases of the Provincial People's Procuracy in Vietnam from 2015 to 2022.

4. Theoretical basis and research methods

4.1. Theoretical basis

The thesis uses the methodology of dialectical materialism, historical materialism and the Party's viewpoints and guidelines, the State's laws on the application of the law and the role of the People's Procuracy in preventing and combating wrongful convictions and omissions of criminals in solving criminal cases.

4.2. Research Methods

Historical-logical method; Methods of analysis and synthesis; Comparative and statistical methods; Case Study Method (Case Study); Other legal research methods.

5. Scientific and practical significance of the thesis

The research results in the thesis have certain significance both theoretically and practically.

5.1. Scientific significance of the thesis

The research results of the topic will contribute to supplementing, perfecting and enriching the the application of the law theory on preventing and combating wrongful convictions and omissions of criminals in resolving criminal cases of the People's Procuracy.

5.2. Practical significance of the thesis

The research results of the thesis contribute to clarifying the practice of the application of the law on preventing and combating wrongful convictions and omissions of criminals in resolving criminal cases of the Provincial People's Procuracy in Vietnam. The research results of the thesis topic can be used as a reference to serve research, teaching and learning on issues related to the application of the law, People's Procuracy and solving criminal cases in public institutions. Department of training and fostering officials and civil servants.

6. New points of the topic

Compared with research works related to the application of the law on preventing and combating wrongful convictions and omissions of criminals in resolving criminal cases of the People's Procuracy, the research results of the thesis have the following new points:

- The thesis has built and completed theoretical issues related to the application of the law on preventing and combating wrongful convictions and omissions of criminals in resolving criminal cases of the People's Procuracy.

- The thesis has clearly shown that in recent years, the application of the law's work on preventing and combating wrongful convictions and omissions of criminals in resolving criminal cases of the Provincial People's Procuracy in Vietnam has achieved many important results in recent times. However, the limitations of the application of the law in preventing and combating wrongful convictions and omissions of criminals in resolving criminal cases of the Provincial People's Procuracy in Vietnam still occur.

- The thesis has explained and proposed directions and solutions to strengthen the application of the law in preventing and combating wrongful convictions and omissions of criminals in resolving criminal cases of the Provincial People's Procuracy in Vietnam in the coming time.

7. Structure of the thesis

In addition to the introduction, conclusion, appendix and list of references, the thesis is structured into 4 chapters, 11 sections, of which:

Chapter 1

OVERVIEW OF RESEARCH WORKS RELATED TO THE APPLICATION OF THE LAW ON PREVENTING AND COMBATING WRONGFUL CONVICTIONS AND OMISSIONS OF CRIMINALS IN RESOLVING CRIMINAL CASES OF THE PEOPLE'S PROCURACY

1.1. RESEARCH SITUATION AT DOMESTIC AND ABROAD RELATED TO THE APPLICATION OF THE LAW ON PREVENTING AND COMBATING WRONGFUL CONVICTIONS AND OMISSIONS OF CRIMINALS IN RESOLVING CRIMINAL CASES OF THE PEOPLE'S PROCURACY

1.1.1. Research projects on applying the law and preventing and combating wrongful convictions and omissions in solving criminal cases

1.1.1.1. The issue of applying the law through research works

Firstly, theory about the application of the law through research works. The above research works are quite consistent in the content of the application of the law, which is the activity of competent state agencies or individuals and organizations authorized by the state to individualize legal norms in different cases, specifically to create, change or terminate certain legal relationships.

Secondly, the application of the law practices through research projects. To clarify the application of the law practice, many works have studied the application of the law activities in many fields, such as administrative, civil, etc.

1.1.1.2. The issue of preventing and combating injustice, wrongdoing and omission of criminals in criminal cases in research projects

Firstly, the law on preventing and combating wrongful convictions and omissions in criminal cases through research works.

Secondly, measures to prevent and combat wrongful convictions and omissions in criminal cases through research projects. Preventing and combating wrongful convictions and omissions in criminal cases is a major issue of concern to scholars around the world because this issue is related to human rights and ensuring justice. In Vietnam, this is also a major content in the judicial reform strategy, so many legal researchers, experts, and managers have been paying great attention to this issue.

1.1.1.3. The issue of applying the law to prevent and combat injustice, wrongdoing and omission of criminals in criminal cases in research projects

1.1.2. Research projects on the activities of the Provincial People's Procuracy to prevent injustice, wrongdoing and omission of criminals in resolving criminal cases

Firstly, research projects on the organization, functions and tasks of the People's Procuracy and Provincial People's Procuracy in Vietnam. In general, current research projects on the People's Procuracy all affirm the importance of the People's Procuracy in resolving criminal cases, including the function of exercising prosecutorial power and the function of supervising activities.

The judiciary continues to be affirmed and improve the quality of operations in practice.

Secondly, research projects on the role of the Provincial People's Procuracy in preventing and combating wrongful convictions and omissions of criminals in resolving criminal cases. Faced with the need to improve the quality of exercising prosecutorial power and supervising the resolution of criminal cases in the spirit of judicial reform, there have been many studies on the theoretical issue of wrongful death in criminal proceedings, the responsibility of the People's Procuracy in preventing and combating wrongful convictions and omissions of criminals in criminal proceedings has been organized and researched.

1.2. EVALUATION AND ISSUES THAT NEED CONTINUE RESEARCH IN THE THESIS

1.2.1. Evaluate the research results of the above projects

1.2.1.1. In terms of content

The above research works have not analyzed and deeply evaluated the the application of the law of the Provincial People's Procuracy in preventing and combating wrongful convictions and omissions of criminals in the process of resolving criminal cases in Vietnam in recent times, especially Especially in the years of implementing the 2013 Constitution, the 2015 Penal Code (amended and supplemented in 2017), the 2015 Criminal Procedure Code (amended and supplemented in 2021), and the 2014 Law on Organization of the People's Procuracy.

1.2.1.2. In terms of methods and approaches

The above research projects approaching the issue of the application of the law in solving criminal cases in general and in preventing and combating

wrongful convictions and omissions of criminals in solving criminal cases in particular have not been fully and clearly approached. in terms of theory and history of state law.

1.2.2. Issues that need to be further researched in the thesis

The above remaining open issues need to be further researched and clarified in this thesis, specifically:

- In terms of content

+ Theoretically:

The thesis inherits the results achieved from the above research projects, continues to synthesize and clarify the content, characteristics, stages, and criteria for evaluating the application of the law activities on preventing and combating wrongful death and neglecting criminals in the People's Procuracy's handling of criminal cases. The thesis uses research methods and approaches from the perspective of the theory and history of state and law to clarify the application of the law theoretical issues on preventing and combating wrongful death and the omission of criminals in solving crimes cases by the People's Procuracy.

+ Practically:

The thesis uses the theoretical basis that has been developed to analyze and fully and comprehensively evaluate the current situation of the application of the law in terms of preventing and combating wrongful convictions and omissions of criminals in resolving criminal cases of the Provincial People's Procuracy in Vietnam in recent times, thereby clearly pointing out the results achieved to continue promoting in the future and the limitations that need to be proposed to propose solutions to strengthen the application of the law in preventing and combating wrongful convictions and omissions violations in resolving criminal cases by the Provincial People's Procuracy in our country in the coming time.

- In terms of research methods and approaches

The above research works were studied from the perspective of legal science, especially some authors approached the aspects of criminal science and criminal procedure. However, the issue of the application of the law on preventing and combating wrongful convictions and omissions of criminals in resolving criminal cases by the People's Procuracy needs to be seen from both the theoretical and historical aspects of the state and law, because in the process of To carry out its functions and tasks, the organization and operation of the People's Procuracy should be placed in relationship with other state

agencies (Courts, investigation agencies, judgment enforcement agencies, ...) . Therefore, to comprehensively evaluate the current situation of the application of the law in terms of preventing and combating wrongful convictions and omissions of criminals in resolving criminal cases of the Provincial People's Procuracy in Vietnam and propose directions and solutions to strengthen the application of the law on preventing and combating wrongful convictions and omissions of criminals in resolving criminal cases of the Provincial People's Procuracy in Vietnam in the coming time in terms of theory and history of state and law.

1.3. RESEARCH HYPOTHESES AND RESEARCH QUESTIONS

1.3.1. Research hypothesis

The application of laws on preventing and combating wrongful convictions and omissions of criminals in resolving criminal cases by the Provincial People's Procuracy in Vietnam in recent years has improved significantly, especially since the 2013 Constitution. was issued, however, the the application of the law on preventing and combating wrongful convictions and omissions of criminals in resolving criminal cases of the Provincial People's Procuracy still has certain limitations due to legal regulations on prevention and prosecution.

Wrongful accusations and omission of criminals in resolving criminal cases are incomplete and unclear; The steps to implement the application of the law on preventing and combating wrongful convictions and omissions in resolving criminal cases have not been implemented smoothly and effectively; The the application of the law capacity of the Provincial People's Procuracy still has certain limitations, which have not been promptly overcome.

1.3.2. Research question

To solve the problems raised above, the thesis needs to answer the following questions: (1) Applying the law on preventing and combating wrongful death and omission of criminals in resolving criminal cases by the People's Procuracy is What? What stages does this activity go through? What factors are this activity affected by? (2) How has the application of the law on preventing and combating wrongful convictions and omissions of criminals in resolving criminal cases by the Provincial People's Procuracy in Vietnam been like in recent times? What are the causes leading to limitations in the application of the law on preventing and combating wrongful convictions and omissions of criminals in resolving

criminal cases of the Provincial People's Procuracy in Vietnam today? (3) What does Vietnam need to do to strengthen the application of the law on preventing and combating wrongful convictions and omissions of criminals in resolving criminal cases of the People's Procuracy of Vietnam's province in the coming time?

Chapter 2

THEORETICAL BASIS FOR APPLYING THE LAW ON PREVENTING AND COMBATING WRONGFUL CONVICTIONS AND OMISSIONS OF CRIMINALS IN RESOLVING CRIMINAL CASES OF THE PEOPLE'S PROCURACY

2.1. ON PREVENTING AND COMBATING WRONGFUL CONVICTIONS AND OMISSIONS OF CRIMINALS IN RESOLVING CRIMINAL CASES OF THE PEOPLE'S PROCURACY

2.1.1. Concept of applying the law on preventing and combating injustice, wrongdoing and omission of criminals in resolving criminal cases of the People's Procuracy

Applying the law on preventing and combating wrongful convictions and omissions of criminals in resolving criminal cases by the People's Procuracy is an activity of the People's Procuracy exercising the right to prosecute and supervise judicial activities. in specific criminal cases to receive and handle information, criminal denunciations and recommendations for prosecution, investigation, prosecution and trial by competent state agencies promptly, strictly, right person, right crime, not unjust, wrong innocent person, not letting criminals and offenders through, thereby protecting justice, protecting human rights, civil rights, protecting social regime ideology, protecting the interests of the State, the legitimate rights and interests of organizations and individuals, contributing to ensuring that the law is strictly and consistently observed.

2.1.2. Characteristics of applying the law on preventing and combating injustice, wrongdoing and omission of criminals in resolving criminal cases of the People's Procuracy

Firstly, the application of the law on preventing and combating wrongful convictions and omissions of criminals in resolving criminal cases is a proactive and positive activity of the People's Procuracy. Secondly, the application of the law on preventing and combating wrongful convictions and omissions of criminals in resolving criminal cases of the People's Procuracy is operating in accordance with the law. Thirdly, the application of

the law on preventing and combating wrongful convictions and omissions in resolving criminal cases of the People's Procuracy is influenced by many internal and external factors.

2.1.3. The role of applying the law on preventing and combating injustice, wrongdoing and omission of criminals in resolving criminal cases of the People's Procuracy

2.1.3.1. For the State

Firstly, applying the law on preventing and combating injustice, wrongdoing and omission of criminals in resolving criminal cases by the People's Procuracy is a measure for subjects to participate in the process of resolving criminal cases. the correct and adequate performance of one's own responsibilities; *Secondly*, applying the law on preventing and combating injustice, wrongdoing and omission of criminals in resolving criminal cases by the People's Procuracy clearly shows the position and role of the People's Procuracy in practice, functions of prosecution and supervision of judicial activities; *Thirdly*, apply the law on preventing and combating injustice, wrongdoing and omission of criminals in resolving criminal cases by the People's Procuracy to prevent, stop and handle cases of injustice, wrongdoing and omission of criminals in the process of resolving criminal cases, thereby ensuring the State's task of protecting justice and ensuring human rights.

2.1.3.2. For the accused, defendants, victims, and people with related interests

Firstly, for the accused and defendants.

Secondly, for victims and people with related interests.

2.1.3.3. For society

Applying the law on preventing and combating injustice, wrongdoing and omission of criminals in resolving criminal cases of the People's Procuracy in order to strengthen belief in justice, belief in righteousness, belief in fairness, belief in integrity of the judiciary and the strictness of law enforcement agencies and the strictness of the law against subjects who violate criminal laws.

2.2. STAGES AND CRITERIA FOR EVALUATING ACTIVITIES OF APPLYING THE LAW ON PREVENTING AND COMBATING WRONGFUL CONVICTIONS AND OMISSIONS OF CRIMINALS IN RESOLVING CRIMINAL CASES OF THE PEOPLE'S PROCURACY

2.2.1. Stages of applying the law on preventing and combating injustice, wrongdoing and omission of criminals in resolving criminal cases of the People's Procuracy

(1) Determine the nature of the criminal case to apply the law on

preventing and combating injustice, wrongdoing and omission of criminals by the People's Procuracy; (2) Select appropriate legal norms for criminal cases that need to apply the People's Procuracy's law on preventing and combating injustice, wrongdoing and omission of criminals; (3) Issuing decisions and organizing the implementation of decisions to apply the law on preventing and combating injustice, wrongdoing and omission of criminals in resolving criminal cases of the People's Procuracy

2.2.2. Criteria for evaluating the application of laws on preventing and combating injustice, wrongdoing and omission of criminals in resolving criminal cases of the People's Procuracy

Firstly, criteria of legality. Secondly, criteria of accuracy and objectivity. Thirdly, criteria to ensure feasibility.

2.3. FACTORS AFFECTING THE APPLICATION OF THE LAW ON PREVENTING AND COMBATING WRONGFUL CONVICTIONS AND OMISSIONS OF CRIMINALS IN RESOLVING CRIMINAL CASES OF THE PEOPLE'S PROCURACY

2.3.1. Objective factors

- Objective factors: Legal factors; Political factors; Socio-economic factors.

2.3.2. Subjective factors

- Subjective factors: Professional qualifications, professionalism and ethical qualities of the team of prosecutors and civil servants of the People's Procuracy; Facilities and working conditions of the People's Procuracy during the process of resolving criminal cases.

2.4. APPLYING THE LAW ON PREVENTING AND COMBATING WRONGFUL CONVICTIONS AND OMISSIONS OF CRIMINALS IN RESOLVING CRIMINAL CASES OF THE PEOPLE'S PROCURACY IN SOME COUNTRIES AROUND THE WORLD AND LESSONS OF EXPERIENCE FOR VIETNAM

2.4.1. Applying the law on preventing and combating injustice, wrongdoing and omission of criminals in resolving criminal cases by the People's Procuracy in China

2.4.1.1. Overview of the People's Procuracy in China

In China, the People's Procuracy is not part of the Government like most countries in the world, but is a separate agency system, this is an independent agency system under the Chinese People's Congress (National Assembly).

2.4.1.2. Evaluating the application of laws on preventing and combating injustice, wrongdoing and omission of criminals in resolving criminal cases of the People's Procuracy in China

Firstly, ensure the legality in the process of performing its functions and tasks. Secondly, ensure accuracy and objectivity in performing the tasks of receiving and resolving criminal information sources, prosecuting, investigating and prosecuting. Thirdly, decisions or recommendations of the People's Procuracy during the process of resolving criminal cases must ensure feasibility.

2.4.2. Applying the law on preventing and combating injustice, wrongdoing and omission of criminals in resolving criminal cases of the People's Procuracy in the Russian Federation

2.4.2.1. Overview of People's Procuracy in the Russian Federation

According to the provisions of the current Constitution of the Russian Federation, "The Procuracy of the Russian Federation is a unified centralized system with the submission of lower-level Procurators to superior Procurators and the Chief Procurator of the Procuracy. Russian Federation (Clause 1, Article 129)".

2.4.2.2. Evaluating the application of laws on preventing and combating injustice, wrongdoing and omission of criminals in resolving criminal cases of the People's Procuracy in the Russian Federation

Firstly, the Russian Federation stipulates that agencies, organizations and individuals are not allowed to interfere in the work of the Procuracy. Secondly, the Russian Federation regulates the functions and tasks of the Procuracy in ensuring freedom and other rights of people and citizens. Thirdly, the Russian Federation allows the Procuracy to apply special procedures for making judicial decisions based on the defendant's consent to charges in certain cases.

2.4.2. Some general comments and lessons learned for Vietnam

2.4.2.1. Some general comments

Firstly, the system of Procuracy agencies in China and the Russian Federation is still in the stage of institutional reconstruction, improving the professional and technical knowledge of procurators. Secondly, at the broadest level, the Procuracy in China and the Russian Federation is one of the "judicial organs" of the State, responsible for actively and fully participating in strong attacks fight serious crimes according to each period's goals. Thirdly, the relationship between the People's Procuracy and the police

in China is quite complicated. Fourthly, the issue of improving professional standards of prosecutorial activities related to investigation activities, evidence processing, and exercising prosecutorial power.

2.4.2.2. Lessons learned for Vietnam

Firstly, continue to better promote the role of the People's Procuracy in the application of the law in preventing and combating wrongful convictions and omissions of criminals in resolving criminal cases. Secondly, the People's Procuracy needs to continue to improve its organization and operations, especially improving the quality of the team of prosecutors, inspectors and other staff of the People's Procuracy. Thirdly, continue to improve legal regulations and coordination regulations between the People's Procuracy and relevant agencies, such as the Investigation Agency, People's Court, etc. in the process of implementing activities of the application of the law on preventing and combating injustice mistakes and omissions in solving criminal cases.

Chapter 3

CURRENT STATUS OF THE APPLICATION ON PREVENTING AND COMBATING WRONGFUL CONVICTIONS AND OMISSIONS OF CRIMINALS IN RESOLVING CRIMINAL CASES OF THE PROVINCIAL PEOPLE'S PROCURACY IN VIETNAM

3.1. OVERVIEW OF THE PROVINCIAL PEOPLE'S PROCURACY AND APPLICATION OF THE LAW ON PREVENTING AND COMBATING INJURIES, WRONGS AND EXPLOITATION OF CRIME IN SOLVING CRIMINAL CASES IN VIETNAM

3.1.1. Overview of the Provincial People's Procuracy in Vietnam

3.1.1.1. Organization and apparatus of the Provincial People's Procuracy in Vietnam

Organizational apparatus of the Provincial People's Procuracy of 63 provinces and centrally run cities, including: Procuracy Committee, Office and professional departments.

3.1.1.2. Team of prosecutors and civil servants of the Provincial People's Procuracy in Vietnam

Firstly, the work of building and developing the staff of the Provincial People's Procuracy continues to be focused and has achieved many important results. Secondly, the planning of the team of prosecutors and civil servants of the Provincial People's Procuracy is carried out relatively methodically and in accordance with regulations. Thirdly, continue to implement the

transfer, change of working positions, and secondment of prosecutors to improve the quality of the team of procurators and civil servants of the Provincial People's Procuracy. Fourth, the management of training and fostering of officials, especially the team of prosecutors and civil servants of the Provincial People's Procuracy, is always focused.

3.1.2. Legal provisions on preventing injustice, wrongdoing and omission of criminals in resolving criminal cases in Vietnam

3.1.2.1. Regulations on order and procedures for resolving criminal cases in Vietnam

Firstly, the provisions of the current criminal law have concretized the provisions in the 2013 Constitution, aiming to ensure good human rights and citizen rights. Secondly, compared to the 2003 Criminal Procedure Code, the 2015 Criminal Procedure Code (amended and supplemented in 2021) has many basic innovative contents that need to be thoroughly grasped and well organized in the practice of prosecutorial power. Supervise judicial activities when resolving criminal cases. Thirdly, the tasks and powers of the People's Procuracy are clearly stipulated in the 2015 Criminal Procedure Code (amended and supplemented in 2021), thereby creating a complete and appropriate legal basis for the Provincial People's Procuracy to prevent and combat injustice and neglecting criminals when performing functions, tasks, and powers in handling criminal cases. Fourthly, the 2015 Criminal Procedure Code (amended and supplemented in 2021) has fundamentally amended and supplemented regulations on judicial expertise, these are important regulations to remove obstacles in investigative practice. , prosecute and adjudicate, thereby performing well in the exercise of prosecutorial power and supervision of criminal justice activities of the Provincial People's Procuracy.

3.1.2.2. Regulations on the functions and tasks of the Provincial People's Procuracy in preventing injustice, wrongdoing and omission of criminals in resolving criminal cases in Vietnam

In Vietnam, the People's Procuracy's responsibility to prevent and combat injustice, wrongdoing, and omission of criminals is implemented in the above work contents, especially to ensure the implementation of Resolution No. 96/2015/QH13 of the National Assembly on strengthening measures to prevent and combat injustice and wrongdoing and ensure compensation for victims in criminal proceedings, provisions of the Constitution and laws on preventing injustice, wrongdoing and omission of

crimes In order to effectively commit crimes, the Director of the Supreme People's Procuracy issued Directive No. 04/CT-VKSTC dated July 10, 2015 on strengthening measures to prevent injustice and wrongdoing and improve responsibility in settlement of compensation for damages. for those wrongly accused in criminal proceedings; which sets out specific requirements and tasks that the People's Procuracy at all levels must perform to ensure the People's Procuracy's responsibilities in preventing and combating wrongful convictions and omissions of criminals.

3.1.3. Applying the law on preventing injustice, wrongdoing and omission of criminals of the Provincial People's Procuracy in resolving criminal cases in Vietnam

3.1.3.1. Determining the nature of criminal cases to apply the law on preventing and combating injustice, wrongdoing and omission of criminals by the People's Procuracy

3.1.3.2. Choosing appropriate legal norms for criminal cases requires applying the People's Procuracy's law on preventing and combating injustice, wrongdoing, and omission of criminals.

Firstly, during the stage of receiving and resolving denunciations, crime reports and recommendations for prosecution. Secondly, during the investigation phase of a criminal case. Thirdly, during the prosecution phase. Fourthly, during the trial of criminal cases.

3.1.3.3. Promulgate decisions and organize the implementation of decisions to apply the law on preventing and combating injustice, wrongdoing and omission of criminals in resolving criminal cases of the People's Procuracy

Firstly, during the stage of receiving and resolving denunciations, crime reports and recommendations for prosecution. Secondly, during the investigation phase of a criminal case. Thirdly, during the prosecution phase. Fourthly, during the trial of criminal cases.

3.2. EVALUATION OF THE LAW APPLICATION ACTIVITIES ON PREVENTING AND COMBATING WRONG INJURIES AND ELIMINATION OF CRIME IN RESOLVING CRIMINAL CASES OF THE PROVINCIAL PEOPLE'S PROCURACY IN VIETNAM

3.2.1. Achievements of the application of laws on preventing and combating wrongful convictions and omissions of criminals in resolving criminal cases of the Provincial People's Procuracy in Vietnam

3.2.1.1. About ensuring legality

The first, APDPL on preventing and combating wrongful convictions and omissions of criminals in resolving criminal cases has been implemented by the Provincial People's Procuracy with many strict measures. Secondly, the Provincial People's Procuracy has synchronously implemented many solutions to thoroughly grasp and strictly implement the direction of the Director of the Supreme People's Procuracy to strengthen prosecutorial responsibility in investigation activities. Thirdly, the exercise of prosecutorial powers and investigation supervision of the Provincial People's Procuracy is becoming stricter and more effective, contributing to ensuring that investigation activities comply with the law and speeding up the investigation progress of criminal cases sentence.

3.2.1.2. About ensuring accuracy and objectivity

Firstly, the majority of the People's Procuracy's application of law decisions in the process of resolving criminal cases are based on objective, complete evidence and legal regulations. Secondly, the Provincial People's Procuracy has also taken many measures to strengthen prosecutorial responsibility, strictly supervise the preparation of documents, decide to handle denunciations, crime reports and recommendations for prosecution.

3.2.1.3. About ensuring feasibility

Firstly, during the prosecution phase, the Provincial People's Procuracy continues to implement many measures to strengthen prosecutorial responsibility; Improve the quality of supervising the preparation of case files, proactively directly conduct a number of investigative activities, be cautious in evaluating evidence, ensure objectivity and comprehensiveness to resolve cases with grounds, in accordance with the law, seriously implementing the task of preventing and combating injustice and the omission of criminals; Decisions to prosecute and suspend are reviewed very carefully and closely. Second, the Provincial People's Procuracy has proactively conducted investigation and deposition activities, especially for serious and complicated cases with conflicting evidence, thereby strengthening the prevention and combating of injustice and corruption criminals are overlooked in the process of resolving criminal cases. Thirdly, the Provincial People's Procuracy continues to proactively coordinate well with the Investigation Agency and the Court to focus on speeding up and thoroughly and strictly handling major cases related to economics, positions,

corruption, and other crimes. The resolution of the case has dragged on for many years and the cases were annulled by higher People's Courts for re-investigation and trial. Fourthly, the Provincial People's Procuracy has organized and synchronously implemented many solutions to strengthen prosecutorial responsibility during the criminal trial stage.

3.2.2. Limitations of the application of laws on preventing and combating wrongful convictions and omissions of criminals in resolving criminal cases of the Provincial People's Procuracy in Vietnam

3.2.2.1. About ensuring legality

Firstly, the People's Procuracy in some provinces and cities has not promoted the responsibility of prosecution during the investigation stage, there are still cases of inaccurate and unfounded prosecutions, forcing them to withdraw the decision to prosecute and suspend the case. , the defendant's actions do not constitute a crime or the Court returns the case due to lack of evidence, violating criminal proceedings; Some prosecution decisions show signs of missing criminals, requiring the Court to prosecute new criminals, new defendants, and prosecute additional new crimes. Secondly, some provincial-level People's Procuracy have "violated the professional regulations of the sector", not seriously implementing the Regulations on information and reporting in the people's procuracy sector, not reporting cases in writing and reviewing judgments in advance. When deciding to prosecute, both the prosecutor and the leadership did not fully grasp the content of the case, the evidence system, violations, and contradictions in the evidence documents. The content of the indictment is simple and sketchy, "no arguments, no emphasis on evaluation of exculpatory documents and evidence, and the defendant's not-guilty testimony." Therefore, "when the Court returns the file for additional investigation or the defendant denies guilt, the victim or witnesses change their testimony, the prosecutor and leaders are confused, giving rise to the conservative ideology that there is enough evidence to prosecute and convict."

3.2.2.2. About ensuring accuracy and objectivity

Firstly, some units and operations of the Provincial People's Procuracy have not strictly and promptly controlled the receipt and resolution of denunciations and crime reports, leading to the omission of criminals; Coordination in resolving overdue denunciations and reports is not thorough; The work of detecting violations and recommending requests to correct violations in handling reports and denunciations of crimes and

recommendations for prosecution are not timely. Secondly, the responsibility to exercise prosecutorial power in investigative activities in some cases is not good; have not closely followed and firmly grasped the progress of the investigation and the preparation of case files, and have not promptly issued investigation requests; The approval of decisions to apply preventive measures is in some cases inaccurate; There are still a number of cases where emergency arrest or temporary detention are approved, and then must be transferred to administrative handling or released; In some cases, the file lacks evidence or there are violations in collecting evidence, requiring additional investigation. In some cases, it must be suspended because the defendant's actions do not constitute a crime. Thirdly, when deciding on procedural measures or ways to handle the case, "Leaders do not comprehensively and objectively consider the suggestions of the prosecutor handling the case, and change the prosecutor during the investigation." The member has an opinion on resolving the case that is contrary to his or her point of view. When reviewing the judgment, listen to the news

The report was "not thorough, not in-depth, and not careful in evaluating the evidence. The leadership only relied on the prosecutor's report, did not directly check documents and evidence in the file to compare with the contents." Because of the prosecutor's suggestions, we cannot detect shortcomings in the case resolution process to direct corrections, as well as limitations in studying the prosecutor's proposals to learn from experience. Fourthly, the prosecutor did not "properly and fully perform his duties and powers during the process of supervising the scene examination and experimental investigation. Fifthly, the prosecutor "did not carefully check and verify documents and evidence before approving the decision to prosecute the defendant and apply preventive measures"; "Not carrying out activities to interrogate the accused, take statements from victims and witnesses; Failure to verify when the accused claims innocence, contradictions in testimony and evidence documents in the case file, thus failing to detect violations, shortcomings during the investigation process or failure to anticipate situations. Situations may arise such as the defendant confessing under duress during the investigation phase, the defendant betraying or denying guilt at trial.

3.2.2.3. About ensuring feasibility

In reality, there are still cases where the wrong person and the right crime are prosecuted or criminals and offenders are overlooked; In some

cases where the People's Procuracy prosecuted, the trial Court found the defendant not guilty; Some cases still need to extend the resolution period, including corruption and economic cases; The quality of litigation by prosecutors in some trials has not met the requirements for judicial reform; Some units are slow to detect violations in the Court's first instance judgments in order to appeal, make recommendations, and request redress and crime prevention; The appellate appeal responsibility of the first-instance People's Procuracy has not been highlighted, so the number of appellate appeals of the first-instance People's Procuracy accounts for a low proportion compared to the number of appellate appeals of the superior Procuracy; Some protests lacked basis and were withdrawn by the superior People's Procuracy.

3.2.3. Reasons for achievements and limitations of the application of laws on preventing and combating wrongful convictions and omissions of criminals in resolving criminal cases of the Provincial People's Procuracy in Vietnam

3.2.3.1. Cause and effect achieved

First, objective reasons.

Second, subjective reasons.

3.2.3.2. Limited cause

Firstly, objective reasons: First, current legal regulations are still incomplete, lacking uniformity, many inadequacies, and not specific and clear. Second, the number of criminal sentences is increasing; "The crime situation is becoming more and more complicated, sophisticated tricks make it difficult to prove crimes." Thirdly, the current organizational structure of the local People's Procuracy is organized according to 6 models. Fourthly, funding to ensure the operations of the Procuracy sector is still low compared to actual requirements; Investment in facilities, equipment, and working facilities of the People's Procuracy at all levels has received more attention but still does not meet the requirements.

Secondly, subjective reasons: Firstly, leaders of the Provincial People's Procuracy in some localities "have not fully implemented their tasks, powers, and responsibilities in management, direction, and administration, and have limited professional capacity". Secondly, the capacity, qualifications, and sense of responsibility of a part of prosecutors are still limited. Thirdly, intra-sectoral and inter-sectoral coordination in some provinces and cities in the process of resolving criminal cases still has limitations and inadequacies.

Fourthly, the management, direction, and administration of activities of exercising prosecutorial power, supervising the reception and handling of information and denunciations about crimes and recommendations for prosecution, supervising investigations, and supervising Trial of criminal cases is still limited. Fifthly, visa application and response activities are currently not good, many cases have problems, "professional guidance, practical summary, review, and handling of responsibilities have not been implemented in accordance with the requirements." go out".

Chapter 4

VIEWPOINTS AND SOLUTIONS TO STRENGTHEN THE APPLICATION OF THE LAW ON PREVENTING AND COMBATING INJURIES, WRONGS AND EXPLOITATION OF CRIME IN RESOLVING CRIMINAL CASES OF THE PROVINCIAL PEOPLE'S PROCURACY IN VIETNAM

4.1. VIEWPOINTS ON STRENGTHENING THE APPLICATION OF THE LAW ON PREVENTING AND COMBATING WRONGFUL CONVICTIONS AND OMISSIONS OF CRIMINALS IN RESOLVING CRIMINAL CASES OF THE PROVINCIAL PEOPLE'S PROCURACY IN VIETNAM CURRENTLY

- Continue to improve the organization and operations of the current Provincial People's Procuracy of Vietnam

- Continue to well practice the right to prosecute and supervise judicial activities of the Provincial People's Procuracy of Vietnam according to the Party's policies and the State's laws.

- Continue to perfect legal regulations on preventing and combating injustice, wrongdoing and omission of criminals in resolving criminal cases

4.2. SOLUTIONS TO STRENGTHEN THE APPLICATION OF THE LAW ON PREVENTING AND COMBATING WRONGFUL CONVICTIONS AND OMISSIONS OF CRIMINALS IN RESOLVING CRIMINAL CASES OF THE PROVINCIAL PEOPLE'S PROCURACY IN VIETNAM CURRENTLY

4.2.1. Group of solutions to improve the law on preventing and combating injustice, wrongdoing and omission of criminals in the process of resolving criminal cases

4.2.1.1. Improve legal regulations on criminal proceedings

Firstly, complete the regulations on determining the truth of the case. Secondly, Complete regulations on principles of responsibility for prosecuting and handling criminal cases. Thirdly, complete regulations on the function of exercising prosecutorial power and supervising compliance with the law in criminal proceedings.

4.2.1.2. Improve legal regulations on exercising prosecutorial power and supervising judicial activities of the People's Procuracy

Firstly, amend and supplement regulations on impeachment of prosecutors in Clause 3, Article 321 of the Criminal Procedure Code in 2015 (amended and supplemented in 2021). Secondly, amend and supplement Clause 4, Article 326 of the Criminal Procedure Code in 2015 (amended and supplemented in 2021) on deliberation procedures.

4.2.2. Solution group on improving the quality of organization and operation of the Provincial People's Procuracy

4.2.2.1. Innovating the staff work of the Provincial People's Procuracy; Strengthen discipline, discipline, bravery and responsibility of the staff of the Provincial People's Procuracy in performing public duties

Firstly, the Provincial People's Procuracy needs to pay special attention to improving the quality of staff work. Secondly, improve responsibility, bravery and strengthen discipline in performing public duties of the team of procurators and civil servants of the Provincial People's Procuracy.

4.2.2.2. Strengthen the training and fostering of staff of the Provincial People's Procuracy

4.2.2.3. Strengthen the coordination relationship between the Provincial People's Procuracy and competent agencies in resolving criminal cases

Firstly, strengthen relationships within the Procuracy during the process of resolving criminal cases. Secondly, strengthen inter-sectoral coordination in the process of resolving criminal cases.

4.2.2.4. Increase investment and improve physical and technical facilities for the Provincial People's Procuracy

4.2.3. Solution group to enhance the good performance of functions and tasks of the Provincial People's Procuracy in resolving criminal cases in Vietnam

4.2.3.1. Continue to effectively implement regulations and instructions on preventing and combating wrongful convictions and omissions in resolving current criminal cases.

Firstly, the Provincial People's Procuracy thoroughly grasps and effectively implements the provisions of the Penal Code in 2015 (amended and supplemented in 2017), the Criminal Procedure Code in 2015 (amended

and supplemented in 2021), and Resolution No. 41/ 2017/QH14 on contents related to the implementation of the 2015 Penal Code (amended and supplemented in 2017), the 2015 Criminal Procedure Code and professional regulations and regulations of the Supreme People's Procuracy in the criminal field. Secondly, the People's Procuracy at all levels continues to thoroughly grasp and strengthen the implementation of practical and effective measures to prevent and combat injustice and wrongful conduct and compensate those who have been wrongly wronged in criminal proceedings in accordance with the spirit of criminal proceedings. Resolution No. 96/2015/QH13 dated June 26, 2015 was concretized in Directive No. 04/CT-VKSTC dated July 10, 2015 of the Supreme People's Procuracy and Resolution No. 111/2015/QH13 dated July 27 November 2015 of the National Assembly.

4.2.3.2. Enhance the roles and responsibilities of leaders of the Provincial People's Procuracy and leaders of units in exercising the right to prosecute and supervise the resolution of criminal cases and matters

Firstly, promote the proactive role and increase the responsibility of leaders of People's Procuracy at all levels and heads of units under the Supreme People's Procuracy in management, direction and administration. Secondly, strengthen the role and responsibility of management, direction and administration of the Provincial People's Procuracy Leaders and unit leaders in exercising prosecutorial power and supervising the resolution of cases and incidents about criminal matters. Thirdly, properly and fully implement the tasks and powers of the People's Procuracy according to the provisions of the Criminal Procedure Code in 2015 (amended and supplemented in 2021). Fourthly, the Provincial People's Procuracy strengthens the work of "professional inspection, improving responsibility and quality in requesting and responding to requests; Strengthen the summary of practice, notify lessons learned, review, and handle personal responsibility for violations".

CONCLUSION

1. Applying the law on preventing and combating wrongful convictions and omissions of criminals in resolving criminal cases of the People's Procuracy is one of the important tasks of the People's Procuracy, carried out through the following activities: determining the criminal cases of the People's Procuracy. nature of criminal cases, select appropriate norms and analyze and clarify the content and meaning of legal norms for criminal cases and issue decisions and organize the implementation of application of law decisions on prevention, Preventing injustice and omission of criminals in resolving criminal cases by the People's Procuracy. These activities need to ensure legality, accuracy, objectivity and feasibility.

2. During the period 2015-2020, activities of application of law on preventing and combating wrongful convictions and omissions of criminals in resolving criminal cases of the Provincial People's Procuracy achieved outstanding results.

3. During this period, activities of application of law on preventing and combating wrongful convictions and omissions of criminals in resolving criminal cases of the Provincial People's Procuracy still reveal limitations. The above limitations come from objective and subjective reasons.

4. In order to overcome the limitations and shortcomings in the above practice, to meet the requirements of strengthening application of law on preventing and combating wrongful convictions and omissions of criminals of the Provincial People's Procuracy in resolving criminal cases, it is necessary to focus on Carry out the following key tasks and solutions: (1) continue to improve the law on prevention and control wrongful conviction and omission of criminals in the process of resolving criminal cases; (2) The Provincial People's Procuracy thoroughly grasps and effectively implements current legal regulations on preventing and combating wrongful convictions and omissions of criminals; (3) Promote the proactive role and increase the responsibility of leaders of the Provincial People's Procuracy and heads of units under the Supreme People's Procuracy in management, direction and administration; Strengthen the roles and responsibilities of management, direction and administration of Provincial People's Procuracy leaders and unit leaders in exercising prosecutorial power and supervising the resolution of criminal cases and matters ; Correctly and fully implement the tasks and powers of the People's Procuracy according to the provisions of the Criminal Procedure Code in 2015 (amended and supplemented in 2021); Strengthen

professional inspection, improve responsibility and quality in requests and responses to requests; Strengthen the summary of practice, notify lessons learned, review, and handle personal responsibility for violations; (4) Focus on the assessment, arrangement and use of prosecutors and civil servants of the People's Procuracy to select officers and prosecutors with sufficient qualities, capabilities and qualifications to meet the requirements of performing their functions. assigned responsibilities and tasks; improve the responsibility and bravery of prosecutors; Strengthen discipline and discipline in performing public duties; Strengthen training, fostering and improving the capacity and professional skills of civil servants and prosecutors; (5) Strengthen the cooperative relationship within the People's Procuracy and inter-sectoral sectors with the People's Court, the People's Public Security and other agencies and units involved in the process of resolving criminal cases. the; (6) Strengthen conditions to ensure facilities; Strengthen the application of information technology in the performance of functions and tasks of the People's Procuracy in general and the Provincial People's Procuracy in particular to improve the capacity to serve the fight against crime, ensure prevention and control of crimes. unjust, wrong.

LIST OF PUBLICATIONS
BY THE AUTHOR RELATED TO THE THESIS

1. Le Văn Dong (2021), "The role of the People's Procuracy in building the socialist law-ruled State in Vietnam", *Political Theory*, (Vol 29).
2. Le Van Dong (2021), *Improving the quality of litigation of the People's Procuracy during the judicial reform process in Vietnam*, Proceedings of the International Conference, Social Sciences Publishing House, p.469.
3. Le Van Dong (2022), "Promoting the role of the People's Procuracy in building a socialist rule-of-law state in Vietnam", *Procuracy Magazine*, (17), pp.3-.8.
4. Le Van Dong (2023), "Procuracy function of the People's Procuracy - Theoretical and practical issues", "Crimes of infringing upon judicial activities under the 2015 Penal Code - Aspects criminal justice and criminology" in *Proceedings of the conference on Vietnam proactive integration and sustainable development*, Social Sciences Publishing House, Hanoi.