

# The Discipline Of Cadres And Public Employees In The Current Period: Actual Situation And Some Problems Arise

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## Abstract

Cadres and cadre work have always been a particularly important factor, decisive for the victory of the revolutionary cause. In the process of revolutionary leadership, the Communist Party of Vietnam (out Party) always focuses on cadre work, building, and training cadres, in which “virtue is the source “. In the new situation, our Party continues to affirm the special position and role of cadre work and cadre building. The cadre work is recognized by the Party Central Committee as the key of all the key, the most important of the important matters. Detecting, fostering, training, and using the right staff, the right people, and the right jobs. However, in the process of working, there have been many officials and employees who violated the regulations on ethics, lifestyle, and law, leading to disciplinary action. This study focuses on studying the current situation of violations and disciplinary sanctions of officials and employees in the past time, analyzing the causes and problems, thereby proposing solutions to improve the situation.

**Keywords:** The discipline, cadres, public employees, actual situation, issues raised, Vietnam

## Introduction

Each cadre, civil servant, and public employee in an agency, unit, or organization holds a certain position and role and must be responsible for the agency, unit, and organization in which he/she joins and is a member. pellets. The responsibility of cadres, civil servants, and public employees are to perform well their assigned tasks and strictly comply with the provisions of law and regulations set forth by the agency or unit. Along with responsibilities, cadres, civil servants and public employees also have to be exemplary in training in terms of quality, ethics, lifestyle, and dedication to the profession. Law on cadres and civil servants (2008), Article 8. “Obligations of cadres and civil servants to the Party, State and people” clearly states:

“Loyalty to the Communist Party of Vietnam and the State of the Socialist Republic of Vietnam; protect the honor of the Fatherland and national interests.

Respecting the people, devotedly serving the people.

Close contact with the people, listen to their opinions, and be under their supervision of the people.

To strictly abide by the lines, guidelines, and policies of the Party and the laws of the State”.

President Ho Chi Minh defined responsibility in very simple and understandable words: “Responsibility is: Firmly grasping policies, following the right path of the masses, fulfilling tasks” (Minh, 2011, p. 248), is “when the Party, Government, or superiors give us anything, big or small, difficult or easy, we also put our spirit and strength to work to the right place. , overcome all difficulties, and make success. Doing things carelessly, causing problems, making it difficult to quit, beating the drums, doing things like that, etc., are not responsible” (Minh, 2011, vol 7, p.

249). The requester, the reminder, anyone, regardless of position, doing any work, encountering any situation, must have a sense of responsibility; “Having been in charge of something, he is determined to do it until he reaches his destination, not afraid of hardships, not afraid of danger” (Minh, 2011, vol 6, p. 131).

Over the years, the contingent of cadres and civil servants has been interested in all levels and branches to create favorable conditions for sending them to be trained in professional skills and at the level of Political Theory; fostering in State management, foreign languages, informatics... from which the professional capacity of each cadre, civil servant and public employee becomes more and more stable. In general, the majority of cadres, civil servants, and public employees have a firm ideological stance, pure morality, a simple and exemplary lifestyle, a sense of training, striving, dynamism and creativity. A number of officials and employees are passionate about scientific work, passionate about research, and have made many positive contributions to agencies and units. fulfill the assigned duties and responsibilities well.

However, besides that, there are still a number of cadres and civil servants in the political system who run after degrees, academic titles, and academic degrees; The capacity of the contingent of cadres and civil servants present is still limited; a number of staff members lack professionalism, do not work in accordance with their expertise and forte; degenerate, corrupt, corrupt, negative, position trumpet, push to avoid work responsibilities, lack of sense of discipline, deny responsibility when mistakes occur, have no sense of responsibility in the work job; have not made specific programs and plans for each working day and hour in a scientific manner, leading to low labor productivity and working efficiency; the young staff of civil servants and public employees still lack bravery, are afraid to practice and study, leading to inflexibility in handling work, not even in accordance with regulations; Some cases have been disciplined. This poses great problems in the work of cadres and officials of the Party and State.

## Literature review

Article 4 of the 2013 Constitution stipulates: “The Communist Party of Vietnam is the leading force of the State and society”. The Party’s leadership role in state management is demonstrated through cadre work. Article 5 of the Law on Cadres and Civil Servants 2008 (amended and supplemented in 2019) stipulates that “Ensuring the leadership of the Communist Party of Vietnam” is an important principle in the activities of cadres and civil servants. The Party leads by cadre work through detecting, fostering, and selecting elite Party members and qualified non-Party people to introduce to state agencies and political organizations - society through the mechanism of election and selection to be assigned to work in these agencies (Hop, p. 119). The Party organization leads the arrangement and allocation of cadres and has opinions on the arrangement of cadres in charge of important positions in state agencies. Accordingly, it can be understood that most cadres and civil servants must be Party members (especially cadres and civil servants holding leadership and management positions). Therefore, when there is a violation, cadres and civil servants can both be disciplined by the Party and administratively disciplined. Party discipline is a form of internal political responsibility applied to Party members in the Party organization when they commit violations to the extent that they must be disciplined. Meanwhile, administrative discipline is an unfavorable state sanction (Mau, 2010), applied to cadres and civil servants who violate state regulations on public benefits. service (Dao, 2010).

Before the Law amending and supplementing a number of articles of the Law on Cadres and Civil servants and the Law on Public Employees in 2019, the disciplinary handling of civil servants was governed by Decree No. May 17, 2011, on disciplinary action against civil servants. Meanwhile, the regulations on disciplining officers are not clear. In addition to the general provisions in the 2008 Law on Cadres and Civil Servants on forms of disciplinary action against officials (Article 78), the statute of limitations and time limit for disciplinary action (Article 80), temporary suspension of work for cadres, etc., civil servants (Article 81), other regulations

related to cadres and civil servants being disciplined (Article 82), etc., there are no specific documents guiding this issue. In fact, the disciplinary handling of cadres is still based on Decree No. 35/2005/ND-CP dated March 17, 2005, of the Government on disciplinary handling of cadres and civil servants. However, the prolonged maintenance of Decree No. 35/2005/ND-CP does not meet the requirements for effective adjustment of social relations.

To overcome this shortcoming, when the Law amending and supplementing a number of articles of the Law on Cadres and Civil Servants and the Law on Public Employees in 2019 took effect, the Government issued Decree No. 112/2020/ND-CP dated 18 September 2020 on disciplining officials, civil servants, and public employees. Thus, with the advent of Decree No. 112/2020/ND-CP, the disciplinary handling of cadres and civil servants is generally adjusted in the same decree. This overcomes the scattered legal situation in administrative discipline for cadres and civil servants. Thus, if cadres and civil servants who are Party members commit violations, competent persons will base themselves on Regulations No. 102-QD/TW and Decree No. 112/2020/ND-CP to take disciplinary actions. In this relationship, the Party discipline will be based on Regulation No. 102-QD/TW of the Politburo dated November 15, 2017, on disciplining Party members, while administrative discipline will be based on the Decree No. Decree No. 112/2020/ND-CP.

To overcome this shortcoming, Decree No. 112/2020/ND-CP has specified extenuating and aggravating circumstances. Accordingly, Clause 4, Article 2 of Decree No. 112/2020/ND-CP stipulates: "When considering disciplinary action, it must be based on the content, nature, extent, harms, causes of violations, aggravating or extenuating circumstances, the attitude of acceptance and correction, the remedy of defects, violations and consequences caused". The progress of Decree No. 112/2020/ND-CP compared to Decree No. 34/2011/ND-CP is reflected in the addition of circumstances that are considered extenuating and aggravating circumstances. "attitude to accept and correct", "the overcoming of defects, violations, and consequences caused". In addition, Decree No.

112/2020/ND-CP also stipulates that the consideration of extenuating circumstances and aggravating circumstances is mandatory content in the process of disciplining officials and civil servants.

## **Research results and discussion**

### **New regulations on disciplining officials and public employees**

Decree No. 112/2020/ND-CP stipulates the principles of disciplinary action; the application of disciplinary measures corresponding to violations; competence, order, and procedures for disciplinary handling of cadres, civil servants, and public employees. This Decree applies to officials in state administrative agencies, full-time People's Council deputies, civil servants, public employees and cadres, civil servants, and public employees who have retired or retired.

Disciplinary action is based on the principle that "Each violation act is handled only once with one form of discipline. At the same time as considering disciplinary action, if the cadre, public servant, or public employee has two violations or more, they will be disciplined for each violation and apply a discipline heavier than one level applied to the heaviest violation, except for the following cases: In case they are disciplined by means of dismissal or forced resignation; failing to separate each content of violations committed by cadres, civil servants and public employees to handle disciplinary actions many times with different forms of discipline (Government, 2020).

In case of cadres, civil servants, and public employees who are in the process of executing disciplinary decisions continue to commit violations, the following disciplinary forms will be applied: If there are violations, they will be disciplined, if the punishment is lighter or equal to that of the currently enforced discipline, a more severe form of discipline than that of the currently enforced discipline will be applied. If there is a violation that is disciplined in a more severe form than the one currently being disciplined, a more severe form of discipline than that applied to the violation will be applied. new. In addition, administrative sanctions or party discipline are not applied in place of administrative discipline;

Administrative disciplinary action is not a substitute for criminal prosecution if the violation is serious enough to be criminally handled. Cadres, civil servants, and public employees who have committed violations for the first time and have been disciplined but within 24 months from the effective date of the disciplinary sanctioning decisions have the same violations, they shall be considered repeat violations. offense; outside the 24-month period, such violation is considered a first violation but is counted as an aggravating circumstance when considering disciplinary action, etc.

Decree No. 112/2020/ND-CP clearly stipulates the acts subject to disciplinary action in Clause 1, Article 6, specifically: Cadres, civil servants, and public employees who commit the following acts shall be considered for disciplinary action: Acts of violating regulations on obligations of cadres, civil servants and public employees; things that cadres, civil servants and public employees are not allowed to do; internal rules and regulations of agencies, organizations, and units; violate ethics, lifestyle or violate other laws while on duty.

According to Clause 2, Article 6 of Decree No. 112/2020/ND-CP, violations are classified into 04 levels: Violations causing less serious consequences, violations causing serious consequences, and violations causing very serious consequences. very serious and violations cause especially serious consequences. The determination of the level of violation is based on the following signs:

Firstly, a violation that causes less serious consequences is a violation of a small nature and degree of harm, affecting internally, affecting the reputation of agencies, organizations, and working units.

Secondly, violations that cause serious consequences are violations of nature, extent, great harm, impact outside the internal scope, causing bad public opinion among cadres, civil servants, public employees, and the people. reduce the reputation of agencies, organizations, and working units.

Thirdly, violations that cause very serious consequences are violations of great nature,

extent, and harmful effects, affecting the whole society, causing very urgent public opinion among cadres, civil servants, and public employees. and people, discrediting agencies, organizations, and working units.

Fourthly, violations that cause particularly serious consequences are violations of particularly great nature, extent, and harm, wide-ranging impacts on the whole society, causing especially urgent public opinion among cadres. civil servants, public employees, and people discrediting agencies, organizations, and working units.

### **The current state of consciousness and discipline of cadres, public employees**

Cadres and civil servants are an important and indispensable “link” of the process of national construction and development, an important subject in the transmission and implementation of the country’s civil service. This team is responsible for organizing the implementation of policies and laws, managing all areas of social life, and ensuring the effectiveness and efficiency of state management. In order to affirm their role, the contingent of cadres and civil servants always takes the initiative, actively wholeheartedly, and wholeheartedly serving the People. However, in the past time, there have been many cadres and civil servants violating ethics and lifestyle; Violation of the law leads to disciplinary action.

The implementation of the Resolution of the 4th Central Committee, 12th term of the Communist Party of Vietnam (2016), on Party building has created positive changes in the political system. The process of self-criticism and criticism has contributed to the fight against wrong thoughts and behaviors in order to warn, warn, deter, and step by step prevent and repel corruption and negativity. Many serious and complicated corruption cases have been discovered and focused on directing the investigation, prosecution, and trial, with the people’s consent and support. In the struggle to prevent and reverse the recession, “self-evolution” and “self-transformation” have achieved some results. Awareness and responsibility of public officials in the prevention and fight against corruption and waste have been raised.

However, according to the assessment in Resolution No. 04-NQ/TW of the Party Central Committee (2016) and the Document of the 13th National Congress of the Party (2021), leadership capacity and combat power The fight of many party organizations is still low, even in some places the fighting strength is lost. Party inspection, supervision, and discipline are not enough to deter, prevent and reverse the decline. In some places, the situation of contradictions and internal disunity is not only at the grassroots level but also at some central agencies, economic groups, and corporations.

Many party organizations, party members, cadres, and officials are still limited in awareness, neglectful, lethargic, confused in identification and struggle, preventing “self-evolution”, “self-transformation”; The struggle and refutation of false and distorted claims of hostile forces, reactionary organizations, opportunistic elements, political discontent is still passive, lack of sharpness and low efficiency. Meanwhile, the deterioration of political ideology, morality, and lifestyle leading to “self-evolution”, and “self-transformation” is only a short step, even a very short one, with unpredictable danger, which can lead to serious consequences. to aid or collude with evil, hostile forces, betraying the ideals and revolutionary cause of the Party and the nation (Communist Party of Vietnam, 2016).

A part of cadres and public employees also behave inconsistently with their views, rules, and ethical standards in their professional activities, and even commit acts of violating the law; have an indifferent, pragmatic lifestyle; fall before the temptation of materialism and the attraction of money, leading to “deviant” behaviors, even serious violations of morality, violations of discipline, discipline, and violations of the law.

A part of public officials has not been exemplary, have not really respected the opinions and recommendations of the People, and have promptly resolved the legitimate rights, interests, and aspirations of the people. The capacity, quality, and sense of discipline of a part of cadres, civil servants, and public employees have not yet met the requirements; informal costs are still high; and the situation of harassment, petty corruption, causing frustration for people and

businesses. Corruption and wastefulness are still serious in some places (Communist Party of Vietnam, vol 1, 2021). Only from the 19th session (January 20, 2021) of the Central Steering Committee on Anti-corruption and Anti-Corruption until now, the Central Inspection Committee has disciplined and recommended and requested to discipline 12 party organizations and 20 party members under the Politburo, the Secretariat manages related cases and cases which are monitored and directed by the Steering Committee; in which, there are 3 members, former member of the Party Central Committee, 2 deputy ministers, 2 key provincial leaders, 13 general-level officers in the armed forces. Agencies have transferred more than 270 case files with criminal signs to the investigating agency (more than 4 times higher than the same period in previous years, when there was no mechanism to direct assignment), etc. Thus, in this field alone, there have been many organizations and individuals who have had to accept the pain of some people’s violations (Tam, 2021). The above situation has both objective and subjective reasons, of which the main reason is subjective.

### **Some problems arise**

On October 25, 2021, the 13th Central Committee issued Conclusion No. 21-KL/TW on accelerating the rectification of the Party and political system, strictly handling cadres with ideological and moral deterioration. lifestyle, expressing “self-evolution”, “self-transformation”. In the conclusion, the 13th Central Committee (2021) requested party committees and organizations to strengthen inspection, supervision, and party discipline; resolutely and persistently fight against corruption and negativity; strictly handle violators and party members.

Regarding the application of a number of regulations on disciplinary handling of cadres, in Clause 1, Article 78 of the Law on Cadres and Civil Servants of 2008, there are 04 forms of discipline for cadres, namely reprimand, warning, and way. appointment or dismissal; At the same time, Clause 4, Article 78 stipulates that “The application of disciplinary forms, competence, order and procedures for disciplining cadres shall

comply with the provisions of law and the charter of the Communist Party of Vietnam. Men, socio-political organizations and documents of competent agencies and organizations”.

However, currently, legal documents on organizational apparatus such as the Law on Organization of the National Assembly (2014), the Law on Organization of Local Government (2015), and other relevant documents only provide for removal from office, but not there are regulations on violations, orders, and procedures for disciplinary handling for cases handled in the form of reprimand, warning, and dismissal, especially for commune-level cadres. This creates a legal gap, causing difficulties in disciplining cadres, not ensuring the principle of strictly handling violations, and the principle of disciplining the Party does not replace administrative discipline. main. In this regard, the Ministry of Home Affairs agreed to supplement regulations on the handling of officers in the Decree to solve problems from practical implementation; At the same time, it also aims to strictly follow the direction of the Government and the Prime Minister.

Accordingly, improving the quality and efficiency of inspection and supervision work and the responsibilities of Party committees, organizations, officials, and party members for Party inspection, supervision, and discipline. Focus on inspecting and supervising party organizations, leaders, and key officials in areas, areas, and working positions prone to corruption and negativity and with many complaints and protracted complaints; at the same time, pay attention to definitively solve pressing cases among cadres, civil servants and people. Focusing on self-inspection and self-monitoring of Party committees, party organizations, and organizations in the political system, timely detecting from within to immediately correct violations from the moment they arise, do not let Small violations accumulate into defects, big mistakes.

In addition, raising awareness and responsibilities of Party committees, party organizations, cadres, and civil servants for the fight against corruption and negativity. Focusing on preventing and combating the degradation of political ideology,

morality, and lifestyle of cadres, party members, civil servants, and public employees. To step up and improve the effectiveness of detecting and handling corruption and negativity at local and grassroots levels. Strengthen inspection, examination, and supervision of heads performing their responsibilities in preventing and combating corruption and negativity.

Improve the effectiveness of thematic supervision, focus on monitoring cadres and party members whose words and deeds show deterioration in political thought, morality, lifestyle, “self-evolution”, “self-evolution”, transformation”. The Inspection Committees at all levels strengthen inspection and supervision and resolutely handle and strictly disciplined cadres and party members who are degraded, “self-evolution”, “self-transform” at the grassroots level. set, not to stretch or “push” to the upper level. Strengthen inspection and supervision of self-criticism and criticism, fulfill the responsibility of setting an example, and overcoming shortcomings of the collective and individual.

At the same time, implement drastically, regularly, comprehensively, and synchronously the inspection, supervision, inspection, audit, investigation, prosecution, trial, and judgment execution. Proactively detect early, strictly handle corruption and negative cases and cases; resolutely recover assets lost or appropriated in criminal cases related to corruption and economy. Speeding up the verification, investigation, prosecution, and trial of cases, handling serious and complicated economic corruption-related cases, attracting the attention of the public, especially those The case was negatively monitored and directed by the Central Steering Committee for Anti-corruption. Strengthen synchronous coordination, and create a clear change in the fight against corruption and negativity from the central to the grassroots level. Strengthening control of cadres’ assets and income according to the Party’s regulations and the State’s laws, first of all, cadres representing the Politburo and the Secretariat manage.

Building a contingent of officers and civil servants of law enforcement, inspection, inspection, and auditing agencies with firm

courage, integrity, honesty, courage to fight, knowledge and specialized skills firmly grasp the guidelines and lines of the Party, policies, and laws of the State. Focusing on perfecting the power control mechanism and strengthening the prevention and fight against corruption and negativity in anti-corruption and negative agencies.

### Conclusion

In fact, in order to ensure the principle that cadre work is the work of the party, most of the leadership positions in the system of party, mass organizations, and authorities at all levels are currently party members (a few have not yet done so). Party members holding leadership positions in public non-business units). Most serious violations are committed by those who have held leadership positions and therefore, it is necessary to limit administrative discipline after-party discipline to this object, ensuring deterrence and appropriateness. accordance with the Party's regulations. Moreover, the draft regulations will avoid the complexity of order, procedures, and authority due to the conclusion of the violation, the form of disciplinary action has also been clearly defined, and therefore, no further actions have to be taken. regulations on establishing a disciplinary Council, convening meetings, etc. very difficult to do.

In addition, there are opinions that the regulations on administrative disciplinary handling for cadres, civil servants, and public employees who have resigned or retired commit violations during the implementation period after being disciplined. Party is the limit on subjects to be disciplined compared to the Law, according to which people who are cadres, civil servants, and public employees but are not Party members who have now quit or retired commit violations during their working time. will not handle administrative discipline. Therefore, legislators need to quickly issue legal documents explaining specifically what is "violation of regulations on the protection of internal politics", "infringement of national interests in the field of internal politics". defense, security, and foreign affairs" as a basis for not applying the statute of limitations for administrative discipline to cadres and civil servants. Only then will the administrative

discipline of cadres and civil servants be carried out objectively, fairly, strictly, and in accordance with the law.

### References

1. Communist Party of Vietnam. (2016). Resolution No. 04-NQ/TW of the Party Central Committee.
2. Communist Party of Vietnam. (2016). Document of the 12th National Party Congress. Hanoi: National Politics Truth.
3. Communist Party of Vietnam. (2021). Document of the 13th National Party Congress, vol 1. Hanoi: National Politics Truth.
4. Communist Party of Vietnam. (2021). Document of the 13th National Party Congress, vol 2. Hanoi: National Politics Truth.
5. Dao, B. T. (2010). Some issues on discipline of cadres and civil servants", *Journal of Jurisprudence* 6, p. 59-64.
6. Government. (2020). Decree No. 112/2020/ND-CP on disciplining cadres, civil servants, and public employees.
7. Hop, N. C. et al. (2017), *Textbook of Vietnamese Administrative Law*. Thanh Hoa: Hong Duc.
8. Mau, D. V. (2010). On state discipline and responsibilities of civil servants. *Journal of State Organization* No. 4, p. 37-42.
9. Minh, H. C. (2011): Complete Volume, Volume 6. Hanoi: National Politics Truth.
10. Minh, H. C. (2011): Complete Volume, Volume 7. Hanoi: National Politics Truth.
11. National Assembly of the Socialist Republic of Vietnam. (2008). Law on cadres and civil servants (Law No. 22/2008/QH12).
12. National Assembly of the Socialist Republic of Vietnam. (2010). Law on Public Officials (Law No. 58/2010/QH12)
13. National Assembly of the Socialist Republic of Vietnam. (2014). Law on Organization of the National Assembly (Law No. 57/2014/QH13).

14. National Assembly of the Socialist Republic of Vietnam. (2015). Law on Organization of Local Government (Law No. 77/2015/QH13).
15. National Assembly of the Socialist Republic of Vietnam. (2019). Amending and supplementing a number of articles of the Law on cadres and civil servants and the Law on public employees (Law No. 52/2019/QH14).
16. Party Central Committee. (2021). Conclusion No. 21-KL/TW on accelerating the rectification of the Party and political system, strictly handling cadres who have degraded in ideology, morality, lifestyle, and exhibiting “self-evolution” and “self-transformation”.
17. Tam, V. (2021). Disposing of officers is a painful but imperative solution. Retrieved from <https://www.hcmcpv.org.vn/tin-tuc/xu-ly-can-bo-la-giai-phap-dau-don-nhung-bat-buoc-1491887451>