

BUSINESS EXECUTIVE NETWORK



VIETNAM

ISSUE 7



Ultramarathoner

Thanh Vu

on building resilience
in business and life

The READER'S CHOICE EDITION

BUSINESS EXECUTIVE NETWORK



VIETNAM



Megan Lawson

..... on Sustainability



Warrick Cleine

..... on Leadership Lessons



Tom Duncan

..... on Scaling Craft Beer in Vietnam



Dr. Ramesh Ramachandra

..... on Vision Creation



Rick Yvanovich

..... on Managing Virtual Teams



Henry Tran, Esq.

..... on Remaining Silent



Sep Moblifard

..... on Implementing SOPs



Dr. Andreas Stoffers

..... on the Future of Education



Ken Atkinson OBE

..... on the Future of Inbound Tourism

and much more inside



Criminal Law in Vietnam: **Silent Wisdom**

By **Tran D. Hoang (Henry), Esq.**

Henry Tran, Partner at Herman, Henry & Dominic (EZLAW), helps unravel the complexities of Vietnam's Criminal Procedure Code, ensuring protection during legal proceedings.

Imagine you've just landed in the vibrant, bustling streets of Vietnam, eager to explore its rich culture and dive into the business world. But navigating through a new country means brushing up on local laws, especially when it comes to what happens if you ever get into some legal trouble. Let's talk about a concept that might be familiar to you from back home—the right to remain silent—but with a Vietnamese twist.

1. The Right to Remain Silent

It's important to start with an understanding that the country does not explicitly outline a "right to remain silent" in its criminal procedures through specific legislation. However, this doesn't leave you unprotected. The Criminal Procedure Code (CPC) of Vietnam, although not directly stating so, offers a framework that, in essence, supports a principle similar to the right to remain silent.

First off, there's the golden rule of "innocent until proven guilty." Simply put, if you're ever accused of a crime, you're considered innocent until the courts decide otherwise. Vietnam's laws emphasize that it's not your job to prove you're innocent. Instead, the burden of proof lies squarely on the shoulders of the authorities.

"But what if I'm arrested or detained?" you may be asking. Vietnam's legal framework ensures you have the right to express your thoughts without being forced into saying something that could work against you. Whether you're caught in the act, detained on suspicion, or standing trial, you have the right to keep your thoughts to yourself, especially if those thoughts could lead to self-incrimination.

The famous trial of Truong Ho Phuong Nga, a beauty queen embroiled in a high-profile fraud case, serves as a powerful example of these principles in action. Despite warnings from the court that her silence could be seen unfavorably, Phuong Nga leveraged her "right to remain silent" throughout the proceedings. Her case eventually led to a significant judicial decision to send the file back for further investigation



Tran D. Hoang

and a temporary suspension of the case, illustrating the practical implications of the "right to remain silent" in Vietnam's judicial landscape.

2. The Stroke of a Pen

When you are involved in a criminal case in Vietnam, whether you are imprisoned, accused, or simply a witness, your remarks will be captured in what are known as investigative minutes. Here's a plain explanation of what this implies for you.

The Process of Recording Your Statements:

- **Recording Statements:** During the investigation, officials will document the conversation and information you provide. This is a standard part of resolving a criminal case.
- **Review and Comment:** After the discussion is documented, you will have the opportunity to examine the minutes. It is your right to ensure that they accurately reflect what was stated. If something is missing or inaccurate, you can provide feedback or adjustments.
- **Signing the Minutes:** After reviewing, both you and the investigator are expected to sign the minutes, which confirms the accuracy of the record.

Sometimes you may disagree with how the minutes were recorded and choose not to sign them. If you decide not to sign, you should explain the reason. This disagreement or concern will be documented in the minutes. Then, the investigator may request that a witness sign the minutes. In that instance, the minutes still hold legal weight as long as the reasons for your refusal are fully stated, and a witness signs the paper.

3. A Piece of Advice

In theory, exercising your "right to remain silent" or refusing to sign the minutes of an investigation should protect you from unjust detention. But, in fact, things can become more complicated. This disparity between theory and practice is critical to grasp.

Choosing when to speak or remain silent can feel like standing at a crucial crossroads. Silence is indeed a potent right within your legal toolkit, but it's important to know when it's appropriate to use it. For instance, if you're involved in a car accident, providing your ID or driver's license to the police is not a moment to exercise your right to silence. In such situations, refusal to comply can be misconstrued as non-cooperation, potentially complicating matters further.

The key is to find a balance between cooperation with law enforcement and exercising your rights for your protection. When faced with legal proceedings, knowing when to provide information and when to assert your right to silence can help maintain this balance. This approach doesn't complicate legal matters, but rather ensures a smoother interaction with the law, preventing unnecessary escalation.

If ever you find this balance challenging to maintain or the situation becomes too complex, reaching out to a lawyer is a wise move. **[C]**