

Feudal Procedural Law of Vietnam from the 15th to 19th Century

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Procedural law is an important part of legal system in Vietnam and also in the world. In any historical periods, procedural law was always important to establish a judicial power regime to protect the state, protect the politico-economic regime, maintain justice, ensure human right and the humanitarian values of human.

The history of Vietnam from 15th to 19th century with the creating of the Codes had brought unique achievements for procedural law in an imperial state administration. There were not only the values on legislation, execution, judiciary, politics, economy, culture, society and security but also the confirmation that the level of state administration on judiciary was progressive. Although there were a few drawbacks but the values on theory and practice of constructing and implementing procedural law of feudal imperial state of Vietnam has been recognized, researched, learnt, inherited and developed by the latter state through the history.

In general, both the feudal law and feudal procedural law of Vietnam had some unique and progressive achievements. They were the combination of the nationality and contemporaneous context, the integration by learning China and France but also keep the own characteristics. Promulgating, implementing, amending and codifying procedural law from local to central government, from civil to military, from criminal to administrative aspect were the achievements of the imperial state of Vietnam.

Westerner scholars in the Almanach: from the 15 century, when Europe were on the dark age with the domination of the law of lord and church, in Vietnam and China there were the codes which they progressiveness astonished the Westerner researchers. It also be confirmed by the scholar Vu Van Mau in the translation of "Hong Duc thien chinh thu": "*It is the spirit of own ancestors has concluded through many layers of history*". Looking back to the history, looking forward to the world, fixing our self, dimension to the future.

Through research of the progress of the establishing, form and content of feudal procedure law of Vietnam from the 15th to 19th century, clarifies the achievements, values and the ability to apply to build and improve procedural law and judicial reform of contemporary Vietnam.

Personal Reputation as Protected by Later-Lê Dynasty Law

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Inspired by the theory of diffusion, the article suggests that Later Lê Dynasty law protects personal privacy under the norm of personal reputation. The paper first discusses feudal Vietnamese legal culture as a part within the Sinosphere culture's diffusive path. Having clarified the relationship of privacy and personal reputation, the research leaped further towards an issue: to what extent did foreign norm of privacy difuse into Vietnamese existing norms. It argues that Later Lê (後黎) dynasty law protected personal reputation under norms of institutional reputation, established, not only in literature principles like The Book of Rites (禮記, Kinh Lễ), but also in positive legal rules governing five essential relationships (道, Đạo). Examination based on past and contemporary scholar writings also takes place. Comparison to other Sinosphere legal systems pictures a panorama of contemporary legal culture, adopting cultural relativism and cultural accumulation. Historical, cultural, poetry and law materials shall be examined carefully with interdisciplinary means. The research outcome both inspires modern legislation on privacy matters and contributes to Vietnamese legal culture study.

“Quoc Trieu Hinh Luat” and Its Impact on the Codification of Law in Viet Nam

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The Laws of Ancient Vietnam was known as a written legal system and often codified. The old lawmakers always sought to arrange the rules in a certain order into the structure of the Code, thereby creating favorable conditions for the search of the Law, and for the rules in different laws when dealing with the issued posed in complex legal situations. In the history of the Vietnamese people, there have been periods when the law has been effectively applied, bringing the country many achievements in economic, cultural and social development. The Hong Duc Dynasty, associated with King Le Thanh Tong, has passed over 500 years but left a great influence, in which Quoc Trieu Hinh Luat or the Hong Duc Code must be emphasized. This Law is not only famous for the humanity and aura of Dai Viet's content, but also represents the legislative qualifications and techniques. This is a special legislative achievement, affirming its own value and position in the history of the feudalism not only in Vietnam but also for all humanity. The special law-shaped dynasty expresses the character of a legal dictionary in that it inherits the humanitarian tradition of the nation and has many provisions derived from the customs and practices of Dai Viet residents in the family relation, inheritance and land, especially humanitarian thought, policies for the elderly, women and children. From the perspective of legal science, Quoc Trieu Hinh Luat is a typical legalization work in the history of Vietnamese law and has left great value for the codification work for later periods.

Public Servant Selection System in Feudalist Vietnamese Administrative Law

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Today, the recruitment of civil servants in Vietnam is conducted in a manner of distinction between administrative organs. Each administrative field has unique qualification and employment process, there is no unification in civil servant selection criteria. Despite being an advantage in recruiting talented person with independent, professional skills which best suits the administrative field, the selection method cannot ensure fairness. It limits the diversity in administrative posts organization, which creates chances for corruption, closed organization, hereditary, at the same time limits innovation. The paper compares the positivity of feudalist administrative servants distributing system with which of today. It asserts that the outstanding persons in the recruiting examination could work in their relative profession. The state shall be the centre for human resource distributing to best solve the problem of ineffective administration. Qualidative methods will be used in summarizing historical research, along with theories on administrative law. Historical materials will be studied, with special attention paid on practical results of the centralized recruitment examination.

The Death Penalty in the Vietnam's Code of Le Dynasty

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The death penalty is the oldest, the most savage, and most common punishment in human society, recorded in the history of all cultures, nationalities, and countries. In reality, the condemnation, the method of the execution, or the degree of brutality may vary from culture to country, nationality, or historical period. However, the death penalty, as the most severe punishment is always to deter and prevent behaviors that endanger society and those that harm typical social relations, most significantly for a state or its ruling class in a certain historical period. Therefore, researching the death penalty in a historical phase can contribute to clarifying the cultural and social context of a country or a nationality in that period.

In Vietnam, the 360 - years of rule by the Le dynasty is the period when the absolute monarchy in Vietnamese history reached the peak of its development for the first time. Under the reign of King Le Thanh Tong, Dai Viet (Viet Nam) had flourished in all aspects: economy, culture, society, education, and military. The Le dynasty has left outstanding achievements in the legislative field with the highlight of Quoc Trieu Hinh Luat (the Vietnam's code of Le dynasty). Basically influenced by Chinese culture and law, like other ancient Chinese codes, there was no formal distinction between the criminal law and civil law in the Vietnam's code of Le dynasty, so rather the code was a penal code.

In this research, the author will focus on the characteristics, the similarities, and the differences of the death penalty between the Vietnam's Code of Le dynasty and other Chinese ancient codes for perfecting the multi-dimensional viewing angle on legislative history and history of criminal law in Vietnam.