

The Shift from Traditional Inquisitorial Justice Model: The Case of Vietnam

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Although considered one of the countries that apply civil law, civil procedural justice model of Vietnam tends to develop differently from the original civil justice. This study is an insight and overview of the history of the legal proceedings in Vietnam over time. Moreover, the article also analyzes and points out the change in civil procedure model in Vietnam over that period. This study, therefore, also provides an assertion that the civil procedural model in Vietnam does not tend to gradually move to adversarial legal systems but tends to approach a mixed procedural model. This change appears to be an addition of adversarial legal system advantages to the traditional inquisitorial legal system in an effort to minimize the risks of bias in Vietnamese courts in the past.

The Changes of Administrative Law in Vietnam from Central Planned to the Socialist Oriented Open Market Economy

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Since introducing Doi Moi policy in 1996, Vietnam has embarked on socialist oriented market economy. Government has changed its role in public administration in order to meet requirement of open market rules. Hence Vietnam has carried out administrative reforms to change its approach to serve people. Administrative law plays crucial role in promoting rule of law state and good governance. However, Vietnam still faces with many difficulties in promoting accountable and transparent public administrative system. Individuals and organizations (business sectors) have not yet been satisfied with public services delivered by administrative agencies. Corruption remains as critical issues in Vietnam. In addition, administrative law has not yet developed comprehensively and consistently. Vietnam has struggled to reform local government, to control abused power and corruption, and to reform administrative procedures since 1990s. It is essential to review the changes of administrative law enables to understand how it responds to open market standards.

The question remains as such how administrative laws have been changed to meet requirements of rule of law state and good governance in globalization and integration period. This paper will examine the key areas of administrative law including: (i) organization and operation of administrative system; (ii) public service delivery; (iii) public participation; and (iv) administrative dispute settlement mechanism. Hence, the solutions for reforming administrative law will be identified basing on current issues of these areas.

The Policy of Respecting for the Local Estate of Nguyen Dynasty and its Effect on the Modern State

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The diversity of culture has a great influence on the building of the state in the history of the Vietnamese State. The critical principle of building the Vietnamese feudal state is the combination of centralization and decentralization. Accordingly, the state power focus on the central government led by a King. At local level, there was no separation of power between three branches of power: the executive, the legislature, and the judiciary. On the other hand, some regions still exist the autonomous areas mostly located in the Northern mountainous region and highlander of Vietnam. The harmonization of the central government and local government constitutes a “soft mechanism of building local Government”, typically presented in the context of Nguyen Dynasty. The paper approaches and indentifies this matter through the local policies of Nguyen Dynasty and the modern state in Vietnam. Although Nguyen dynasty gave prominence to the ruling Kingdom, it showed respect for the nature of minority ethnicities by creating special regions with political privileges for local people. In 1950, Bao Dai promulgated a policy named “Hoàng Triều cương thổ” (Royal Fief), which leads to the creation of a “special regulation” providing highlander participation in local affairs while reaffirming the “eminent rights” of Vietnam over this territory. Another case of these policies is the autonomous areas in Northern Vietnam after the August Revolution. The Central state enables the special local region to constitute an autonomous region while confirming the inseparable character of Vietnamese territory under the Constitution 1959. The harmonization of building local government has a great influence on the modern construction of Vietnamese Government. The paper presents the issues by using the historical approach, diachronic analysis, written law analysis, and qualitative analysis.