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Human rights principles in Vietnam's Le Dynasty criminal procedure law

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Research Article

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Abstract
Since the latter half of the 18th century, Vietnam has had a unique and remarkable Criminal Procedure Code known as the Criminal Procedure Code of the Le Dynasty. Chinese law served as a source of inspiration for the Le Dynasty, but they did not just replicate it. Rather, they combined the Criminal Code with their own Criminal Procedure Code. This Code, which has 31 articles in all, offers a thorough set of rules and procedures for handling a variety of situations, including as murder, robbery, theft, gambling, and even offences involving the abuse of innocent people. When considering the historical background of that era, this method is quite exceptional. Many people consider this code to be among the first criminal procedure codes in Eastern nations. In order to emphasise the relevance of defending human rights and legitimate interests, the author of this essay will analyse the substance and importance of this Code. According to the author, these ideals may be further promoted and supported in the current situation.

Keywords: Vietnam's criminal law, criminal procedure code, Le Dynasty, and human rights protection

1. Introduction

The existence of a unique procedural code known as the Criminal Procedural Code (CPC) of Le Dynasty (Vietnamese: Quoc Trieu Kham Tung Dieu Le) is one notable feature of Le Dynasty law (1428–1788) as well as Vietnamese mediaeval law generally [1]. In contrast to the widespread practice throughout the Middle Ages, when generic rules covered a variety of legal domains, this Code's presence as a distinct and autonomous code created especially for litigation emphasises its distinctiveness. The spirit of serving the people and upholding their rights and legitimate interests is evident in the substance of this code. That spirit is constantly expressed in the majority of the practices' rules. Every stage of the legal process, including filing lawsuits, making denunciations, investigating crime scenes, holding trials, carrying out judgements, and even establishing statutes of limitations for lawsuits, is meticulously planned to deter official misconduct and protect people's legal rights.

King Le Hien Tong issued this Code in 1777, according to historical documents and other sources [2]. This Code was designed to "give the people a place to rely on" by outlining the duties of authorities involved in the litigation process, avoid arbitrary and unjust application of the law, and preserve the people's fundamental rights. This Code's preamble made it very clear: "[...] use the power to be fair in terms of reason in litigation, so that people have a place to rely on, worthy of their responsibilities" [3]. There are thirty-one lawsuit rules in this code. These rules demonstrate how genuine human rights are safeguarded throughout the legal procedure.

2. Materials and methods

2.1 Materials

There is now just one document that presents the translation of the Le dynasty's Criminal Procedural Code in Vietnam. It is the Institute of State and Law book Some Vietnamese legal papers from the 15th to the 18th centuries, published by Social

1 Institute of State and Law, Vietnamese legal texts from the fifteenth to the eighteenth centuries, Social Sciences Publishing House, Hanoi, 1994, p. 262.
2 Op.cit., Institute of State and Law, p. 263.

3Op.cit., p. 269, Institute of State and Law.

1994 by Sciences Publishing House. Research on the Le Dynasty's Criminal Procedure Code in Vietnam is nonexistent. This Code was presented in the textbook "Vietnamese history of state and law" by Nguyen Minh Tuan, Pham Thi Duyen Thao, and Mai Van Thang (2017) [4]. Therefore, by upholding the principles of this Code in defending human rights and legitimate interests, this article will close the gap.

2.2 Methods

To investigate this Code, the author used conventional research techniques from the legal and social sciences. The techniques discussed here include the analysis and synthesis method, dialectical materialism, and historical materialism.

Dialectical and historical materialism methods: This approach is utilised to elucidate fundamental theoretical and practical concerns related to the study subject.

- **Analysis and synthesis method:** The article is based on the gathering and examination of existing materials pertaining to this Code.

3. Results and Discussions

In addition to this rule, the Le dynasty implemented the Hong Duc rule, a fifteenth-century penal code. Nevertheless, the Hong Duc Code does not govern the trial's sequence or processes; it simply governs the kinds of offences. This Code has 31 lawsuit rules, as I said before. The processes and techniques for settling criminal matters are explicitly outlined in this code. The following rules demonstrate how genuine human rights are protected throughout the legal process:

3.1 The order and procedures of litigation of this Code promote humanity and protect human interests

Numerous clauses in the Code demonstrate a deep compassion, taking into account the human element and human rights within the laws themselves. According to the debt litigation rule, a creditor should be sympathetic if a family conducts a funeral but has not yet buried the dead and they owe money. They shouldn't make an arrest or set up a time to interrogate them that would interfere with the burial. Instead, they need to hold off on asking enquiries until after the funeral [5].

The Code also demonstrates humanity in the rules pertaining to authorities' obligations to respond compassionately to uncommon circumstances that arise in the community. For example, if a person in a town dies from a disease or is hurt at nite without anybody knowing who did it, or if the corpse is recovered somewhere else and returned during the nite with evidence found nearby. The district official must provide the proof in these situations in order to prevent unfounded allegations. The burial must be carried out by [the commune official] if no one shows up to claim the corpse for five or six days [6].

The Code also generally prohibits complaints from being pushed beyond the authority level [7]. However, people can "cry out for justice" at any level in extremely urgent situations where there is significant injustice and loss and they are unsure of whom to complain to: "In all cases of being oppressed by a powerful person and suffering serious loss, and in cases of injustice and not knowing which office to go to [...], people can ring bells to cry out for justice" [8].

3.2 Strict procedural process, respecting the objective truth of the case and handling the case quickly and promptly

Specific regulations, such as those for human life litigation, robbery litigation, land litigation, fighting litigation, marriage litigation, and bullying litigation, follow the broad principles governing all cases in the first litigation. These legislative strategies focus light on the distinctive characteristics of each case type in addition to highlighting the general difficulties in the litigation process.

The veracity of a case is very important. It is necessary to target real things. "The family members can request a notice if there is a case of murder, revenge, lust, fighting, robbery, or theft in the locality and a corpse is present [...]" [9]; "The village chief must swiftly compile a record, either by relying on the incident witnessed or getting signatures from witnesses as evidence," the Code states in order to prevent false accusations. There should be no danger of evasion, partiality, or hostility in this record. [10]; "Those who make false accusations or irrelevant lawsuits face punishment by cane" [11].

Crime scenes and evidence must be closely guarded: "Those reporting gambling should only do so when at the gambling scene, with all evidence, and authorities can only arrest them once captured." Any random complaint is a false allegation unless there is a good explanation and

supporting proof [12].

When handling each issue, caution and promptness are essential. This not only ensures that the situation is fair and safeguards the victim's rights, but it also settles disputes and stops future plans for retaliation. "In order to prevent unnecessary prolongation of the day, it is imperative to not engage in indiscriminate arrests of suspects" [13]; "They must verify the record first before proceeding with the arrest and search," the Code makes clear. The event cannot be examined if there is no record and it happened a long time ago [14].

3.3 Strongly penalize the officials who harass the innocent individuals and encourage ethical and accountable conduct

This Code has its own rules about the obligations of authorities as well as severe penalties for bullying incidents, which include the guidelines for filing a bullying lawsuit. It states that bullying of innocent people must be prevented: "[...] The name of the noble may be used if someone claims being bullied. To verify the facts, the court must order the nobility or their family members to attend for interrogation [15]. Furthermore, authorities who violate the Code are subject to severe penalties: "Evil tyrants, together with those with previous convictions, secretly commit bad things will all face arrest and receive punishment under the law [16]."

In order to ascertain the objective truth of the case, interrogation is a crucial step. Legislators of this era have thus taken into consideration bullying during questioning in order to prosecute and punish investigators who engage in such behaviour. It is also explicitly stated in the marriage lawsuit: "The accused may file a petition to the investigating officer to investigate the truth next time, and convict with a heavy penalty, if the investigating officer makes a false accusation, investigates falsely, convicts carelessly and stops to deny the case, or bullies the accused into making an unreasonable conviction" [17].

"The aristocratic families who bully others and then give the inspectors some money to escape punishments are judged by the penalty of deportation," the senator said, focusing on stopping corrupt behaviour and inspectors' self-serving profiteering throughout the processes [18].

Protecting witnesses and brave individuals, fighting against evil, and punishing those who conceal crimes 3.4

It is crucial to highlight the role that people play in fighting crime. There are several provisions in the Le dynasty's Criminal Code to safeguard people who valiantly combat crime. In particular: "Those involved in less serious crimes will be rewarded with monetary compensation or relieved of official responsibilities, while those who accurately capture or report the truth will receive an official position for severe offences." To be eligible for financial assistance for burial and commendation certificates in the tragic case of their death, the families must notify the local authorities [19].

Connivance and concealing crimes will also carry harsh penalties, regardless of the perpetrators: "The authorities will punish anyone, even the king's relatives who conceal the hiding crimes with deportation [20]."

3.4 Punishment for false accusations

Lawmakers of this period paid great attention to punishing acts of slander: "Any act of making false accusations to create lawsuits or taking matters that are not relating to oneself and collecting trivial matters to accuse so that others are implicated in the case is punished by being whipped. [...] The censor who discovered and caught them also examined the crime and reported to warn against dishonest behavior and keep the people's livelihood peaceful" [21]; "[...] False accusers often exhibit a haughty demeanour while requesting money. They turn to submitting complaints if their demands are not satisfied, which the government may decide not to recognise. Offices that are careless, ignore careful thought, and take false charges from accusers face punishment [22].

3.5 Distinguish the nature and level of danger of the crimes and clarify the motive for the crime

"When examining and deciding on litigation cases, all offices should cite the law as the official method" [23] states that the court must accurately quote the rules and determine the type and degree of risk of the offence in order to convict.

As stated in "Do not use intention to add or subtract, use affection to lead [...] All criminals, although the crime is the same, but the intention to commit the crime is different, so we must distinguish between the severity and lightness to add or subtract" [24], the foundation for accurate assessment is to attribute crimes objectively, not emotionally, and must be based on the violation and the degree of fault. To differentiate it from other situations like "dying from illness, dying from hunger," lawmakers have specifically

stipulated in the practices that the motive for the crime must be identified: "killing out of hatred, killing out of lust, killing out of fighting, killing out of robbery, killing out of theft" [25]. Clarifying the subjective aspects of the offence is another goal of the aforementioned clause.

Regulate the statutes of limitations for lawsuits 3.6 The statute of limitations for lawsuits is explicitly specified by the legislature in accordance with each litigation. This rule is undoubtedly a criteria for assessing the legislative approach and the Code's high degree of detail, as well as for safeguarding citizens' legal rights by prohibiting authorities from extending the deadline for their own benefit.

The time restriction also varies depending on the kind of offence, whether it is significant or not. For instance, the deadline for human life lawsuit specifies:

According to the conventional practice, in situations involving human life, the defendant has two months to submit their case once the plaintiff lodges a complaint. The time restriction is four months from the defendant's presentation of the case to the verdict. It is deemed concealment if the defendant does not submit the case within two months. A defence may be presented in an appeal within four months after the judgement date [26].

3.6 Create the independence of the subjects taking part in the proceedings

The lawmakers anticipated that all activity pertaining to making arrests, obtaining statements, creating records, conducting investigations, and rendering judgements would reduce the number of infractions and the misuse of state authority for private benefit or to further their own agendas. Judges are not permitted to accept private requests in any situation: "The examining officer cannot ask questions, must have an order from the officer, and cannot receive private requests"; "It is necessary to pay attention to the thoughtfulness of questioning, and must be reasonable so that the official work is clear and accurate" [27].

Respecting the judge's logic and arguments also demonstrated a developing understanding of the legal system throughout this time. A comprehensive judgement should, in theory, include background information, justifications, arguments, and conclusions. In order for everyone to be aware of the verdict—"wrong judgements so that all parties know"—the trial must also make the verdict public.

Decentralize trials based on the nature of the case 3.7 The legislator explicitly identifies which level handles each sort of litigation (litigation concerning human life, robbery, land, bullying, fighting, insults, etc.) in addition to identifying which cases are at the Central, Provincial, or District levels. The Code, for instance, states that "matters pertaining to public and private land, property, marriage, fighting, insults, debts, rent, gifts, graves, etc., all matters that are not miscellaneous litigation, must be reported to the district level and then appealed to the provincial level." Appeal to the central one if the matter is still unresolved [28]; "if a disagreement arises between two communes or between an individual and the whole commune, they may petition the commune leaders for decisions [29].

3.7

3.8 Encourage to solve the conflicts of non-serious cases through conciliation

This Code's handling of deliberate harm (fighting lawsuit) for modest injuries states that "individuals should have a conciliation if the injury is minor" [30].

It is often forbidden to reconcile in severe circumstances, such as litigation concerning adultery or human life: "Litigation about human life is a criminal offence." The legislation states that "Fornicators with solid evidence must be examined and punished, not granted a reconciliation" [31] and "the investigating officer is not allowed to grant a reconciliation" [32].

3.9 Limitations and comparison

Apart from the aforementioned developments, this Code has not yet surmounted historical constraints, such as the absence of a definite division between the government and the judiciary. To put it another way, the judiciary was not yet a separate branch at this time. For instance, the village head often presided over court cases. This official role carried out both judicial and administrative tasks.

However, we may see that this Code is more progressive in many ways when compared to Western European procedural law at the same time. When deciding a case in Western Europe during the mediaeval era, the notion of ordeals was used if there was no legal proof. There were many other types of trials, such as the trial by boiling water (Ordeal of Hot Water), the trial by

drowning in a river (Ordeal of Cold Water), and the trial by fire (Ordeal of Fire) [33]. The gods determined what was right or wrong, guilty or innocent, rather than objective processes with stringent standards like those found in this Code. This further demonstrates the Code's worth when applied to procedural law globally. "This is the first time in Vietnamese and possibly Eastern legal history that there is a separate procedural code," said author Vu Van Mau. Additionally, it is a privilege for Le Dynasty lawmakers to make a clear distinction between substantive and procedural legislation.

4. Conclusion

Overcoming historical constraints, it is evident that this Code still upholds a number of principles that are important to refer to and inherit in order to defend people's legal rights. Recognising people's legitimate rights is only one aspect of protecting human rights in litigation; more crucially, state agencies and competent individuals must be clearly defined in their obligation to ascertain the truth of the case in an impartial, thorough manner, elucidating the evidence and specifics of the case. It becomes important to presume innocence on behalf of the accused when there is insufficient evidence or when the crime cannot be established.

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