

DOCTORAL THESIS IN BRIEF

NGUYỄN VĂN NĂM. *The relation between law and moral during the period of erecting nomocracy in Vietnam*

Specialization: Theory and history of state and law

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To adjust human behavior, society has numeral measures, in which law and moral are the most important. Besides inherent advantages, both law and moral have certain disadvantages; however, between them remains a close link representing their interaction and supplement to each other. Therefore, in order to manage society efficiently, it is crucial to amalgamate law and moral.

While forming nomocracy (or state based on rule of law), law is especially revered. It is necessary to study in depth the relation between law and ethics, especially when Vietnam is erecting a state based on rule of law, to gain proper knowledge about status, role, pros and cons of each element, the interaction, support, and supplement between them... on that basis to evaluate objectively and comprehensively the status of the relation between moral and law in Vietnam and from that basis to propose solutions to strengthen social management by combine law with moral, for the purpose of upholding the eminence of the law, preserving and promoting the traditional moral values, traditions and customs of

the nation, strengthening and maintaining stable social order, ensuring and protecting the rights, freedom, and legitimate interests of human.

For reason above, PhD student Nguyễn Văn Năm chose the topic “*The relation between law and moral during the period of erecting nomocracy in Vietnam*” for his dissertation.

In addition to conclusion and a list of the author's researches, the thesis consists of 5 chapters (197 pages).

Chapter 1 presents an overview of the topic, research methods, author's contribution, scientific meaning and practicality of the thesis,...

Chapter 2 analyzes and explains the relationship of morals and laws - important measures in adjusting social relationships. From the analysis of the similarities and differences between ethics and moral, the dissertation clearly states: 1/ moral and law are products of social life, reflecting social life, subject to and have a strong impact on social life, law and moral are the most important means to adjust social relationships. 2/ Laws are stipulated by the state, while morals are formed by people, or some great men. 3/ Law presents not only in written form, but also in unwritten form, but the trend is in favor of the written form. Meanwhile, expressions of moral is complex and

mainly exist in unwritten form, through customs, practices, proverbs, folk songs hò, vè ... 4/ Laws are enacted by the state, reflecting the will of the state, thus it's mandatory for all individuals and organizations in society, while moral is only advices and commandments, not very mandatory. 5/ The scope of the law and moral are different. In terms of social relationships, moral adjusted all relations between people, while the law only adjusts certain social relations. In terms of human behavior, there are acts adjusted by moral but not by law and vice versa. 6/ Laws are enforced by government measures, including coercion, and morals are enforced by individual's conscience, feelings, and by public opinion.

Chapter 3 elucidated the basic theoretical issues about the relationship between law and moral.

The true nature of the relationship between law and moral, ultimately, is matters of principle: moral is the basis of law. They interact strongly with each other.

In case of building nomocracy in Vietnam, the relationship between law and moral has the following characteristics: 1/ Law are respected but morality is not disregarded. Although laws are supreme, the leading and the most important measure to manage society, it cannot be the only measure. Besides law, moral still needs to be valued, because nomocracy always "implies moral factors", "state's power arises from morals", "the state is the embodiment of morals", morals are not only the foundation of laws, but also

"environment to perceive and implement the laws". 2/ Law and moral always have a basic unity, both deep and comprehensive, from the ideological point of view to practices. Rule of law is a tool of the people, for the people and to ensure the protection of human rights and human values. 3/ Law and moral have clear devision of the objects of regulation. Moral and law unity imply difference, heterogeneity, not replacing each other" although "no matter how far social development proceed, it cannot blurs the boundaries between moral and law ". 4/ In the handling of violations of the law, there is always incorporation between state's coercion with public opinion; between punishment and rehabilitation.

Chapter 4 assesses the status of the relationship between laws and morals in Vietnam in recent years , especially after the Party's policies on rule of law.

Here are some main points: 1 / Built on the foundation of socialist morality, the current Vietnam's legal system reflects and protects the interests of the people, protects human rights and citizen's. 2/ Vietnam legal system reflects humanitarian idea, a basic moral base of Vietnamese people. 3/ Laws play an important role in preserving and promoting the traditional moral concept, standpoint of the nation. 4/ Moral consciousness of each individual in society is an important factor to promote the implementation of law in life. In many cases, the law has not been issued timely, fully, that's when moral take the place and replace the role of law. 5/ Laws contribute to the eradication of obsolete, anti-

progressive ideas and thoughts. 6/ Laws help prevent the formation of morality opposite to the traditional values and customs, creating favorable conditions that shape new, progressive perceptions, ideas. 7/ The implication of law by the authorities has been conducted on the basis of ensuring the close combination of morals and laws.

Chapter 5 provides perspectives and propose solutions that combine morals with laws to improve the efficiency of social adjustment in case of Vietnam promoting rule of law.

The author asserts that the combination of morals and laws must serve the purpose of accelerating the process of building a state based on rule of law “of people , by people, the people”; building a solid legal foundation for the preservation and promotion of Vietnamese tradition moral values, both in the development, implementation and protect the laws; serving the progress of international cooperation and integration; it is necessary to put the combination in the innovation of systematic measures of adjusting social relations, and in order to prevent, effectively reduce law and moral violations. Thereby, the author proposes fundamental solutions that combine morals and laws in order to improve the efficiency of social adjustment in case of Vietnam promoting rule of law:

1. Raise awareness of the role of law, moral, and the relation between them.
2. Acquiring experience in handling the relation between the moral and law in the past.
3. Develop and complete the legal system that is based on the social views, morals.
4. Research for measures that are the most effective.
5. Build and improve moral standards in new circumstance, in which the utmost attention should be paid to standards of professional ethics.
6. Innovate and diversify forms of education about law and moral.
7. Improve the quality and efficiency of conciliation at locale, ensuring the principle of sensible, reasonable; handle internal conflicts on the basis of the moral standards accordance with the law.
8. Improve the quality and efficiency of the implementation of the law.
9. Education should be highlighted while carrying out state’s coercive measures against law violations.

The dissertation was successfully defended at the National Committee of Doctoral Dissertation, organized at Hanoi Law University, September 2012.

Introduced by
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