

# THE INFLUENCE OF FRENCH POLITICAL-LEGAL THOUGHT ON HUMAN RIGHTS IN COLONIAL VIETNAM

## A INFLUÊNCIA DO PENSAMENTO POLÍTICO-JURÍDICO FRANCÊS SOBRE OS DIREITOS HUMANOS NO VIETNÃ COLONIAL

Article received on: 8/25/2025

Article accepted on: 10/24/2025

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The authors declare that there is no conflict of interest

### Abstract

This article examines the influence of French political and legal thought on the formation of human rights concepts in Vietnam during the colonial period from 1858 to 1945. Drawing on historical and legal sources, it argues that the French idea of the *État de droit* and the revolutionary principles of liberty, equality, and fraternity played a decisive role in shaping the constitutional and legal consciousness of modern Vietnam. The study also shows how these imported concepts were selectively absorbed and adapted by Vietnamese intellectuals, transforming them from instruments of colonial control into vehicles of political awakening and legal modernization. Using a historical and comparative law approach, the research reveals that French influence in Vietnam was both coercive and emancipatory, leaving a lasting legacy in the country's constitutional thought and human rights discourse.

**Keywords:** French Legal Culture. Human Rights. Constitutionalism. Colonial Vietnam. Legal Modernization.

### Resumo

*Este artigo examina a influência do pensamento político e jurídico francês na formação dos conceitos de direitos humanos no Vietnã durante o período colonial, de 1858 a 1945. Com base em fontes históricas e jurídicas, argumenta-se que a ideia francesa do *État de droit* e os princípios revolucionários de liberdade, igualdade e fraternidade desempenharam um papel decisivo na formação da consciência constitucional e jurídica do Vietnã moderno. O estudo também demonstra como esses conceitos importados foram seletivamente assimilados e adaptados por intelectuais vietnamitas, transformando-se de instrumentos de controle colonial em veículos de despertar político e modernização jurídica. Utilizando uma abordagem histórico-jurídica e de direito comparado, a pesquisa revela que a influência francesa no Vietnã foi ao mesmo tempo coercitiva e emancipatória, deixando um legado duradouro no pensamento constitucional e no discurso sobre direitos humanos do país.*

**Palavras-chave:** Cultura Jurídica Francesa. Direitos Humanos. Constitucionalismo. Vietnã Colonial. Modernização Jurídica.

## 1 INTRODUCTION

From the middle of the nineteenth century until 1945, Vietnam experienced a profound transformation as a result of its prolonged encounter with Western civilization,



particularly with France. Under colonial domination, not only were economic and administrative structures reconfigured, but the very foundations of Vietnamese political and legal consciousness were also reshaped. During this process, French political and legal thought, rooted in the revolutionary ideals of 1789 - *liberté, égalité, fraternité* - became one of the principal intellectual channels through which the notions of the rule of law and human rights were introduced into Vietnam (Nguyen, 2016, p. 168).

Prior to colonization, Vietnamese society was organized under a Confucian monarchy that valued hierarchical order and moral obligation above individual rights. Concepts such as individual liberty, equality before the law, and popular sovereignty had not yet entered the traditional political vocabulary. However, the imposition of the French colonial state set in motion an unexpected process of intellectual modernization, as the rational and codified nature of French law was disseminated through institutions of education, governance, and the press (Brocheux, 2011, p. 54).

According to Brocheux (2011), the colonial education system, while designed to sustain French authority, “produced a generation of Vietnamese intellectuals capable of mastering Western political and legal theory and, paradoxically, of using it to question colonial legitimacy” (p. 55). The Latinization of the Vietnamese script (*quốc ngữ*) and its adoption in administration and schooling between 1869 and 1879 created a powerful linguistic instrument of cultural translation. Hoang (2006) described this reform as “a revolution in language and thought that opened the way for Vietnam’s entry into intellectual modernity” (pp. 374–375).

The emergence of the French legal mind can be understood within what Berman (1983) called “the formation of the Western legal tradition,” a synthesis of Roman law, canon law, and revolutionary humanism that gave rise to the modern concept of *droit*. As this tradition expanded through colonial structures, it transformed the idea of legality into both a universal norm and a tool of imperial governance. Benton (2002) explained that colonial legal regimes functioned simultaneously as instruments of domination and as mediums of translation, enabling European legal concepts to circulate across diverse cultural contexts. This dual nature of colonial law helps to clarify why French legal doctrines, when introduced into Vietnam, served both as mechanisms of control and as catalysts for the emergence of new forms of legal consciousness.

Within this context, the establishment of French-style schools and bureaucratic institutions led to the rise of a new class of modern-educated Vietnamese intellectuals.

Dover and Lambert (2009) noted that “the North-South relationship under colonialism was both hierarchical and productive, serving as a catalyst for the construction of national identity and legal rationality” (p. 72). This generation, educated in French but loyal to Vietnamese cultural identity, served as intermediaries who translated foreign legal and political ideas into locally resonant concepts.

By the early twentieth century, reformers such as Nguyen Truong To, Phan Chu Trinh, Phan Van Truong, Nguyen An Ninh, and Nguyen Ai Quoc had begun to reinterpret French political and legal ideas through the prism of Vietnamese aspirations for self-determination. Their works reveal a continuous intellectual progression from constitutional monarchy to civic republicanism and ultimately to modern concepts of human rights. Thai (2016) observed that this process represented “a selective and dialectical transfer of ideas, reflecting the Vietnamese effort to reconcile universal legal principles with national realities” (p. 32).

In *Monarchy and Democracy* (1925), Phan Chu Trinh condemned autocratic monarchy and argued that “only constitutional law and democratic institutions can ensure citizens’ freedom” (Thai, 2016, p. 43). Similarly, Nguyen An Ninh, writing in *La Cloche Fêlée* (1923), demanded freedom of thought, speech, association, and education (Thai, 2016, p. 40). These ideas, although derived from French liberalism, were adapted to the colonial situation as moral claims for justice, equality, and national dignity.

Nguyen (2016) emphasized that “the spread of Western human rights discourse in Vietnam coincided with the awakening of national consciousness; the two were mutually reinforcing” (p.170). This dynamic parallels what Merry (2006) termed the “vernacularization of human rights,” through which universal principles are reinterpreted and translated into local moral and political languages. Vietnamese intellectuals thus internalized Western concepts of law and justice while infusing them with the ethical and communal values of their own society.

Comparable patterns of intellectual adaptation have been documented in other Asian colonies. Sartori (2008) demonstrated that colonial intellectuals often transformed global concepts of legality and civilization into vernacular idioms that expressed local aspirations. Vietnam shared in this transnational process of conceptual exchange, serving as a site not only of imitation but also of creative reinterpretation.

The culmination of this long process was the 1946 Constitution, the first in Vietnamese history, which embodied both the ideals of the *Déclaration des Droits de*

*l'Homme et du Citoyen* of 1789 and the spirit of national self-determination. As Ghai and Cottrell (2006) later observed in comparative constitutional studies, postcolonial societies frequently “reinterpret borrowed constitutional ideals through the lens of local legitimacy” (p. 11). In this respect, Vietnam’s constitutional experience illustrates the transformation of a colonial intellectual legacy into a foundation for national sovereignty.

In short, the colonial period between 1858 and 1945 constituted a transitional epoch in Vietnamese political-legal thought. It marked the movement from moral governance to the rule of law, from monarchical hierarchy to constitutional democracy, and from collective obligation to individual rights. The French legacy, transmitted under coercive circumstances but creatively reappropriated by the colonized, laid the groundwork for modern Vietnamese understandings of law, human rights, and constitutional government.

This study therefore aims to examine the influence of French political and legal thought on the emergence of human rights concepts in colonial Vietnam, with particular attention to the mechanisms of intellectual transfer, adaptation, and transformation that linked the colonial encounter to the rise of modern Vietnamese legal consciousness.

## **2 THEORETICAL FOUNDATIONS AND LITERATURE REVIEW**

### **2.1 French political and legal thought: historical and conceptual foundations**

French political and legal thought developed within the broader European Enlightenment, which sought to replace hereditary authority with rational, legal, and moral order. The writings of John Locke, Montesquieu, and Jean-Jacques Rousseau provided the philosophical foundations of modern constitutionalism and shaped the distinctive identity of the French legal tradition.

Locke (1689/1988) articulated the theory of natural rights, affirming that individuals possess inherent rights to life, liberty, and property, and that legitimate government exists only to protect those rights. Montesquieu (1748/1989), in *The Spirit of the Laws*, established the doctrine of separation of powers as a safeguard against tyranny. Rousseau (1762/1997), in *The Social Contract*, proposed that sovereignty originates from the people and that laws derive legitimacy from the *general will*.

These ideas were codified in the *Déclaration des Droits de l'Homme et du Citoyen* (1789), the foundation of French constitutional law, which proclaimed liberty, equality, and property as universal rights. The Napoleonic Civil Code of 1804 and subsequent republican constitutions institutionalized these ideals, producing what Crouzatier (1997) termed a “legal rationalism” that became the core of the French *État de droit*. As Berman (1983) argued, the French Revolution secularized and rationalized the notion of law, transforming it from a moral command into a systematic, codified discipline. Glenn (2014) later described this legal model as “self-consciously universal,” reflecting France’s belief that its legal order could serve as a model for all nations.

Yet, before these Western concepts arrived, Vietnam had already developed an indigenous tradition of Confucian constitutionalism. Bui (2013), in his seminal study *Confucian Constitutionalism in Imperial Vietnam*, demonstrates that the Nguyen dynasty institutionalized a system of bureaucratic checks that restrained imperial authority through moral supervision and procedural norms. Institutions such as the *Censorate* (*Đô sát viện*), the *Court of Rites* (*Lễ bộ*), and the *National History Office* (*Quốc sử quán*) functioned as mechanisms of moral accountability, ensuring that rulers acted within ethical boundaries (pp. 405–410). Although these institutions operated on the basis of virtue rather than legal codification, they reflected a proto-constitutional concern for balancing power and virtue. Consequently, when French legal rationalism entered Vietnam, it did not confront a vacuum but interacted with a pre-existing moral-political order that already contained embryonic constitutional features.

This synthesis of traditions-Confucian moral governance and French legal rationality-created the intellectual foundation for Vietnam’s hybrid conception of constitutionalism. The indigenous concern with virtue, hierarchy, and moral order blended with the imported ideas of codified law, equality, and civic rights. As a result, the modernization of Vietnamese law can be understood not as a wholesale replacement of tradition but as an encounter between two complementary visions of justice.

## 2.2 Transmission and adaptation in colonial Vietnam

The diffusion of French legal ideas into Vietnam occurred through the intertwined processes of colonial administration, education, and print culture. By the late nineteenth century, France had established a dual legal regime in Indochina: French civil law for

Europeans and a modified version of customary “native law” for the Vietnamese. This asymmetrical arrangement was intended to preserve colonial hierarchy but also exposed local elites to modern legal institutions and the conceptual framework of codified justice.

Brocheux (2011) observed that the colonial education system, though designed for subordination, “produced a bilingual elite who internalized both French rationalism and Vietnamese moralism” (p. 55). The introduction of *quốc ngữ* - the Romanized Vietnamese script-into administration and education revolutionized intellectual life. Hoang (2006) described this linguistic reform as “a silent revolution of the mind” (pp. 374–375), facilitating the emergence of a new public sphere and the circulation of legal ideas.

Benton’s (2002) theory of *legal pluralism under empire* helps explain this dynamic.

She noted that colonial empires sustained their authority through “the coexistence and translation of multiple legal orders” (p. 21). In Vietnam, this translation produced a hybrid legal culture where French concepts of codification and rights coexisted with Confucian ethics and communal norms. Dovert and Lambert (2009) aptly termed this process “a reflexive encounter,” through which Vietnamese intellectuals reinterpreted French legal ideas as instruments of reform rather than tools of control (p. 72).

Vietnamese reformers such as Nguyen Truong To, Phan Chu Trinh, and Nguyen An Ninh did not merely imitate European doctrines. They contextualized Montesquieu’s separation of powers and Rousseau’s popular sovereignty within a moral framework grounded in Vietnamese political culture. Nguyen (2016) demonstrated that this adaptation involved the translation of legal language into ethical concepts, transforming *droit naturel* into *nghĩa vụ* (duty) and *liberté* into *tự do vì cộng đồng* (freedom for the common good). Thus, the encounter between French and Vietnamese thought resulted in a process of selective assimilation, where universal principles were rearticulated in moral and national terms.

### **2.3 Existing research on french legal influence in Vietnam**

Scholarly research on the impact of French legal thought in Vietnam has developed along three major trajectories.

The first is the historical-legal approach, represented by Thai (2016), Nguyen (2016), and Bui (2012). Thai (2016) traced the influence of French legal culture on the emergence of Vietnamese constitutionalism before 1945, emphasizing the mediating role of reformist intellectuals. Nguyen (2016) explored how the revolutionary ideals of liberty, equality, and fraternity informed the evolution of Vietnamese notions of human rights and civic participation. Bui (2013) added a critical dimension by identifying continuities between the Confucian constitutional tradition and modern constitutional discourse, thereby connecting precolonial governance with colonial legal modernity.

The second group of studies adopts a cultural-intellectual perspective, exemplified by Brocheux (2011) and Doyt and Lambert (2009). These authors interpret colonial modernity as a process of cultural hybridization that simultaneously imposed domination and inspired reform. For them, the colonial encounter created the paradoxical condition under which Vietnamese modernity emerged through interaction with, and resistance to, French political rationality.

The third approach is comparative and transnational, as seen in Crouzatier's (1997) analysis of the Francophone constitutions of Southeast Asia. He argued that the Vietnamese Constitution of 1946 constituted a unique synthesis of French republicanism and indigenous political creativity (p. 22). This perspective situates Vietnam within a broader network of legal exchanges that transcended colonial boundaries.

Collectively, these bodies of scholarship affirm that French political-legal thought provided both the conceptual vocabulary and institutional models for Vietnam's modernization. At the same time, they highlight the agency of Vietnamese thinkers, who transformed the colonial legacy into a foundation for legal and constitutional innovation.

## 2.4 Research gaps and analytical orientation

Despite a substantial body of research, several aspects of this topic remain insufficiently explored. Most previous studies have emphasized legal institutions and codification, yet few have examined how **the idea of human rights** was philosophically and morally reconstructed in Vietnam. Similarly, the interaction between French rational-legal norms and the Confucian moral order has often been treated as a conflict rather than a dialogue. Bui's (2013) findings invite a reconsideration of this binary by demonstrating

that Vietnamese constitutional thought has long oscillated between ethical and legal rationalities.

Furthermore, the Vietnamese case has seldom been analyzed in a comparative postcolonial framework that connects it with broader experiences of legal adaptation in Asia and Africa. This study addresses these gaps by integrating local intellectual traditions with global comparative perspectives, thereby revealing how Vietnam's encounter with French law represented not a rupture but a continuity of moral-legal reasoning.

By synthesizing historical, comparative, and interpretive methods, this research contributes to the literature on colonial legal modernities and Confucian constitutionalism, showing that Vietnam's legal transformation emerged from an ongoing dialogue between indigenous moral traditions and imported Western models of law and rights.

### 3 RESEARCH METHODOLOGY

#### 3.1 Theoretical framework

This study is grounded in an interdisciplinary framework that combines historical-legal analysis, politico-legal thought analysis, and comparative law methodology. Together, these approaches allow a comprehensive exploration of how French political and legal ideas were transmitted to Vietnam, how they interacted with indigenous traditions such as Confucian constitutionalism, and how they were reinterpreted in the course of the country's modernization.

The historical-legal approach traces the development of legal and political ideas through specific historical periods. It situates the reception of French legal thought within the broader continuum of Vietnamese intellectual history, revealing both continuity and transformation. Drawing on Berman's (1983) historical theory of law, this study treats legal ideas as both products and agents of social and intellectual change. Following this principle, it reconstructs the trajectory from the Confucian statecraft of the Nguyễn dynasty to the rational-legal constitutionalism of the mid-twentieth century, examining how the French ideal of the *État de droit* was received, reinterpreted, and localized in Vietnam.

The analysis of politico-legal thought focuses on how Vietnamese reformers articulated and reformulated legal concepts in their writings. This method involves a close reading of political essays, petitions, and speeches by figures such as Nguyen Truong To, Phan Chu Trinh, Nguyen An Ninh, Phan Van Truong, and Nguyen Ai Quoc. It considers how these thinkers integrated imported ideas - such as separation of powers, rule of law, and popular sovereignty- into an ethical framework rooted in Confucian humanism and collective morality. Bobbio (1991) notes that the study of political-legal ideas is indispensable for understanding how societies internalize moral values through legal institutions, and this insight underpins the interpretive orientation of this study.

In order to capture the cross-cultural dimensions of this transformation, the research also employs the comparative law method, as developed by Zweigert and Kötz (1998). Comparative law provides a theoretical basis for analyzing how legal norms travel across different jurisdictions and cultural systems. By juxtaposing the French legal tradition with the indigenous Vietnamese framework, the study seeks to explain the mechanisms of legal borrowing, adaptation, and synthesis. According to Watson (1993), legal transplants succeed not by replication but through reinterpretation within the receiving culture; this principle is particularly relevant to the Vietnamese case, where legal borrowing took place in a colonial context but led to a distinct local synthesis.

The theoretical framework also draws on Bui Ngoc Son's (2013) concept of Confucian constitutionalism, which emphasizes the existence of normative constraints on royal authority in imperial Vietnam. Bui argues that institutions such as the Censorate and the Court of Rites functioned as channels for moral oversight, limiting the ruler's power through Confucian virtue rather than codified law (pp. 405–410). This indigenous model provides a valuable counterpoint to the French notion of constitutional legality, enabling a comparative analysis between moral and rational forms of governance. By bringing these two traditions into conversation, the research illuminates how French legal rationality interacted with pre-existing ethical constraints, producing a hybrid form of legal modernity.

In summary, the theoretical framework combines historical reconstruction, textual interpretation, and comparative analysis. It treats colonial legal influence not as a unilateral imposition but as an intellectual dialogue in which Vietnamese thinkers reinterpreted French concepts through the lens of their own political and ethical traditions.

### 3.2 Data sources

The research relies on both primary and secondary materials.

Primary sources include legal, administrative, and intellectual texts from the colonial period, as well as earlier imperial documents that reflect the Confucian constitutional order. Among these are Nguyen Truong To's reform petitions (Tế cấp bát điều), Phan Chu Trinh's *Monarchy and Democracy* (1917), and Nguyen Ai Quoc's *The Claims of the Annamite People* (1919) and *Declaration of Independence* (1945). The study also incorporates colonial decrees, education reforms related to quốc ngữ, and the text of the 1946 Constitution. These documents provide direct evidence of how concepts of law, rights, and governance were debated and institutionalized in different political settings.

**Secondary sources** encompass a broad range of academic works in legal history, political theory, and comparative law. The study draws from Brocheux (2011) on colonial society and education; Doyt and Lambert (2009) on the interplay between domination and modernization; Crouzatier (1997) on constitutional diffusion in Francophone Asia; and Nguyen (2016) and Thai (2016) on the adaptation of French legal ideas in Vietnam. Internationally, it engages with Berman (1983) on the Western legal tradition, Benton (2002) on colonial legal pluralism, Merry (2006) on the vernacularization of human rights, and Sartori (2008) on the intellectual translation of global ideas. Methodological guidance is drawn from Watson (1993) and Zweigert and Kötz (1998) on comparative law and from Ghai and Cottrell (2006) on constitution-building in postcolonial societies.

Finally, Bui Ngoc Son's (2013) *Confucian Constitutionalism in Imperial Vietnam* serves as both a historical and theoretical reference. It provides a domestic framework against which the reception of French law can be assessed. By examining how traditional Vietnamese governance employed moral mechanisms of accountability, the study situates the colonial encounter within a continuum rather than a rupture in legal development.

### 3.3 Analytical procedures

The analysis proceeds in three main stages, combining historical narrative with conceptual interpretation.

**First**, the study establishes a historical sequence from the mid-nineteenth century to the promulgation of the 1946 Constitution. This chronological mapping reveals the gradual transformation from moral monarchy to constitutional democracy. It identifies the key turning points—such as the introduction of *quốc ngữ*, the rise of the modern press, and the establishment of colonial education—that facilitated the transmission of legal concepts.

**Second**, the research applies discourse analysis to the writings of Vietnamese reformers. It examines how legal and political concepts were translated into Vietnamese and how their meanings evolved. For instance, the French term *citoyen* was rendered as *công dân* (citizen), emphasizing civic belonging rather than mere legal status, while *liberté* became *tự do*, often linked to moral self-cultivation and communal responsibility. This process of translation and reinterpretation reflects the dual character of Vietnamese legal modernity: universal in its vocabulary yet local in its ethical orientation.

**Third**, the study performs a comparative analysis of the French *Déclaration des Droits de l'Homme et du Citoyen* (1789) and the Vietnamese Constitution of 1946. It explores their structural parallels, especially in the articulation of civil rights and the distribution of powers. Yet it also identifies crucial differences: the Vietnamese Constitution integrated duties alongside rights, and social harmony alongside freedom, illustrating the synthesis of Confucian ethics with republican legality.

By combining these analytical steps, the research aims to demonstrate that the influence of French political-legal thought on Vietnam was not a simple matter of diffusion but a complex process of dialogue and transformation. French rational law and Vietnamese moral governance interacted to produce a new legal consciousness that continues to shape the country's political imagination today.

## 4 RESULTS AND DISCUSSION

### 4.1 The emergence of constitutional and legal thought in Vietnam

The development of constitutional and legal thought in Vietnam during the late nineteenth and early twentieth centuries cannot be understood solely as a byproduct of colonial contact. It evolved through a gradual and dialogical process that combined

inherited Confucian principles with imported Western ideas. The result was a hybrid form of legal consciousness that sought to reconcile moral virtue with legal rationality.

In the imperial era, governance in Vietnam was already subject to ethical and institutional constraints. As Bui (2013) demonstrates, imperial Vietnam under the Nguyen dynasty maintained mechanisms of *Confucian constitutionalism*, which functioned as moral checks on royal authority. Institutions such as the *Censorate* (*Đô sát viện*) and the *Court of Rites* (*Lễ bộ*) provided institutionalized forms of criticism and oversight, while the *Imperial Academy* and *National History Office* encouraged scholarly examination of state conduct (pp. 405–410). Although these institutions were grounded in virtue rather than in codified law, they represented a normative framework for accountability and balance within a hierarchical political system.

Building on this indigenous foundation, reformist thinkers of the nineteenth century began to articulate legal and political arguments that increasingly reflected the influence of European ideas. Nguyen Truong To (1830–1871), for example, proposed administrative reforms that aimed to limit monarchical power and institutionalize rule-based governance. In his memorial *Tế cấp bát điều*, he advocated for a system of deliberation and advice, arguing that statecraft must rest on knowledge and moral discipline rather than arbitrary command (Thai, 2016, p. 31). His proposals anticipated Montesquieu’s idea that political liberty depends on the division and moderation of power.

By the early twentieth century, intellectual figures such as Phan Chu Trinh (1872–1926) and Phan Van Truong (1876–1933) expanded this reformist vision into a comprehensive critique of colonial and feudal despotism. Phan Chu Trinh’s *Monarchy and Democracy* (1925) denounced autocracy and maintained that “only constitutional law and democratic institutions can ensure citizens’ freedom” (Thai, 2016, pp. 42–43). Drawing inspiration from Rousseau’s concept of the general will, he argued that legitimate government must rest on popular consent rather than divine mandate.

Phan Chu Trinh’s conception of *dân quyền* (civil rights) illustrates the interplay between French liberalism and Vietnamese ethical thought. While adopting the universal language of liberty, equality, and fraternity, he framed these ideals as moral duties of citizens toward the nation. His reformism reflected what Berman (1983) described as a “moral revolution within the legal order,” where the legitimacy of law derived from its

ethical coherence. Through this reinterpretation, French constitutionalism was translated into a Vietnamese idiom centered on civic virtue and national solidarity.

The Vietnamese press also became a crucial forum for disseminating legal concepts. Writers such as Nguyen An Ninh used newspapers like *La Cloche Fêlée* (1923) to articulate ideas of freedom, education, and civic participation. As Merry (2006) theorized in her study of human rights, the process of *vernacularization* transforms universal ideals into locally meaningful claims. In colonial Vietnam, this process unfolded through the translation of *citoyen* into *công dân*, a term that combined the Western idea of citizenship with the Confucian notion of social responsibility.

Dovert and Lambert (2009) have described this phenomenon as “reciprocal influence under asymmetry” (p. 72). Despite the coercive framework of colonial domination, Vietnamese intellectuals appropriated the colonizer’s discourse of legality to articulate a politics of resistance and moral renewal. Their reformist writings thus bridged the ethical order of Confucian governance and the rational order of Western legality, creating the foundation for Vietnam’s later constitutional development.

#### **4.2 The 1946 Constitution: the synthesis of legal rationalism and moral governance**

The promulgation of the 1946 Constitution marked the culmination of Vietnam’s century-long engagement with both Confucian and French legal traditions. It represented not a simple imitation of Western models but a selective adaptation that reflected Vietnam’s intellectual and political realities.

Ho Chi Minh’s *Declaration of Independence* (1945) explicitly invoked both the United States’ *Declaration of Independence* (1776) and France’s *Déclaration des Droits de l’Homme et du Citoyen* (1789). By referencing these texts, he placed Vietnam’s struggle for sovereignty within a universal discourse of rights and equality. As Nguyen (2016) notes, this rhetorical strategy “aligned the national liberation movement with the moral legitimacy of global human rights ideals” (pp. 174-176).

The 1946 Constitution integrated French republican principles with indigenous ethical norms. Chapter II, titled “Rights and Duties of Citizens,” affirmed equality before the law, regardless of gender, ethnicity, or religion—an echo of Article 1 of the 1789 Declaration. It also protected freedoms of speech, press, association, and belief, paralleling the civil liberties enumerated in the French tradition. However, unlike its

European counterpart, the Vietnamese Constitution coupled these rights with explicit duties to the nation and community. The fusion of rights and obligations reflected the continuing influence of Confucian ethics, which viewed moral conduct as inseparable from civic participation.

Institutionally, the 1946 Constitution adopted a semi-parliamentary framework similar to that of the French Third Republic. As Bui (2013) pointed out, this configuration balanced hierarchical authority with moral accountability. The President, though vested with executive functions, remained answerable to the National Assembly, which embodied the sovereignty of the people. Bui interpreted this arrangement as the legal continuation of the Confucian concept of the virtuous ruler bound by counsel and moral restraint (pp. 420–425). In this sense, the 1946 Constitution transformed the ethical hierarchy of Confucian governance into the legal hierarchy of republican democracy.

Bui (2013) further emphasized that this transformation did not abolish the Confucian conception of moral legitimacy but rather reinterpreted it in juridical form. The Constitution's preamble and its provisions on education and social welfare embodied the moral aspirations of *nhân nghĩa* (benevolence) and *hòa đồng* (social harmony), linking collective well-being with civic virtue. This synthesis reinforces Nguyen, Đ. D. (2016)'s observation that the 1946 Constitution reflected a creative process through which Western constitutional ideas, especially those rooted in the French tradition, were adapted to Vietnam's revolutionary circumstances and cultural realities (pp. 59–61).

Thus, the 1946 Constitution stands as a landmark in the evolution of Vietnamese constitutionalism. It reconciled moral governance with legal rationality and translated the ethical codes of Confucianism into the universal language of rights. Through this synthesis, the document became both a symbol of national sovereignty and a bridge between two legal civilizations.

### 4.3 Limits, contradictions, and legacy

Despite its achievements, the process of legal modernization under French influence was marked by contradictions that limited its immediate realization. The first was the fundamental inconsistency between **universal rights and colonial rule**. As Brocheux (2011) observed, the colonial administration “preached liberty and equality in Paris but practiced segregation and domination in Indochina” (p. 54). The dual legal

system maintained during the colonial period institutionalized inequality between Europeans and Vietnamese, rendering the rhetoric of rights hollow in practice.

A second limitation arose from the **elitist nature of colonial education**, which confined access to legal and political knowledge to a small urban intelligentsia. As a result, the vocabulary of liberty and citizenship did not initially permeate rural society, where Confucian social hierarchies and customary law continued to prevail. The diffusion of legal rationality thus remained partial, creating a disjunction between intellectual reform and social experience.

Even within the reform movement, there were tensions between gradualist and revolutionary strategies. The *Constitutionalist Party of Cochinchina* (1919–1926), for instance, advocated reform within the colonial framework, seeking recognition rather than independence (Thai, 2016, p. 36). Their moderation highlighted the limits of legal reform as a path to liberation, demonstrating the political constraints of working within colonial legality.

Nevertheless, the intellectual legacy of the colonial encounter proved enduring. Doyt and Lambert (2009) argued that “the contradictions of colonial domination generated the very reflexivity that made modern political rationality possible in Vietnam” (p. 72). Vietnamese thinkers, by appropriating and reinterpreting the colonizer’s concepts of justice, turned the language of law into a tool of resistance. This dialectic of imitation and opposition laid the groundwork for a postcolonial legal identity that valued both rational governance and moral legitimacy.

The persistence of Confucian ethical values within Vietnamese legal thought further explains the distinctive trajectory of its constitutional development. As Bui (2013) emphasized, Confucian constitutionalism continued to shape legal culture after independence, maintaining the ideal of virtuous governance and moral accountability. Even in the socialist constitutions that followed, the emphasis on education, civic morality, and collective responsibility reflected this inherited ethical framework.

Successive Vietnamese constitutions -1959, 1980, 1992, and 2013 - retained key principles of the 1946 document: the supremacy of the constitution, equality before the law, and the centrality of human rights. Nguyen (2016) observed that “the rational-legal framework inherited from France continues to structure Vietnamese legal discourse, even as it is mediated by socialist and cultural vocabularies” (p. 177). This continuity affirms

that French legal rationality and Confucian moral governance were not mutually exclusive but have coexisted and interacted over time.

In a broader perspective, the Vietnamese experience illustrates what Sartori (2008) described as the creative recontextualization of global ideas within local moral systems. The triad *liberty, equality, fraternity* evolved into Vietnam's own civic motto-*independence, freedom, happiness*-symbolizing the translation of universal ideals into national values. The encounter between France and Vietnam thus produced not a simple diffusion of law but a process of intellectual hybridization that continues to shape the moral and constitutional imagination of modern Vietnam.

## 5 CONCLUSION

The encounter between French political-legal thought and Vietnamese intellectual traditions from 1858 to 1945 constitutes one of the most complex and transformative chapters in the history of legal development in Asia. Far from being a story of unilateral imposition, it reveals a dynamic process of exchange and reinterpretation, in which the universal principles of the French *État de droit* engaged deeply with the indigenous moral order of Confucian constitutionalism. Out of this encounter emerged a hybrid legal consciousness that has continued to shape Vietnam's political imagination and constitutional evolution.

The study demonstrates that Vietnamese thinkers did not simply imitate the French model of constitutionalism. Rather, they reinterpreted its ideals of liberty, equality, and fraternity through the ethical vocabulary of duty, virtue, and community. Nguyen Truong To, Phan Chu Trinh, and Nguyen An Ninh - each in their own way-translated abstract principles of European liberalism into the moral grammar of Vietnamese thought. Their writings transformed the language of rights into a moral claim for national self-determination and social justice. As Bui (2013) observed, the Confucian conception of governance already contained an embryonic constitutional order in which moral responsibility constrained authority (pp. 405–410). The French legacy, therefore, did not introduce legality *ex nihilo* but provided the rational structure through which these moral principles could be institutionalized.

This fusion of ethical and legal rationalities reached its most visible expression in the 1946 Constitution, the first in Vietnamese history. The document embodied the

universal ideals of the *Déclaration des Droits de l'Homme et du Citoyen* while translating them into a moral and political language shaped by Vietnam's revolutionary experience and cultural traditions. The Constitution affirmed civil and political rights but also attached great importance to education, social welfare, and civic duties, thereby integrating Confucian humanism with republican legality. Nguyen, Đ. D. (2016) observed that the 1946 Constitution reflected a creative process through which Western constitutional ideas, particularly those from the French tradition, were adapted to Vietnam's political and cultural context (pp. 52–63). Bui (2013) extended this perspective by showing that the moral ideal of virtuous leadership persisted within the constitutional design itself, especially in the conception of state authority as a moral vocation rather than a purely legal construct (pp. 420–425).

At a deeper level, the Vietnamese experience shows that colonial modernity was neither a complete rupture with the past nor a simple continuation of it. Rather, it was a process of translation and negotiation in which external forms were appropriated and invested with local meanings. This dynamic reflects what Merry (2006) describes as the vernacularization of universal norms—the adaptation of abstract rights into categories that resonate with local moral and cultural understandings. Through this process, the colonial encounter did not produce mere imitation but fostered creative transformation, generating a continuing dialogue between imposed institutions and indigenous values.

The contradictions inherent in French colonialism, particularly the simultaneous preaching of liberty and practice of domination, paradoxically sharpened Vietnamese awareness of legal injustice. Brocheux (2011) referred to this phenomenon as the “paradox of colonial enlightenment” (p. 54), in which the rhetoric of universalism awakened a critical consciousness among the colonized. The very institutions that legitimized domination also provided the intellectual tools for resistance. As Doyt and Lambert (2009) observed, this dialectic of domination and reflexivity became the foundation of modern Vietnamese political rationality (p. 72).

After independence, the influence of French legal rationality persisted both in structure and in spirit. The constitutions promulgated after 1945 retained essential elements of rational legality, such as constitutional supremacy, equality before the law, and codified rights, while reinterpreting them through socialist and cultural perspectives. Nguyen (2016) noted that “the rational–legal order inherited from France continues to underpin Vietnam's legal discourse, mediated by indigenous moral vocabularies” (p.

176). This continuity indicates that the colonial legacy, though politically contested, has become intellectually embedded within Vietnam's constitutional identity.

Equally enduring is the Confucian dimension of that identity. Bui (2013) argued that the Confucian constitutional tradition has remained deeply rooted in Vietnamese thought, shaping the conviction that legality must be harmonized with virtue. Throughout its various ideological transformations, the postcolonial Vietnamese state has retained this moral foundation, linking legal legitimacy with civic morality and public responsibility. The persistence of this dual inheritance explains why Vietnamese legal discourse continues to combine procedural rationality with ethical purpose.

Viewed in a broader comparative context, Vietnam's legal modernization parallels the global evolution of postcolonial constitutionalism. Ghai and Galli (2006) observed that postcolonial societies often reinterpret borrowed constitutional ideals through the lens of local legitimacy (p. 11). The Vietnamese experience affirms and enriches this pattern, for the dialogue between French legal rationalism and Confucian moral order produced a distinctive form of legal modernity—one in which universal principles were redefined through moral substance and national aspiration.

Ultimately, the encounter between France and Vietnam yielded not a clash of civilizations but an intellectual symbiosis. The French legal tradition contributed the language of rights and institutional design, while Vietnamese Confucianism provided the moral foundations of responsibility and harmony. Together they generated a hybrid conception of constitutionalism that continues to inform contemporary discussions of the rule of law and human rights in Vietnam.

In this enduring synthesis, the ideals of *liberté, égalité, fraternité* were transformed into *independence, freedom, and happiness*, the triad that still defines Vietnam's national ethos. This transformation captures the essence of legal modernization as a process of cultural translation—the movement of ideas across boundaries, their reinterpretation through moral frameworks, and their reconstitution into new and meaningful forms. What began as an instrument of colonial governance ultimately became a vehicle of national identity and ethical self-determination. The legacy of French political–legal thought in Vietnam thus extends beyond the institutions it created; it endures in the ongoing dialogue between law and morality, rights and duties, universalism and cultural particularity, revealing that Vietnamese legal modernity was

constructed not by external imposition but through reflection, adaptation, and the persistent pursuit of justice grounded in both reason and virtue.

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### **Authors' Contribution**

Both authors contributed equally to the development of this article.

### **Data availability**

All datasets relevant to this study's findings are fully available within the article.

### **How to cite this article (APA)**

Dinh, L. V., & Nguyen, Q. V. THE INFLUENCE OF FRENCH POLITICAL-LEGAL THOUGHT ON HUMAN RIGHTS IN COLONIAL VIETNAM. *Veredas Do Direito*, e223706. <https://doi.org/10.18623/rvd.v22.n5.3706>