

## **Human Value in the Law - From Historical Perspective and Application in Higher Education in Vietnam**



**Assoc. Prof, Dr. Nguyen Van Hiep<sup>1</sup>, Assoc. Prof, Dr. Pham Ngoc Tram<sup>2</sup>**

<sup>1,2</sup> Thu Dau Mot University (TDMU), Vietnam

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**Abstract:** From a historical perspective, the article analyzes the human values in a number of Vietnamese laws such as Hinh Thu - the Ly Dynasty, Quoc trieu Hinh Luat- the Tran Dynasty, Quoc trieu Hinh Luat - the Le Dynasty, Hoang trieu luat le - the Nguyen Dynasty and the current Vietnamese legal system. From the human values in the history of Vietnamese law, the article suggests a number of issues of the applied methodology, practical and scientific significance of the human values for Vietnam's higher education in the context of industrial revolution 4.0.

**Key Words:** Human values, Vietnamese law, higher education

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### **I. INTRODUCTION**

Law is a system of generally compulsory rules of conduct issued by the state - in writing - or recognized to regulate social relations, serve and protect the interests of all walks of life in society. Therefore, depending on each historical period, the humanistic value of Vietnamese law has manifested at many different levels, which is very meaningful for the education of humanity in Vietnam's higher education today.

In Vietnamese history, the experiences of legislative techniques and ancient laws have left contemporary values of profound progress and humanity. The laws contain many provisions to limit and punish corrupt acts of bureaucrats and indirectly protect some legitimate interests of the people. According to the author Vu Thi Phung in the Vietnam's ancient laws and some contemporary values, it is said that the ancient laws of Vietnam have humanitarian provisions such as: "protecting the elderly and children; helping the disabled, orphans and widows in difficult circumstances; respecting for ethnic minority customs and culture; in spite of being influenced by Confucianism to value men above women, the ancient Vietnamese laws still have some provisions that partially pay attention to the rights and status of women; Vietnam's ancient laws all uphold and protect the good moral values of people".

In addition, the feudal laws were also on the side of the people, being an agricultural country, so the old laws had many provisions to protect labor power, pull power and protect dykes. To protect the main traction for agriculture, the states at that time prohibited arbitrary killing of cattle. Article 580 - The Hong Duc Law stipulates that: Those who arbitrarily kill buffaloes and horses shall fine 80 stroke of beating with the heavy stick and have to pay money equal to the price of buffaloes and horses in the treasury. In Article 7 - Book 21- Gia Long Law, the repair and protection of dykes and field banks are regulated and explained: "The dyke to prevent the water from the river is very important ... The embankment around the field is secondary to the embankment along the river (dyke), but it has direct relation to agriculture, all of them are for the people, can't be delayed. If the damage is not repaired or repaired at the wrong time, the officer in charge will be fined..." (Nguyen Q. Thang, 2020:12-16).

The humanity and progress of laws in Vietnamese history are also reflected in the protection of women's rights. The author Hoang Thi Kim Que (2012) said that the provisions of the Hong Duc Law on women's rights, the protection of the rights, honor and dignity of the woman is truly humanistic, progressive, modern and also the message of the nation, the nation and the whole humanity today. Today, international human rights laws affirm the fundamental principles of women's rights and the responsibility of states to strive to ensure their enforcement in practice. The provisions of Hong Duc Law have valuable reference in civil, marriage and family, criminal and administrative legal documents, "We are proud, honor, and inherit the legal cultural values of our ancestors during the integration period" (Hoang Thi Kim Que, 2012: 202).

### II. HUMAN VALUES IN THE HISTORY OF VIETNAMESE LAW

#### 1. Human values in law of Le dynasty

First of all, it can be seen that the human values of the old laws are also the basis for traditional education and humanistic education to build Vietnamese people in the current reform and integration context. In it, the law codes: *Hinh Thu* (Ly Dynasty), *Quoc Trieu Hinh Luat* (Tran Dynasty), *Quoc Trieu Hinh Luat* (also called the *Hong Duc Law - Le Dynasty*), and *Hoang Viet Luat le* (also called *Gia Long Law - Nguyen Dynasty*) are the most typical ancient laws built and enacted in Vietnamese history (from the 11th century to the 19th century).

*Hinh Thu* is the first written law in Vietnam, enacted under the Ly dynasty - in 1042. Although the main objective of the *Hinh Thu* is to protect the interests and status of the feudal state, it is also a tool to stabilize the society, preserve discipline, protect agricultural production, and protect human values. Complete Annals of Đại Việt reads: "Previously, domestic lawsuits were troublesome, officials kept the law up to date, in order to make it harsh, even some people were unjustly punished. The king pitied, sent a lieutenant-general to level the law, imitated the times, divided into categories, compiled into terms, made *Hinh Thu* book of a dynasty, so that it was easy for viewers to understand" (Ngo Si Lien, 1984: 263). If the Dinh and Tien Le dynasties were a bit barbaric, "anyone illegal will be charged with being put in a cauldron of hot oil or fed a tiger" (Tran Ba De, 2002: 148), the law of the Ly dynasty again, it contains a spirit of compassion and tolerance which has profound human values.

That humanistic spirit is also reflected in the court's behavior towards those who violate the state regulations. In 1028, Ly Thai Tong ascended the throne and forgave the crimes of treason against Dong Chinh Vuong, Duc Thanh Vuong and Vu Duc Vuong. In 1043, Nung Tri Cao in Chau Quang Nguyen countered. After arresting Tri Cao, the court not only forgave the sin but also bestowed "India" (stamp on Tri Cao, and he was appointed to Thai Bao, and bestowed the throne to several continents and districts (Ngo Si Lien, 1984: 133).

Giving prominence to human life, the Ly court always tolerated. For the murder crime, the Ly dynasty law stipulates that anyone competing on land but beating and killing or making people injured, and they will be punished by 80 stroke of beating with the heavy stick and mistreated. Murder and treason are felony crimes, the later dynasties listed it as "10 evil crimes", but with a noble humanitarian spirit, Ly kings punished very lightly, to the point that people in the next generation criticized them drastically. Ngo Si Lien (History of the Le Dynasty) said: "Murder is to be condemned to death, which is the law of the old days, now the crime of murder is the same as other crimes, regardless of the level, losing consideration of a serious or misdemeanor" (Ngo Si Lien, 1984: 133).

The humanistic spirit of the Ly dynasty law is the special attention to vulnerable objects in society: the elderly, children; at the same time focusing on education and prevention. The Ly dynasty law stipulates that people between the ages of 70 and 80, children from 15 to 10 years old, if they commit crimes, they are allowed to use money to atone. In the trial, Ly kings often tolerated and took education as the mainstay. There was a time when King Ly Thanh Tong pointed to Princess Dong Thien and said, "I love my children as well as I love the people. The people do not understand but get caught up in the criminal law, I am very pity. From now on, no matter what crime is serious or light, the law of drilling will decrease" (Ngo Si Lien, 1984: 273).

The humanistic spirit of the Ly dynasty law was not only tolerant of offenders, the Ly law also had very specific provisions to protect people, such as the prohibition of trading royal men as slaves or castration, men... deeply expressing the Vietnamese tradition of "loving people" created the spirit of the Ly dynasty.

Humanistic values in the Ly law have also come into practice with vivid expressions such as the king's close relationship with the people, treating the people as blood relatives, taking care of the people's lives, feeling pity when they see people suffering, solacing the people when their hearts are not at peace. Many Ly kings used to personally plow their fields, watch their people produce, and know how to grasp the people's life. In the years of floods and droughts, the State has provided rice, money, silk, reduced and deleted taxes to the people. In 1010, after ascending to the throne of Ly Thai To, the tax amnesty granted to the people for three years, the frail old, orphan, and widower are entitled to tax debt relief... It was very touching when Ly Thanh Tong had compassion and sympathy with the sufferings of the prisoners in the cold winter. "In the winter of At Mui 1055, it was cold, Ly Thanh Tong told the mandarins that we were in a closed palace, heating coal, wearing fur coats, but still feeling this cold. I think of a prisoner locked up in a prison cell, bound by misery, but not knowing what to do. Eating not full of stomach, not covering the body. Because of the cold wind, some people die with no place to rely. I really feel sorry" (Hoang Xuan Han, 2003: 364). Immediately after that, the king sent a blanket to bring along two meals a day to inmates.

The humanistic values of the Ly law also tolerated prisoners. In 1010, Ly Thai To released 28 Chiem Thanh people who had been captured by Le Ngoa Trieu earlier; At the same time, they sent people to provide medicine, clothes and food for them to return to their native land. At the same time, the Ly dynasty also exercised tolerance, flexibility and flexibility in foreign policy towards Chiem Thanh. In 1044, Ly Thai Tong beat Chiem Thanh and captured more than 5,000 prisoners. The king not only refused to kill but also allowed them to accept a household to live in Vinh Khang (Nghe An). In 1069, Ly Thanh Tong captured King Chiem Thanh, Che Cu and his 50,000 people, the king did not kill anyone. For the Song and Ly dynasties, there was a peaceful relationship with regular tribute. After defeating the Song's invasion war, the Ly dynasty handed over to the Song dynasty the villagers and soldiers arrested in Khâm Châu, Ung Châu in 1075.

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Thus, 997 years ago (1042 - 2019), the Ly dynasty was aware of the need to have a written law so that the people could know how to adjust their behavior; officials have grounds to judge, avoid arbitrary work leading to injustice; The state has facilities to re-examine and supervise. This is an important step forward in legislative thinking, protecting human values, limiting extreme harshness and injustice. The law of the Ly dynasty contained very progressive factors, in which the outstanding was the human spirit towards people, protecting and taking care of people's lives.

### 2. Human values in Tran law

The Tran inherited and developed legislative thinking from the Ly Dynasty. Since 1226, the Tran dynasty issued more complete legal documents than in the Ly dynasty, such as: "The Quoc Trieu thong che", "The Quoc trieu thuong le" (1230), the Quoc Trieu Hinh Luat (also known as Hinh Thu) (1341) (Truong Huu Quynh, Dinh Xuan Lam, Le Mau Han, 2005, p.185). In terms of content, the Tran law has certain amendments and adjustments, with more complete documents than the Ly dynasty, especially the provisions on penalties, procedural procedures and the private ownership of land and property. However, the law of the Tran dynasty (compared to that of the Lý dynasty) was stricter, the punishment was heavier, and the humanity was limited. The Tran law stipulates that a slave must like the word on his forehead, bear the title of his master, if he is not considered a robbery, if he is light, he will be a slave, or if he is heavy he goes to prison. Compared with the Ly and Tran dynasties, theft crimes were tried very seriously. The first time he was accused of beating 80 stroke of beating with the heavy stick, trespassed in the face of the two words "Phạm Đạo" (Crime) and had to pay for the owner, every 1 had to pay 9. If he did not pay enough, he had to assign his wife and children as a servant. If he repeats an offence, his hands and feet will be cut. If he has the third repeat offence, he will be killed... Whoever caught the adulterer has the right to kill... The sale, purchase, transfer and assignment of his wife and children as slaves is public and legal. The slave and slave class is the low class in society and is considered a "thing" of possession (Truong Huu Quynh, 2005:186).

Thus, the rule of law of the Tran dynasty was quite strict, taking water discipline as the basis, in the first stage it gathered all classes of people in three times to defeat the Northern invaders, but later on, loosen discipline, disregard water, unfairness, limit humanity, class discrimination - with the same crime, aristocrats redeemed by 1,000 fairies, servants were sentenced to mausoleum ... (Truong Huu Quynh, 2005:185). Therefore, although the legal system of the Tran dynasty was very strict and strict, it did not promote human values, and did not capture humanity. This is the seed of instability and social crisis, even leading to the risk of dehydration.

### 3. Humanistic values in the Le primacy law

A unique example of human values in Vietnamese legislative history during the feudal period is Hong Duc Law, enacted under the reign of Le Thanh Tong (1483), which has other names: " Quoc trieu Hinh Luat" or "Le trieu Hinh Luat " - has 6 volumes, 722 articles (Quoc Trieu Hinh Luat, 2005)

Although, the main purpose of the Hong Duc Law was to protect feudalism, protect the division of social class, and affirm society's favor for the landowning aristocracy, but this is The Code contains many human values in the context of Vietnamese society in the mid-fifteenth century. In our opinion, the most prominent human value in the Hong Duc Law is the concern for people, especially for women, the elderly and children.

According to Hong Duc Law, elderly people over 90 years old and children under 7 years old are fully exempt, even if committing serious crimes, 70 years of age and older and 15 years of age and younger are allowed to atone for money (Article 16). In the capital city or ward, lane and village, there are sick people that no one can take care of, lying on the road ... then the society there has to set up tents to preserve, take care of and give them rice porridge, medicine, and how to save them to live... If this order is contrary to the order, the wardens and communes must be guilty of quibble or dismiss them (Article 294). Article 295 stipulates: Widows, widowers, orphans, severely disabled, and impoverished do not have relatives to rely on, cannot support themselves, and local authorities must take care of them.

Although influenced by Confucian ideology to respect men and women, the Hong Duc Laws are very concerned with protecting the rights and status of women, prohibiting and having penalties for marriage deception; At the same time, strictly prohibiting and punishing the crimes of adultery, rape, which partly indirectly protects the woman's body and dignity. Hong Duc Law allows a wife to file and ask to leave her husband if the husband abandons his wife for 5 months without traveling (Article 308). This provision helps prevent the husband's irresponsibility to his wife and gives a woman the opportunity to free herself. In economic terms, according to the Hong Duc Law, girls and sons are entitled to inherit property of their parents (Article 388); If the family does not have a son, the eldest daughter inherits the land of incense (meaning the right to worship her parents and ancestors (Article 391).

The humanistic value of Hong Duc Law for human, especially for vulnerable people in society such as the elderly, children, and women. The role of Vietnamese women from the mid-fifteenth century through the Hong Duc Law shows that they have an equality for men in society and husbands in the family, factors contributing to the special and progressive ahead of the time of this law.

In retrospect, Western legislative action, the presence of women in ancient laws were all in the name of the wife, daughter, adoptive child, servant or slave ... of an orthodox subject that is the man. According to the law, a man, as the head of the

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family, has the right to sell family members, including his wife and daughter. That inequality maintained until the late eighteenth century, in many European and North American capitalist countries, the oppression and exploitation of the class were increasing, in which women the most are disadvantaged, being treated lowly in society and in law. The feminist movement began in the eighteenth century, when people increasingly believe that women are treated unfairly before the law.

Despite the feudal nature, Hong Duc Law has a number of provisions to protect the rights of women, children and the elderly that reflect the humanistic tradition of Vietnam. This is the humanistic value, one of the progressive and humanitarian points of the law of the Late Le dynasty.

### 4. Humanistic values in the Nguyen law

On the basis of the reference to the Hong Duc Law and Dai Thanh Laws of China, and on the basis of the situation in the Nguyen dynasty right after its establishment, the Hoang Viet Luat le (also known as the Gia Long Law). Hoang Viet Luat le is an important tool to build and consolidate a centralized monarchy, but the nucleus of Confucian political thought is the policy of ruling, promoting virtue and dignity. King Gia Long himself wrote the title of the title, including the passage: "I think: The saints who rule over the world all use the law to condemn them, use morality to educate them. These two things do not leave either side. Indeed, living in society, people with boundless desires, if there is no law to prevent, there is no way to lead people into the path of education and know morality. So what the ancients said: The law is a tool for good governance. Laws and laws are judgments for the punishment of crime" (Nguyen Q. Thang, 2002: 3).

The humanistic values of this law aim to protect women, the elderly and children; Helping disabled and fruitful people - under contemporary law are vulnerable. "The chart of atonement rules" in the first volume of "Hoang Viet law" explained: "Particularly for old, young, disabled, astronomer, women... sinners, they have taken good care to show affection for the old and love the children, to pity the disabled, to tolerate craftsmen and to pity women" (Nguyen Q. Thang, 2002). Article 21 stipulates: "If the elderly are 70 years old or older, children 15 years old or younger and the disabled (damaged eyes, broken legs) commit the crime of saving or less to accept the ransom ... Elderly people 80 years or older, children If you are 10 years old or younger, seriously ill, commit murder, you will be sentenced to the king and wait for the king's decision ... Elderly people 90 years old or younger, children 7 years old and younger, even if committing death, do not face any punishment ...". Article 22 writes: "At the time of committing the crime, he is not old or disabled, but when the crime is discovered, he shall be judged on the basis of being old and disabled ..." Article 10 states: "Those who are over 70 years old (have compassion for the elderly), 15 years old or younger (out of love for children), disabled (love the disabled), if they have crimes, the mandarins are not allowed to use the penalty of interrogation, only based on the evidence that the crime."

One of the main human values of Vietnamese people is to respect old and love children. So in Gia Long Law also applies in some laws for these two subjects. As in the book 3, the list of rules, although influenced by Confucian ideology to respect men and despise women, but in the Law of Gia Long there are still a number of provisions that partially pay attention to the rights and status of women. During feudal times, the status of a woman was underestimated, but to a certain extent, a woman's dignity was still highly valued and respected. The law prohibits and has penalties for deception to get married. The law prohibits and has penalties for deception to get married. "Forcibly taking the wife and daughter of a good family to be sold to another person as concubines, or offering it to the royal palace, or giving it to the family of a philanthropist who likes it, they will all be imprisoned, awaiting the necking" (Article 12). "If the husband leaves his wife for 3 years, during that time he does not notice, and then leaves, then a fine of 80 stroke of beating with the heavy stick, if he voluntarily changes his price, he will be fined 100 staff" (Article 15). The law has forced the new man to have a sense of responsibility towards his wife, to take care of his family.

The humanistic values are always appreciated and protected in Gia Long Law such as kindness, filial piety of children towards parents, husband and wife's affection ... Article 17 stipulates: "The old with sickness always look forward to children. If the children have parents or grandparents over 80 years of age who are seriously ill, but there is no one in the family to take care of them, and the children do not take care of their parents, but greed for wealth and profits. Children will be charged with not caring for their parents. Or someone else whose parents are not sick and lie saying that their parents are sick and expect someone to take care of them. So the first offence is abandoning parents, it is inhuman, on the other hand, he or she is also dishonest to the king, should be fined 80 stroke of beating with the heavy stick".

Studying the human values in the ancient Vietnamese law, we have the right to be proud of a legal legacy that the previous generation spent a lot of effort and wisdom to build and issue. The benefits and meaning of the law originate from human values. The humanistic nature of Vietnamese law is not only shown in the fact that it opens the door to benefits for everyone, but also that it is a true tool to protect social security. Today, the humanistic value in Vietnamese law is deeply reflected in the Criminal Code 2015 (National Assembly of the Socialist Republic of Vietnam, 2015) (amended in 2017).

### 5. Human values in contemporary Vietnamese law

For the death penalty, the The Criminal Code continues to institutionalize the policy of narrowing the scope of application (reducing the number of crimes applied and the subjects of application) the death penalty which is confirmed in the Party's Resolutions on judicial reform. Accordingly, Article 40 of the The Criminal Code of Vietnam 2015 (amended and supplemented in 2017) has zoned the application of this penalty only to those who commit particularly serious offenses and



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belong to one of a group of crimes violating national security, human life infringement, drug-related crimes, corruption and a number of other particularly serious crimes prescribed by this Code.

*In addition to determining the cases of exemption from criminal liability, penalty exemption, reduction of penalties, exemption from serving penalties, criminal record remission ... The Criminal Code of Vietnam 2015 (amended in 2017) has added conditional pre-term release (Article 66) with very strict but humane regulations, in order to create opportunities for inmates to actively reform well during their sentence execution in institutions Early detention returns to the family and society, and at the same time continues to demonstrate their reforms in a normal social environment, under the supervision of local authorities and the family. This provision contributes to the implementation of the Party's policy on educating and renovating offenders, gradually erasing social prejudices towards people who have violated the law in the past but have made good reforms, showing the determination to "incline to the good" (Phan Thi Bich Hien, 2018).*

It can be affirmed that the The Criminal Code of Vietnam 2015 (amended in 2017) is really a product of wisdom, of humanity, in which the message of the lawmaker wants to emphasize the nature of the state. The regime's class nature is always protecting human rights and citizenship.

In addition to the provisions that hide the humanistic value of the current Vietnamese legal system, the human value also shows in each legal behavior situation, typically the story of a farmer Ca Re exchanging 100 USD at Thao Luc jewellery store (Can Tho) in 2018. The People's Court of Can Tho city has issued a decision to sanction Mr. Ca Re with an amount of 90 million VND. After the incident, social public opinion spoke up and this has become a "hot" issue discussed at the parliamentary parliament, most of the delegates' opinion said that the punishment of The People's Committee of Can Tho city is to comply with the provisions of the law, but the law may not always be rigid and stereotyped but always contains human love and human values. When it comes to the situation of Mr. Ca Re's family, everyone has to feel compassion because of his difficult family situation and he is the main laborer in a family of 6 people. Facing Mr. Ca Re's family situation, The Can Tho provincial People's Court issued a decision to waive the entire fine for him, this decision not only opens a way for Ca Re and his family but also contains the human value behind the law (Kowloon, 2018)

### III. EDUCATION OF HUMAN VALUE IN VIETNAM'S EDUCATION HIGHER

Nowadays, in the university programs of the developed countries, the humanities education is very focused. In the US, general education programs (General Education) applied in most universities require students to study a number of subjects in different fields, including humanities, social sciences. The purpose of this program is to develop a holistic person, to develop the ability to evaluate and analyze problems from a variety of perspectives, and to help students find a suitable field and field of study. The top universities in America concept "university", derived from the concept of global knowledge (universal knowledge) and above all, it means humanities education. The Firestone Library of Princeton University, USA for books in the social sciences and humanities. "Liberation" may include the basic sciences and social sciences, but the focus of liberal education is the humanities (Neal Koblitz, 2018).

In Vietnam, the opinions are that students are young intellectuals who will take on a key role in the future construction and development of the country. Vietnam Higher Education in recent years has focused too much on the professional training but little attention to the education of human values for students. This is a major defect for the formation of a complete personality, Professor Banh Tien Long (former Deputy Minister of the Ministry of Education and Training) commented: "It is necessary to have stratification to educate humanity in a way. Effective because each age will find themselves with different standards and values. A distinction should be made between human education and humanism. Humanities education is human education with full of basic features and comprehensiveness. Humanities education should stratify according to each educational level. In college, we can integrate humanities education into existing subjects. In addition, possibly through learning activities, scientific research; through the role of the teacher; through management staff; through social activities... affecting emotions and perception to form human values for students" (Duy Tan University, 2010).

In the general curriculum of universities in Vietnam, the social sciences and the humanities have integrated the teaching of Vietnamese human values, but in fact have not focused properly, especially the education of human values in law. The understanding of human values in Vietnamese law brings valuable lessons and guidance for the future; In many cases, it also inspires learners and teachers. On that basis, it will preserve and promote the human values in social life; contribute to somewhat limit the fascination, seduced by the false values of materialism and expansionism that are being imported from other countries.

Some opinions suggest that it is necessary to reduce the load in some humanities subjects in the general curriculum of Vietnamese universities, and some affiliated university programs that underestimate the education of Vietnamese human values - note attach importance to educating the human values of other countries (donor countries, program formulation ...). This is a risk, needing corrections in time.

From the perspective of human values in the history of Vietnamese law, it is necessary to bring the methods of applying the education of human values to teaching subjects, forming specialized subjects in Vietnam's higher education The human values of the ancient feudal laws, the humanistic lessons from the cases are summarized into the values that orient the personality for

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Vietnamese students. For example, the young American idolizes judge Ruth Bader Ginsburg, many have tattoos of Judge Ruth Bader Ginsburg on their bodies to show their admiration for the example in the American legal system.

### IV. CONCLUSION

Vietnam is a country that loves peace, independence, freedom and a civilized country, the slogan "Live, work according to the Constitution and the law" has become familiar, is the motto of life, is the purpose of living and creeping into the minds of every Vietnamese people. There is always mutual relationship between morality and law, mutual impact. In the history of Vietnamese law, human values have been flexibly applied to each situation and applied object, the purpose of the law is towards the development of the country. The common point of the Vietnamese legal system is that it contains the annual "humane" tradition of the Vietnamese nation.

In the context of industrial revolution 4.0, Vietnam's higher education needs to strengthen the education of human values for students. Domestic and foreign opinions both believe that the education of human values is the foundation and launch pad for Vietnamese students to acquire knowledge in the university training major. The approach to human values in the Vietnamese legal system as an application and suggestive method for building a specialized subject training "liberal" values for students, towards the values "aspiration, responsibility, creativity".

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