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## RESEARCH ARTICLE

### ANALYSIS OF THE NECESSITY OF LAW IN PRESERVING AND PROMOTING TRADITIONAL CULTURAL VALUES IN VIETNAM

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#### ABSTRACT

The traditional culture of a country is the material and spiritual values accumulated and preserved throughout the entire historical process of formation and development of that country. Culture is both a goal and a spiritual foundation to promote socio-economic development, ensuring the connection between people and between people and society. Vietnamese traditional culture is an invaluable asset created by the community of Vietnamese peoples in the process of building and defending the country; is the thread that binds the ethnic community, the basis for creating new values and cultural exchange; is the foundation for molding the cultural identity and value system of the nation's culture, and is a resource for development. In the context of international integration, the work of preserving and promoting traditional cultural values in Vietnam has extremely important practical significance. In the rule of law regime, law is a commonly used and effective method. Therefore, Vietnam needs to build and improve the legal system in general, and the cultural law in particular, ensuring the promotion of traditional cultural values, considering them as the driving force and core goal to preserve, build and develop the country's culture.

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## INTRODUCTION

Traditional culture plays a huge role and is the driving force for the country's development. The Resolution of the Communist Party of Vietnam affirms that "culture is the spiritual foundation of society, the goal and driving force for national development. Culture must be placed on par with economics, politics and society" (CPV, 2014). Theoretically, the role of law has been affirmed, however, currently there still exist different views on this issue. There is a view that the highest role and value of law is the function of regulating social relations (Research Institute, 1995). There is another viewpoint that considers the role of law in its relationship and impact with areas of social life (Tran N. D, 1999). Some authors approach the role of law through its social values (Dao T. U, 1993). Others affirm that law has many roles in society and point out its basic roles in establishing and consolidating state power, as a means for the state to manage society, to create new social relationships, create a stable environment for the establishment of cooperative relationships and development (The University, 2006). Although approached from different angles, the above concepts all acknowledge the role of law expressed in the following aspects: (i) as a means

to institutionalize the Party's policies into rules, mandatory obligations for subjects; (ii) is a means for the state to manage all aspects of social life, for the people to promote democracy, and at the same time exercise their rights and obligations, ensuring that economic, political, cultural and social processes operate smoothly and stably. Traditional cultural values can be understood as elements belonging to spiritual culture, having sustainable and good values, representing the traditional culture of the nation, and having a positive effect in promoting development of the nation throughout history as well as the present is meaningful in contributing to the achievement of future economic, cultural and social goals. There are many ways to preserve and promote traditional cultural values. However, in the rule of law regime, law is a commonly used and effective method. Because law contains universal values, establishing frameworks and rules for the behavior of subjects. For traditional cultural values, law is a means of protecting, preserving and promoting those values through institutionalizing the views and policies of the ruling Party and the State on developing a progressive culture into universal mandatory rules of conduct. Therefore, it is necessary to build and improve the legal system in general, and the law on culture in particular, which must ensure the promotion of

traditional cultural values, considering them as a source of encouragement and motivation. huge, is the core goal to build and develop Vietnamese culture to meet the requirements of national construction and development and international integration.

## MATERIALS AND METHODS

The article uses secondary sources from legal documents, party congress documents, Government's guidelines and policies, and a number of research projects on preserving and promoting traditional cultural values in recent times. Using the methods of statistics, analysis, comparison, induction, and interpretation, the article analyzes the current situation of applying the law in preserving traditional culture in Vietnam over the past time, thereby offering some solutions on preserving and promoting cultural values in the next stages.

## RESULTS

### The current situation of applying the law in preserving traditional culture in Vietnam recently

**Achievements:** Clearly aware of the importance of traditional culture, in order to preserve and promote cultural values against the impacts of subjective and objective factors, the first legal document on preserving and promoting cultural heritage is Decree No. 65 dated November 23, 1945 of the Chairman of the Provisional Government of the Democratic Republic of Vietnam on the preservation of fairy tales in the work of national construction. In the fourth article, the Decree stipulates: "It is forbidden to destroy pagodas, temples, shrines or other places of worship, palaces, citadels, coffins and tombs that have not been preserved. It is forbidden to destroy inscriptions, objects, passports, diplomas, papers, and books, whether they are religious or not, but are useful to history but have not been preserved.

To protect and promote traditional cultural values, meet the people's increasing cultural needs, contribute to building and developing an advanced Vietnamese culture, rich in national identity and contribute contribute to the world's cultural heritage treasure; To strengthen the effectiveness of state management and enhance people's responsibility in participating in protecting and promoting cultural heritage values, in 2001, the National Assembly promulgated the Law on Cultural Heritage (National Assembly, 2001). Next, in order to adapt to the contemporary context and new perceptions of cultural heritage, especially intangible cultural heritage, in 2009, the 12th National Assembly issued a Law amending and supplementing a number of Articles of the Law on Cultural Heritage, in which 20 articles are amended (5 new clauses are added in Article 4, Article 33 and Article 36). By 2013, the National Assembly Office continued to promulgate the Law on Cultural Heritage. Along with the legal system, there are also sub-law documents issued by the Government such as Decree No. 6/2005/ND-CP dated July 08, 2005 on the management and protection of underwater cultural heritage, Decree No. 109/2017/ND-CP dated September 21, 2017 regulating the protection and management of world cultural and natural heritage in Vietnam,..; In addition, a system of investment policies and resource support in inventorying,

collecting, preserving and restoring the cultural heritage system, especially the cultural heritage of ethnic minorities has also been issued by the Government, shown through specific programs, projects, strategies and programs such as: Project on preserving and developing the culture of Vietnam's ethnic minorities until 2020; Project for inventorying, collecting, preserving, displaying and propagating typical traditional cultural heritage of Vietnam's ethnic minorities in the period 2017 - 2020; National target program on culture for the period 2012 - 2015; Target program for cultural development in the period 2016 - 2020,...

It can be said that the 2013 Law on Cultural Heritage and its guiding documents have promptly met the requirements of educating people to be aware of protecting, preserving and promoting traditional cultural values in the process of building and developing Vietnamese culture. In addition, the 2012 Law on Dissemination and Legal Education clearly defines prohibited acts in the cultural field including: providing information and documents with content that is untrue, illegal, contrary to social ethics and good traditions of the nation; Taking advantage of legal dissemination and education to distort the Party's policies and guidelines and the State's laws; propagandizing hostile policies, causing division in the great national unity bloc, etc. The law has contributed to shaping positive behaviors, creating more exemplary role models in society, encouraging everyone follows. In general, the law has promoted its role in educating and raising awareness among all strata of the population, all organizations and individuals in society and has created favorable conditions for preserving and promoting traditional cultural values. Overall assessment, since the implementation of the Resolution of the Fifth Conference of the 8th Party Central Committee "on the strategy for building and developing an advanced Vietnamese culture rich in national identity", the law has played a good role in creating a legal framework for subjects in cultural activities. Timely regulations on rights, obligations and responsibilities have created a legal basis for organizations and individuals to protect, preserve and promote traditional cultural values in their cultural activities.

**Limitations:** However, the current role of creating legal frameworks for subjects in preserving and promoting cultural values still has certain limitations and inadequacies:

**Firstly,** the regulations on the rights and obligations of subjects are not very clear and specific. The same goes for building and perfecting legal policies on culture. People's access to the existing system of legal policy documents is not uniform, people still behave and practice culture according to their habits or everyone does their own thing. Especially for ethnic minorities, outdated customs and practices still weigh heavily on their lives, making propaganda, raising awareness, and a sense of compliance with the law for people still faces many obstacles. Currently, there are no regulations on withdrawing the name of intangible cultural heritage from the National List of Intangible Cultural Heritage when the objects no longer fully meet the basic criteria of the National List of Intangible Cultural Heritage in the process of development; Withdrawing the name of intangible cultural heritage when the conditions are no longer met is necessary and consistent with the development of various types of cultural heritage conservation and development and when a cultural value no

longer appropriate to the development of the community, not handed down by the community and cannot exist in the cultural life of the community, it needs to be withdrawn from the National List of Intangible Cultural Heritage (Dao Duy Anh, 2012). Meanwhile, intangible cultural heritages, which are the basic values that make up the core and identity of traditional culture, are rarely mentioned; There are no specific regulations on the management, protection and promotion of the value of world heritage types recognized by UNESCO to ensure compatibility with UNESCO principles and Vietnam's current legal system. (Hong Ha, 2024); Many activities to promote cultural values have been implemented in practice but there is no specific legal basis for effective implementation in each field such as education and training, health care, economics, and society; Regulations on rewarding individuals and organizations with achievements in protecting, preserving and promoting traditional cultural values are no longer appropriate in the current context; Sanctions for handling administrative violations in protecting, preserving and promoting traditional cultural values are not strict enough to punish and deter violations; historical distortions. The overlapping, unclear functions and tasks of relevant parties in heritage management lead to the situation of "Everybody's business is nobody's business" (Nguyen H. P, 2017).

The level of handling is not serious, only stopping at the level of sanctioning administrative violations. It can be said that the current legal regulations are not on par with the urgent and long-term demands of life, with the comprehensive innovation of the country in general and the strategy of "building and developing advanced Vietnamese culture, rich in national identity" in particular that the Party has proposed. That situation has led to the current reality that a segment of the population has an indifferent attitude towards the presence of law and does not see its role in social life. That attitude originates from the fact that some people are not consciously aware of the practical benefits that the law can bring to them. What is worrying today is that a part of citizens has an attitude of disregarding the law. The noticeable manifestations of this attitude are very diverse, expressed in daily life such as boredom, negating the law, and not being afraid of breaking the law. In addition, the attitude of disregarding the precious values of the nation, worshiping foreigners, denying history, and denying the achievements of the revolution is increasingly appearing in today's society, especially in large cities. What is worrying is that this phenomenon appears even among intellectuals in society.

**Secondly**, the mentality of "Custom rules the law" and "a bunch of reasons is not worth a little love" is still deeply rooted in the awareness, thinking and actions of many people. Culture is a specific, sensitive, and delicate field with individual and community creations, spiritually oriented, directly related to spiritual and religious cultural life, so it is sometimes difficult to be recognized and accurately assessed. Even some cultural creativity tends to go beyond the framework and scope of policies (Tuyet Nhung, 2023), so the evaluating and summarizing practice to promulgate new policies on culture faces many difficulties. Culture has many sensitive areas related to customs, beliefs, and folk beliefs of the people, and the boundary between traditional cultural beauty and superstition. Taking advantage of culture for profit and commercialization is sometimes unclear. The application

of policies and laws in handling violations in the cultural field is sometimes not strict due to the impact of public psychology. There is still a situation of respect, avoidance, and neglect; if sanctions are imposed, they are slow and awkward due to the manager's reluctance to collide and conflict due to the power of "crowd psychology".

**Thirdly**, there is no smooth coordination between relevant departments. Culture is a multidisciplinary, interdisciplinary field that permeates all areas of social life, so the implementation of legal policies on culture requires coordination between departments and branches. However, in recent times, the coordination has not been really smooth, there is still a situation of "beating the drum" and shifting responsibilities. This is also one of the many reasons why the deterioration of ideology, morality, and lifestyle has not been corrected and prevented in time. Institutions, policies, and laws on culture are still slow to innovate and have not kept up with development requirements. Some regulations are inadequate, overlapping, lacking uniformity, and low efficiency. Some areas still lack regulatory legal documents. The stage of organizing law enforcement is still a stage that is neither weak nor strong (Kinh Thoa, 2013). Besides, some new problems arise from practice such as electronic publishing; online literature; appraisal and post-examination of film genres produced and released on the internet; issues of managing ideology, ethics, and lifestyle; policies for folk artists; the issue of equitization of some public cultural units; the issue of socialization of cultural and artistic activities; Cultural behavior in cyberspace, cultural security issues, human security in the context of global integration; cultural industry development and the adaptation of traditional culture in the context of the Fourth Industrial Revolution, etc. These issues are still slow to be included in laws, circulars and decrees, causing difficulties for cultural management in the new conditions in Vietnam today.

The above limitations and inadequacies have somewhat limited the role of law in preserving and promoting traditional cultural values in Vietnam over time. Therefore, it is necessary to have synchronous solutions to improve the legal system, creating a solid legal basis for state management agencies, organizations and individuals in preserving and promoting traditional cultural values, thereby contributing to educating and raising human awareness in preserving and promoting traditional cultural values.

### **Propose solutions to ensure the role of law in preserving and promoting traditional cultural values**

**Firstly**, promote the work of building and systematizing, in order to gradually improve the legal system, and at the same time inherit and develop the nation's traditional legal values in institutionalizing the policies of the Party on preserving and promoting traditional cultural values. In developing laws on current cultural issues, it is necessary to avoid two tendencies: subjective haste to immediately want a complete legal system, leading to a situation where the law is no longer suitable for the economic – society situation, which does not meet the requirements of building an advanced culture, but in which traditional cultural values are guaranteed to be preserved and developed. On the other hand, it is also necessary to avoid the tendency to not properly perceive the positive role of law,

leading to a situation of waiting, being slow, or wanting to use other measures to regulate social relations without the need for law. In addition, it is necessary to promote legal systematization work, especially systematization work must be carried out scientifically so that the legal document system becomes more and more perfect (Nguyen T. C, 2021).

**Secondly**, strengthen propaganda, dissemination and education of the Party's policies and guidelines and the Vietnamese House's legal policies on culture, combined with propaganda and dissemination of traditional cultural values to raise legal awareness as well as the awareness of preserving traditional cultural values among the people. First of all, it is necessary to pay special attention to education on the awareness of preserving and promoting traditional cultural values in schools and at all educational levels. It is necessary to coordinate with educational agencies on traditional cultural values education programs in schools today, especially for high school levels. Education on the awareness of preserving traditional cultural values must be improved in terms of content and teaching methods. It is necessary to avoid the current one-way teaching. The Ministry of Education and Training needs to coordinate with the Ministry of Culture - Sports - Tourism on bringing educational content about traditional cultural values into schools. Traditional cultural values of the nation must be considered as a content of education and training. However, in addition to educating the values of traditional culture, it is necessary to know how to "clarify" so that future generations can see the true values of traditional culture in building and develop the country in history and at present, and at the same time, it is necessary to combine with educating them the positive values of modern life such as respect for the law, discipline, hard work but creativity, application of scientific and technical achievements in life. The Ministries of Culture - Sports - Tourism, Education and Training, and Justice need to coordinate in developing legal education programs at all levels to ensure the Party's guidelines and legal policies on preserving and promoting the nation's traditional cultural values which are included in teaching at all educational levels. It is necessary to support forms of voluntary activities among the people, to ensure and promote the active role of socio-professional organizations and professional associations such as the Vietnam Folk Arts Association, especially the Vietnam Cultural Heritage Association,... in raising awareness for members and the masses about the Party's policies and guidelines and the State's legal policies, especially the policies and guidelines of the Party and the State related to preserving and promoting traditional cultural values. It is necessary to combine propaganda, education, and raising legal awareness with educating and disseminating traditional cultural values of the nation in the community. Pay attention to folk cultural products imbued with national traditions such as the spirit of solidarity and mutual love, which is a spiritual medicine that helps people enthusiastically find cultural values imbued with national literature; Source activities also need to be promoted, and must be considered as one of the main activities to disseminate and propagate traditional cultural values in the community, especially in ethnic minority and disadvantaged areas with low intellectual level. The values and standards of that traditional culture must become the qualities of the Vietnamese people in the new era.

All types of traditional culture, through selection, promotion and knowing how to propagate vividly and diversely, will effectively participate in the above tasks.

**Thirdly**, strengthen the organization and implementation and strictly handle violations of cultural laws. This is a major solution including many activities to ensure that the law is respected and strictly implemented, ensuring its role in preserving and promoting traditional cultural values in Vietnam today, specifically:

- It is necessary to promote legal scientific research and research on traditional cultural values of the nation to ensure that when laws are promulgated, legal norms are consistent with traditional cultural values, maximizing the role of preserving traditional cultural values, and at the same time, traditional cultural values based on the law are better preserved, promoting their good values, contributing part in sustainable economic development.
- It is necessary to promote pioneering and exemplary compliance with the law in preserving and promoting traditional values among officials and party members. In particular, attention must be paid to training and fostering the team of officials and civil servants doing cultural work in legal knowledge; sustainable values of national culture, improving their skills in carrying out the tasks of building an advanced culture rich in national identity.
- Attention must be paid to consolidating agencies doing cultural legal work and improving the professional expertise of officials in these agencies. It is necessary to clearly define functions, tasks, operating principles, improve methods of direction and implementation, and at the same time create the necessary material conditions to ensure the operation of those agencies. Move forward to form an agency specializing in researching and developing laws on traditional culture to assist and advise functional agencies in managing and promulgating laws more effectively.
- In each period, there needs to be a timely summary and lessons learned to clearly see the shortcomings and weaknesses in the organization of law implementation, and at the same time propose directions and solutions to enhance the effectiveness of the organization and implementation of the law.

It is necessary to regularly conduct inspection and examination of the activities of the authorities to detect errors and deviations, promptly correct, learn from experience and strictly handle such violations to ensure that cultural authorities operate smoothly in accordance with the principles and requirements of the law. Through inspection work, check violations of the law by agencies, organizations and individuals, especially violations by officials, civil servants, state agencies, and socio-political organizations, agencies working to protect the law must be strictly handled according to the principle that everyone is equal before the law, whether citizens or officials, civil servants in any position must live and work according to the law, no one is allowed to disregard or violate the precious values of traditional culture. Because it is a priceless sacred value system of the nation, everyone has the responsibility to preserve and protect it. Violations must be strictly punished.

For law enforcement agencies, it is necessary to have appropriate and effective operating methods to quickly detect and clarify negative cases, violations of the law, and violations of traditional cultural values and apply strict, accurate and legal handling measures. One of the requirements is that in order to consolidate and ensure the role of law in preserving and promoting traditional cultural values, it is necessary to ensure that law enforcement agencies and organizations operate effectively. Therefore, it is necessary to reform the state management apparatus for culture in all three aspects: institutions, apparatus and the team of officials and civil servants performing the function of building and developing culture. There must be quick and effective solutions to strictly and promptly handle acts that violate the law and violate the cultural values of the nation that need to be preserved and developed.

## CONCLUSION

The general trend of most countries in the world today is to attach importance to preserving and promoting traditional cultural values, in addition to selectively absorbing the quintessential cultural values of humanity. From the efforts of each nation, thanks to the attention and support of the Party and State, and the attention of international agencies and organizations, many traditional cultural values in Vietnam are still preserved and stand firm today. However, there are also many cultural values that are being rapidly eroded in the process of urbanization and modernization of the country. Therefore, the issue of effectively protecting and promoting traditional cultural values in Vietnam needs to continue to be paid attention to with the right legal corridors, mechanisms and policies, so that there are appropriate solutions to preserve traditional cultural values towards sustainable development and international integration.

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