

Rethinking Vietnam's legal system for a new development era



Nguyen Minh Tuan^a  

^aUniversity of law, Vietnam National University, Hanoi, Vietnam.

Abstract Vietnam's legal architecture is still marked by conceptual ambiguity, doctrinal fragmentation, and a strong administrative legacy that limits coherence, predictability, and adaptive capacity. This article re-examines Vietnam's legal system in light of current reform demands, especially the implementation of Resolution No. 66-NQ/TW and the broader transition toward a development-oriented and rule-of-law-based state. The study pursues three objectives: first, to synthesize major contemporary theories of the legal system; second, to assess their analytical value for Vietnam's institutional context; and third, to formulate feasible reform directions for the next stage of legal development. Methodologically, the article adopts a qualitative design that combines doctrinal analysis, structured document review, and functional comparison. The corpus includes foundational legal theory, selected Vietnamese scholarship, constitutional and legislative texts, and comparative materials from Germany, the United Kingdom, Singapore, and Malaysia published or in force between 1994 and 2025. The analysis shows that Vietnam's current legal order is weakened by three interrelated problems: an underdeveloped theoretical foundation, a rigid branch-based organization that produces procedural overlap, and an overly statute-centered understanding of legal sources. In response, the article proposes five mutually reinforcing reform directions: consolidating a composite doctrinal framework centered on the rule of law, developmental law, rights-based law, risk regulation, and legal minimalism; replacing compartmentalized procedures with integrated regulatory pathways; broadening legal sources beyond statutes; strengthening compatibility review for international commitments; and transforming the electronic code into an interoperable governance platform. It further argues that these reforms will face bureaucratic resistance unless accompanied by sequencing, accountability mechanisms, judicial safeguards, and digital implementation capacity. By linking legal theory to institutional design, the article offers a more operational framework for restructuring Vietnam's legal system in the new development era.

Keywords: rule of law, plural sources, regulatory minimalism, e-governance, comparative jurisprudence

1. Introduction

Debates on Vietnam's legal order have intensified because the country now expects law to perform a wider range of functions than in earlier phases of state building: law must not only authorize administration, but also stabilize markets, protect rights, discipline public power, reduce transaction costs, and support a long-term development strategy. A substantial part of the domestic literature has described the legal system primarily through its formal components - branches of law, legal institutions, and legal normative documents - and has therefore contributed important systematizing work. Typical examples include textbook-style expositions and edited collections that map the internal composition of law but do not yet reconstruct the legal system as an integrated theory of validity, institutional coordination, and regulatory design (Quế, 2015; Tâm, 2003; Vinh, 2022).

That descriptive tradition remains useful, but it is increasingly insufficient for a legal order facing overlapping statutes, rapid regulatory change, digital transformation, and growing international commitments. More recent Vietnamese scholarship has moved closer to the underlying structural question by identifying legal instability, normative inconsistency, weak legal certainty, and the incomplete operationalization of the rule-of-law ideal (Giang & Quân, 2020; Giao, 2023; Sơn, 2023). Even so, many of these analyses remain sectoral or institution-specific. They diagnose symptoms - overlap, delay, weak enforceability, fragmented implementation - without fully articulating the legal-system model that would allow these defects to be addressed in a coherent and reproducible way.

Comparative jurisprudence suggests that such a model cannot be built if law is understood only as a pyramid of enacted norms. Modern legal systems are simultaneously structures of validity, social institutions, interpretive practices, and increasingly multilevel regulatory arrangements shaped by constitutional ordering, adjudication, transnational commitments, and digital infrastructure (Hart, 1994; Luhmann, 2004; MacCormick, 1999; Raz, 2009). In that broader sense, legal-system reform is not merely a matter of legislative quantity or drafting technique. It is a matter of architecture: how authority is



organized, how different legal sources interact, how conflicts are filtered, and how legal information is made usable across the state, the market, and society.

Against that background, this article examines Vietnam's legal system as both a jurisprudential construct and an institutional design problem. It pursues three linked objectives: (i) to synthesize major contemporary theories of the legal system; (ii) to test their explanatory value against recurrent Vietnamese legal-institutional failures; and (iii) to propose reform directions that are normatively grounded, operationally realistic, and compatible with the country's new development agenda. The article's central contribution is therefore not to restate familiar doctrinal categories, but to reframe legal-system reform as a problem of architecture, sequencing, implementation, and legal usability.

2. Materials and Methods

This study adopts a qualitative, theory-informed research design that combines doctrinal analysis, structured document review, and functional comparative analysis. The source corpus was assembled between January 2024 and January 2026. It includes four groups of materials: (a) canonical jurisprudential works on legal validity, legal-system structure, and legal pluralism; (b) selected Vietnamese scholarship on legal-system design, legal certainty, rule-of-law reform, precedent, and statutory overlap; (c) key Vietnamese legal and political documents relevant to institutional redesign, including the 2013 Constitution, Resolution No. 27-NQ/TW, Resolution No. 66-NQ/TW, the Law on International Treaties, the Law on Promulgation of Legal Normative Documents, and the 2025 Law on Personal Data Protection; and (d) comparative and institutional materials from Germany, the United Kingdom, Singapore, and Malaysia relating to codification, digital access to law, procedural integration, and electronic governance. Sources were included only when they directly informed at least one of the following analytical variables: validity structure, hierarchy control, interaction of legal sources, regulatory coordination, adjudicative guidance, or digital legal infrastructure.

The analytical procedure was organized in three stages. First, the article reconstructs the core claims of the principal theoretical strands discussed in the literature - normative, socio-systemic, comparative, and multilevel. Second, it codes recurrent Vietnamese legal-system problems against those theories, focusing on four recurring indicators: normative overlap, branch fragmentation, legislative instability, and weak institutional uptake of non-statutory legal sources. Third, it applies functional comparative analysis to examine how comparable governance tasks - codification, coordination of regulatory approvals, and digital legal access - are handled in selected reference systems. Germany and the United Kingdom are used as mature reference jurisdictions because they offer contrasting but highly developed approaches to legal ordering and sources of law. Singapore and Malaysia are used as regionally relevant comparators because they illuminate how digital-government tools can reduce fragmentation without requiring wholesale transplantation of foreign doctrine. The comparison is therefore functional rather than formal: the unit of analysis is not legal form alone, but institutional performance in reducing duplication, clarifying authority, and improving legal usability.

The study does not claim to measure implementation outcomes empirically across all sectors. Its purpose is analytical and design-oriented: to construct a theoretically grounded framework capable of organizing recurrent legal-system failures and identifying institutional reform options. That limitation is deliberate. Because Vietnam's most persistent problems are not confined to one policy field, a cross-sector jurisprudential and institutional analysis is more suitable at this stage than a single-sector case study.

3. Results and Discussion

3.1. Contemporary models of the legal system

The contemporary literature on legal systems can be organized into four analytical strands, each of which highlights a different dimension of legal order. The first is the normative tradition, which treats law as an internally structured set of valid norms. Kelsen's theory of hierarchical validity and Hart's distinction between primary and secondary rules remain indispensable because they explain how a legal system identifies authoritative standards, manages legal change, and preserves coherence across levels of norm production (Hart, 1994; Kelsen, 1970). For Vietnam, this strand matters in a particularly concrete way: where criteria of validity are weak or inconsistently applied, conflicts among legal texts are settled through administrative convenience rather than principled legal reasoning.

The second strand is socio-systemic. Ehrlich's concept of 'living law' and Luhmann's account of law as an autopoietic social system show that legal order cannot be reduced to enacted texts alone. Law draws legitimacy and operational meaning from institutions, interpretation, professional practice, and broader social expectations (Ehrlich, 1936; Luhmann, 2004). This perspective is highly relevant in Vietnam, where the gap between written law and applied law remains one of the most persistent structural problems.

The third strand is comparative and classificatory. David, Zweigert, and Kotz demonstrate that legal systems are best understood not only through positive rules but also through legal style, historical development, and the hierarchy of legal sources (David, 1968; Zweigert & Kotz, 1998). This helps situate Vietnam as a hybrid order: formally close to civil-law

codification, historically shaped by socialist legal organization, and increasingly exposed to common-law style techniques such as precedent and compliance-oriented regulation.

The fourth strand concerns globalization and multilevel governance. MacCormick and Raz show that modern legal systems operate in layered normative environments where domestic law interacts with treaty commitments, supranational standards, and transnational practical reasons (MacCormick, 1999; Raz, 2009). For a country deeply embedded in the WTO, CPTPP, EVFTA, and RCEP frameworks, this insight is no longer optional; it is a structural condition of legal development.

3.2. Structural deficiencies in Vietnam's legal system

Vietnam's legal system continues to exhibit three interlocking structural deficiencies. First, it still lacks a sufficiently operational doctrinal foundation. Although the language of the socialist rule-of-law state is now central to constitutional and political discourse, that language has not yet been translated into stable legal-architectural criteria such as hierarchy control, reason-giving discipline, compatibility review, institutional accountability, and reviewable limits on administrative discretion (Đoan, 2024; Hà, 2021). The result is a reform vocabulary that is normatively ambitious but institutionally under-specified, making implementation uneven and contestability weak.

Second, the branch-based organization of law remains too rigid for contemporary governance. In practice, land, investment, construction, environment, data, and platform regulation frequently govern the same social activity at the same time. Yet the legal system still processes these issues through segmented regulatory tracks, generating duplicated dossiers, inconsistent timelines, and dispersed responsibility. The practical effect is not simply administrative inconvenience. It is a structural increase in compliance costs, uncertainty, and opportunities for delay, all of which weaken both market confidence and state capacity. Domestic studies and policy reports have repeatedly linked this overlap to diminished legal certainty and reduced policy effectiveness (Giang & Quân, 2020; Phúc, 2023; Vietnam Chamber of Commerce and Industry, 2019; Việt, 2023).

Third, Vietnam continues to rely too heavily on legal normative documents as the dominant, and often near-exclusive, source of law. This statute-centered model generates two opposite pathologies: overregulation in traditional administrative sectors and underregulation in newer, faster-moving fields such as personal data, artificial intelligence, digital services, and fintech. Although precedent, custom, and soft-law guidance are increasingly acknowledged, their institutional role remains doctrinally ambiguous and operationally weak. The result is a persistent gap between legal text and legal practice, especially where social change outpaces legislative amendment cycles (Hà & Anh, 2022; Hải & Ân, 2023; Tuấn, 2022).

3.3. Reform directions for a new development era

A first reform direction is doctrinal consolidation. Vietnam should move beyond a single-source conception of legal order and adopt a composite framework in which the rule of law supplies the constitutional backbone, developmental law provides strategic orientation, rights-based law sets substantive limits, risk regulation anticipates emerging harms, and legal minimalism restrains unnecessary regulatory expansion. No single theory is sufficient on its own. The analytical task is to combine them in a disciplined way so that the legal system can remain development-oriented without becoming normatively unbounded, and adaptive without becoming unstable (Giao, 2019; Giao, 2023; Raz, 2009; Vinh, 2022).

A second reform direction is procedural integration. Instead of treating complex projects through disconnected statutory silos, Vietnam should design interoperable approval pathways based on shared data, once-only submissions, synchronized timelines, and unified risk assessment. The aim is not simplistic deregulation, but better coordination: fewer repetitive approvals, clearer allocation of responsibility, and stronger ex post accountability. In this sense, procedural integration is a rule-of-law reform as much as an administrative reform, because it makes legal obligations more knowable, more reviewable, and less dependent on fragmented bureaucratic discretion (Phúc, 2023; Vietnam Chamber of Commerce and Industry, 2019).

A third reform direction is expansion of legal sources. Statutes should remain central, but they should no longer be treated as almost exclusive. Vietnam needs a clearer framework for the persuasive and, in some cases, conditionally binding use of precedent in factually similar disputes; a constitutionally bounded role for custom; and more deliberate use of soft-law instruments in technically dynamic sectors. This would reduce the gap between legal text and legal practice while improving predictability and adaptive capacity (Hart, 1994; Tuấn, 2022; Sơn, 2023).

A fourth reform direction is stronger multilevel compatibility review. International commitments should be treated not as external burdens but as structured inputs into domestic legal design. That requires routine pre-enactment and post-enactment review of compatibility, clearer drafting rules for incorporating treaty commitments, and more transparent conflict-management techniques when domestic provisions diverge from international obligations (MacCormick, 1999; Raz, 2009).

A fifth reform direction is the transformation of the electronic code into a legal-governance platform. A modern code should not function merely as an archive of legal texts. It should provide consolidated versions, trace amendment histories, flag cross-reference conflicts, support authoritative citation, and enable interoperable access for agencies, businesses, judges, lawyers, and researchers. Once law becomes machine-readable, version-controlled, and easier to navigate, the state acquires

a practical instrument for detecting overlap, monitoring amendment density, and prioritizing simplification. In this respect, codification should be evaluated not only by doctrinal completeness, but also by usability and system performance.

3.4. Implementation challenges and institutional safeguards

The strongest obstacle to reform is likely to be bureaucratic resistance. Administrative fragmentation does not survive by accident; it persists because it distributes control across agencies that manage separate approvals, separate datasets, and separate interpretive gateways. Integrated procedures, clearer precedent practices, compatibility review, and transparent digital workflows all narrow these zones of discretionary control. Reform therefore encounters not only technical constraints, but also institutional incentives that favor retention of fragmented authority.

To protect reform from that resistance, institutional safeguards must be built into the reform sequence itself. At minimum, Vietnam should pilot integration in sectors where overlap is already visible, publish measurable processing indicators, assign responsibility for coordination failures, and strengthen judicial or quasi-judicial review where delay, contradiction, or procedural opacity causes concrete harm. Without accountability metrics, legal-system reform will remain rhetorical. A credible sequence would begin with heavily overlapped fields - urban development, infrastructure, logistics, and digital services - where fragmentation already imposes measurable economic and governance costs.

Judicial and quasi-judicial safeguards are equally important. If procedural integration is introduced without reviewability, simplification can easily collapse into concentrated opacity. For that reason, any move toward integrated permits, digital dashboards, or risk-based approvals should be accompanied by clear rights to challenge decisions, transparent reason-giving requirements, auditable digital records, and intelligible documentation standards. Otherwise, legal simplification may improve administrative speed while weakening legal accountability - precisely the trade-off this article argues Vietnam should avoid.

3.5. Electronic code, legal design, and Southeast Asian lessons

The proposal for an electronic code becomes more persuasive when examined through the lens of legal design and digital-era rule-of-law theory. Legal design emphasizes usability, accessibility, navigability, version control, and user-centered legal communication; its central insight is that a legal system is not functioning well if relevant users cannot reliably find, understand, and apply the law in time (Hagan, 2018). For that reason, a digital code should be understood not merely as a publication device, but as part of the legal system's operational architecture. Likewise, broader digital-government research shows that interoperability, standardized data, and service integration are institutional preconditions for reducing fragmentation rather than simply digitizing it (OECD, 2020).

Singapore offers a useful regional lesson because it combines highly usable legislative infrastructure with a broader state commitment to digital government. Singapore Statutes Online provides centralized and authoritative access to legislation, while the Government Technology Agency of Singapore places sustained emphasis on digital service design, interoperable systems, and citizen-facing usability (Government Technology Agency of Singapore, n.d.; Singapore Statutes Online, n.d.). The lesson for Vietnam is not institutional imitation. It is the importance of authoritative digital access, standardized updating, and design discipline in making law more usable across public and private actors.

Malaysia provides a second, regionally relevant comparator. The MyGovernment portal and the broader MyDIGITAL agenda seek to reduce service fragmentation by integrating digital gateways, improving end-to-end public services, and linking legal information to administrative access points (Economic Planning Unit, 2021; Government of Malaysia, n.d.). For Vietnam, these examples strengthen a practical institutional claim: an electronic code should not remain a stand-alone repository. It should connect legal texts to procedural pathways, compliance information, and administrative workflows so that codification and implementation reinforce each other.

Taken together, these regional lessons reinforce a simple but important point: digital codification succeeds only when law, data standards, service design, and accountability mechanisms are developed together. If Vietnam builds an electronic code without interoperability, it will create a better library. If it builds one with legal design principles, user-oriented navigation, and governance integration, it can create a better legal system (Hagan, 2018; OECD, 2020).

4. Conclusions

This article argues that reforming Vietnam's legal system requires more than enacting additional statutes or accelerating amendment cycles. The deeper task is architectural: to clarify the system's doctrinal foundation, reorganize regulatory interaction around function rather than rigid branches, broaden the range of legally recognized sources, and build digital infrastructure that improves coherence rather than merely storing complexity. By synthesizing normative, socio-systemic, comparative, and multilevel theories, the article explains why Vietnam's problems of instability, overlap, and administrative dominance are interconnected rather than isolated. It then translates that diagnosis into five linked reform directions and adds a practical implementation dimension by addressing bureaucratic resistance, sequencing, reviewability, and legal usability. The central claim is straightforward: Vietnam's legal system will become more stable, more legitimate, and more development-

oriented only when legal theory, institutional design, and digital governance are treated as integrated components of the same reform project.

Acknowledgment

The author gratefully acknowledges the constructive feedback of the reviewers and the academic support of colleagues at the University of Law, Vietnam National University, Hanoi. Any remaining errors are the sole responsibility of the author.

5. Declarations

5.1. Ethical considerations

Not applicable.

5.2. Use of artificial intelligence (AI)

The author declares that the generative artificial intelligence (AI) tool ChatGPT was used exclusively for language editing and grammatical improvement. The use of AI did not influence the scientific content, study design, data analysis, data interpretation, results, or conclusions of the manuscript. Full responsibility for the content remains with the author.

5.3. Conflict of Interest

The authors declare no conflicts of interest.

5.4. Funding

This research did not receive any financial support.

References

- David, R. (1968). *Major legal systems in the world today: An introduction to the comparative study of law* (J. E. C. Brierley, Trans.). Stevens. (Original work published 1964).
- Đoan, N. M. (2024). Implementing law fairly, strictly, consistently, timely, effectively, and efficiently in accordance with Resolution No. 27-NQ/TW. *Journal of State Organization*, 6, 9–13.
- Economic Planning Unit. (2021). *Malaysia digital economy blueprint*. Prime Minister's Department, Malaysia. <https://www.epu.gov.my/>
- Ehrlich, E. (1936). *Fundamental principles of the sociology of law* (W. L. Moll, Trans.). Harvard University Press. (Original work published 1913).
- Giang, N. L., & Quân, N. V. (2020). Legal certainty: A requirement in building a rule-of-law state and guaranteeing human rights. *Journal of State and Law*, 6, 3–9.
- Giao, V. C. (2019). A human rights-based approach and its applicability in policy-making and law-making in Vietnam today. *Legislative Studies*, 18, 3–12.
- Giao, V. C. (2023). The need for renewal in legislative thinking in building and improving the socialist rule-of-law state in Vietnam. *Legislative Studies*, 5, 3–9.
- Government of Malaysia. (n.d.). *MyGovernment portal*. <https://www.malaysia.gov.my/>
- Government Technology Agency of Singapore. (n.d.). *Government technology and digital services*. <https://www.tech.gov.sg/>
- Hà, Đ. Đ. H. (2021). Foundations for improving the legal system to safeguard the Party's ideological basis. *Procuracy Review*, 16, 3–12.
- Hà, N. T. T., & Anh, V. H. (2022). The principle applied by courts in resolving civil cases in the absence of applicable statutory provisions in the 2015 Civil Procedure Code. *Journal of Law*, 7, 94–107.
- Hagan, M. (2018). A human-centered design approach to access to justice: Generating new prototypes and hypotheses for intervention to make courts user-friendly. *Indiana Journal of Global Legal Studies*, 25(1), 199–239.
- Hải, N. T. H., & Ân, N. P. (2023). Improving regulations on the application of custom in resolving civil cases. *Prosecutorial Review*, 18, 33–38.
- Hart, H. L. A. (1994). *The concept of law* (2nd ed.). Oxford University Press.
- Kelsen, H. (1970). *Pure theory of law* (M. Knight, Trans.). University of California Press.
- Luhmann, N. (2004). *Law as a social system* (K. A. Ziegert, Trans.). Oxford University Press. (Original work published 1993).
- MacCormick, N. (1999). *Questioning sovereignty: Law, state, and nation in the European commonwealth*. Oxford University Press.
- OECD. (2020). *The OECD digital government policy framework: Six dimensions of a digital government*. OECD Publishing. <https://www.oecd.org/>
- Phúc, L. (2023). Improving the legal system to promote investment and business development. *Journal of Legal Affairs*, 1–2, 4–7.
- Quế, H. T. K. (2015). *Textbook on the theory of state and law*. Vietnam National University Press.
- Raz, J. (2009). *The authority of law: Essays on law and morality* (2nd ed.). Oxford University Press.
- Singapore Statutes Online. (n.d.). *Singapore Statutes Online*. <https://sso.agc.gov.sg/>
- Sơn, N. H. (2023). Some characteristics of Vietnam's legal system and breakthrough solutions for its development and improvement. *Vietnam Lawyers Journal*, 5, 16–19.
- Tâm, L. M. (Ed.). (2003). *Building and improving Vietnam's legal system: Theoretical and practical issues*. People's Public Security Publishing House.
- Tuấn, N. M. (2022). On case law and its application in Vietnam. *Legislative Studies*, 1, 4–9.
- Việt, P. X. (2023). Some solutions to improve the effectiveness of the legal system in the field of land. *Journal of Legal Profession*, 3, 35–39.

- Vietnam Chamber of Commerce and Industry. (2019). *Report on overlaps and inconsistencies in the legal system*. <https://vibonline.com.vn/wp-content/uploads/2024/01/VCCI-Bao-cao-chong-cheo-PL-2019.12.26.pdf>
- Vinh, V. K. (Ed.). (2022). *Vietnam's legal development strategy to 2030 with a vision to 2045*. National Political Publishing House.
- Zweigert, K., & Kötz, H. (1998). *An introduction to comparative law* (T. Weir, Trans.; 3rd ed.). Oxford University Press.