

ADAPTATION OF THE MONTESQUIEU DOCTRINE IN THE STATE ORGANISATION IN VIETNAM

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INTRODUCTION

a. EVERYBODY knows that the Montesquieu doctrine of separation of powers is considered as the ideological base of the organization of the French Republic founded as the primordial objective of the 1789's Revolution. Since the beginning of the 20th century, this doctrine has been widely admitted by most of the capitalist countries as the main instrument of democratization of socio-political life. In the contemporary society, the doctrine is effectively regarded in Occident to be the principal criteria of qualification of democratic political regime: the quality of a democracy, a freedom is evaluated in consideration of the way the fundamental principles of this doctrine are applied in the organization of a State as well as in the functioning of the organs composing this State.

b. The doctrine of separation of powers was brought to the knowledge of the Vietnamese people after the installation of the French colonialism in Vietnam. Until then, Vietnam had been a feudal country. The Vietnamese feudalism is profoundly impregnated with the oriental political philosophy: the monarchy is centralized; the society as a whole is organized and runs as a great family headed by the king or the emperor¹. The king or the

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¹ In accordance with the traditional conception, the nation is composed of groups of individuals tied together by parentage or alliance and which are qualified of private families. In the regard of ancient private law, it is the private family, not the individual, that is held to be legal subject: NGUYEN NGOC DIEN / CLAUDE-EMMANUEL LEROY, Pluralités des approches juridiques de la pluriculturalité au regard de la conception du patrimoine en droit vietnamien, *in: L'Etat pluriculturel et droits aux différences*, Bruylant, 2002, p. 75.