


Research Article

The Crime of Accepting Bribes in the Hong Duc Code and Their Significance as a Model for Contemporary Criminal Law in Vietnam

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Abstract

The Hong Duc Code, promulgated during the reign of King Le Thanh Tong, is regarded as a progressive and comprehensive legal code within the context of feudal Vietnam. It reflects the principles of the rule of law and demonstrates a deep commitment to humanity. The Hong Duc Code contains detailed provisions covering various forms of bribery, including accepting money or gifts, exploiting positions for personal gain, harassing individuals, making wrongful convictions, concealing crimes, and weakening the military. The law applies to incumbent officials, relatives, and other connected individuals. Penalties are clearly outlined and vary depending on the nature and severity of the offense, ranging from fines and demotion to exile and the death penalty. Although resembling a feudal society, the Hong Duc Code remains relevant in Vietnamese criminal law, particularly in corruption prevention and control, especially the clauses on bribery. The article is dedicated to analyzing the crime of bribery in the Hong Duc code, to provide valuable insights for the current Vietnamese criminal law system. The article highlights three main points: (1) The legal form is clear, easy to understand, and easy to apply; (2) Treating bribery as a separate crime rather than just an aggravating circumstance as in current law; (3) Providing rewards to those who report bribery. As a result, the article aims to improve the law, enhance the effectiveness of anti-corruption efforts, and contribute to establishing a fair and civilized society.

Keywords

Hong Duc Code, The Crime of Accepting Bribes, Criminal Law, Vietnam

1. Introduction

Through the annals of history, our predecessors and revered scholars have distilled priceless wisdom on governing nations, aiming for the betterment of future generations. The imperative need for stringent laws to "govern the country and bring peace to the world" has long been acknowledged. Emperor Le Thanh Tong's resolute call to action, "Establish laws to rid ourselves of the deceitful; how can we uphold the law against

those who hold it in contempt?" [2] (p. 479) arose after extensive expeditions revealed rampant corruption among officials and prevalent bribery. This mandate gave birth to the Hong Duc Code during the zenith of the Le Dynasty. Across Vietnam's feudal period, the Hong Duc Code was hailed as legislation renowned for its "sophisticated legislative technique, expansive content, and holistic principles." [6]. Also

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referred to as the National Court Code, it was crafted and enacted during Emperor Le Thanh Tong's reign (1460 - 1497). This comprehensive legal compendium addressed a wide array of transgressions, ranging from criminal and civil law to administrative governance, marital affairs, familial obligations, and even legal disputes. Imbued within these statutes were corresponding penalties, firmly cementing its overtly criminal character. Notably, among the 13 chapters of the National Court Code, a striking 10 chapters were dedicated to penalizing embezzlement and corruption. Research by Phan Ngoc Huyen uncovered 76 regulations aimed at combating corrupt practices and bribery among officials, predominantly concentrated within the Administrative Policies chapter [8] (p. 110-117). Of these, 40 provisions were dedicated to eradicating corruption and restraining the privileges of officials [1] (p. 25-32). A meticulous scrutiny reveals the Hong Duc Code's explicit delineation of even the minutest instances of official bribery, permeating every sphere of societal existence. This underscores the unwavering commitment of the Le Dynasty court towards eradicating corruption, bribery, and preserving integrity within positions of authority, aiming to uphold principles, dispense justice, and maintain social order. Within the ambit of this article, our team conducts an in-depth analysis of regulations concerning bribery confessions in the Hong Duc Code, spotlighting pivotal aspects serving as benchmarks for contemporary criminal law in Vietnam.

2. The Crime of Accepting Bribes in the Hong Duc Code

The Hong Duc Code was constructed based on all precedents, decrees, and precedents that had been promulgated by previous monarchs and were supplemented and revised. Broadly speaking, the offense of accepting bribes was addressed in the majority of the code's chapters, encompassing a wide scope of regulation with penalties mainly applied to officials and individuals holding power within the royal court. Depending on the severity and nature of the offense, corresponding punishments were established.

In the Hong Duc Code, there were five types of penalties defined, namely: *xuy hình* (whipping), *trượng hình* (cane beating), *đồ hình* (hard labor), *lưu hình* (exile), and *tử hình* (execution). Apart from these, various other measures were employed for the offense of accepting bribes, such as demotion, fines, asset confiscation, and more.

The Hong Duc Code delineated in great detail the acts of receiving bribes by court officials, extending broadly across numerous aspects of social life. In essence, within this code, the offense of accepting bribes was categorized and punished as follows:

Firstly, the general act of receiving bribes was primarily stipulated in the Administrative Policies chapter of the Hong Duc Code. This section outlined specific acts of receiving

bribes and prescribed corresponding penalties. Depending on the scale and nature of the bribery, the severity of the punishment increased accordingly. For instance, in Article 138, it states: "If an official breaks the law and accepts bribes from one to nine other officials, they will be demoted or dismissed; if it involves ten to nineteen officials, they will be exiled or sentenced to hard labor; for twenty or more officials involved, they will face execution. Esteemed officials and those with talent who are part of the council and accept bribes from one to nine officials will be fined 50 units; from ten to nineteen officials, the fine will range from 60 to 100 units; and for twenty officials or more, they will face execution, and the bribes will be doubled and deposited into the treasury." Not only receiving money but also leveraging authority or position for personal gain was strictly deemed as bribery by the Le Dynasty and severely penalized. For instance, according to Article 139: "Those who use their status to request favors from officials will be demoted or sentenced to hard labor, and those subordinate to the officials committing such acts will also be held accountable." Additionally, Article 210 stipulates: "Those who, using the name of a relative or someone close to a high-ranking official (be it a wife or concubine), seek influence or favor will be demoted or sentenced to hard labor, while the officials who accept such individuals will face lesser charges." In particularly severe cases, the offense of accepting bribes was considered equivalent to rebellion - the gravest crime in the Ten Evils. Article 204 outlines: "Great nobles and civil or military officials who, without any need, frequently socialize, accept bribes, use wealth to form relationships, abandon their family members to converse in secret, or show affection for criminals will be deemed to have seditious intentions, with the severity of the punishment determined by the severity of the situation." Based on these laws, bribery cases during the Later Le Dynasty were fairly and impartially adjudicated. For example, senior officials such as Nguyen Vinh Tich, Nguyen Tong Nam, and Nguyen Nhu Do were indicted and tried for accepting and benefiting from bribery in accordance with the law. These prominent cases illustrate the stringent and cautionary nature of feudal laws - punishing one as a lesson to a hundred and as a warning to thousands.

These general provisions served as a foundation for examining specific acts of bribery in subsequent chapters of the code. Once again, it affirms the profound emphasis placed by the Le Dynasty on addressing the specific issues of bribery and corruption comprehensively and decisively, from the root to the top.

Secondly, the act of demanding bribes, leveraging one's position and authority for personal gain, disrupting the people's finances, was prevalent in a feudal society where power was centralized in the hands of the Emperor and the court officials. This led to the unchecked power of corrupt officials. Consequently, Emperor Le enacted laws aimed at minimizing the disruptions caused by officials, including military commanders, prison supervisors, river caretakers, market overseers, and others. Concerning the persistent solicitation and

acceptance of bribes by officials and influential individuals, the Hong Duc Code stipulated double compensation and, in severe cases, dismissal from office. This penalty served as a deterrent for individuals neglecting their responsibilities and engaging in oppressive behavior toward the people. For instance, "Generals and commanders, when executing orders to apprehend major offenders and demanding money, shall face reprimand and double compensation" (Article 173); "If prison or detention officers extort money from the accused, abuse them, and insist on outdated customs, they shall face graver punishment than standard law" (Article 673); "Those supervising river dredging, harbor construction, or border fortifications who conceal people's money shall face reproach or dismissal and must compensate double, returning it to the people" (Article 184); "Market overseers disturbing the market with illicit monetary demands shall face 50 lashes and reprimand" (Article 185); "Those overseeing ferry crossings must construct bridges or establish boats; failure to do so or arbitrarily moving crossings shall result in a 60 *trượng* penalty; causing inconvenience or extorting money shall incur similar penalties and require returning extorted money" (Article 575). Additionally, according to Article 639, officials abusing their authority, misappropriating public property for personal use, were implicated in the crime of bribery and obligated to double compensation for the populace. The story of Western Capital Fleet Admiral Lê Thiệt's dismissal "for threatening to extort money from the people of Châu Thoá during border patrols" [2] (p. 452) serves as a cautionary tale for officials and court dignitaries regarding the abuse of power. Besides the direct solicitation of bribes by officials, the Hong Duc Code also addressed the exploitation of an official's relatives (wives, concubines, servants, etc.) for personal gain or disruption of the people, outlined in Article 632: "Officials supervising the people in the districts... allowing their wives, concubines, or relatives to engage in trade as a pretext for troubling the populace, extorting gifts shall face reprimand or dismissal." Moreover, "Household servants of royal officials (or princesses) abusing their authority and accepting bribes shall be penalized for bribery" (Article 336). Thus, it is evident that the Lê Dynasty's perspective on prosecuting the crime of accepting bribes was comprehensive, encompassing not only monetary transactions but also gifts and favors, targeting not only incumbent officials but also their close associates. This demonstrates the thoroughness and determination of Emperor Le Thanh Tong in handling the offense of accepting bribes - a stance that left no room for immunity or ambiguity in bribery cases.

Thirdly, accepting bribes led to wrongful judgments and concealed criminal acts. Under the reign of Emperor Le Thai Tong (1433 - 1442), certain rules for trial proceedings and specific laws against bribery were enacted, compelling judicial officials to base their rulings on laws to avoid wrongful verdicts, requiring careful reconsideration [9] (p. 3-11). Continuing this spirit, Article 683 of the Hong Duc Code stipulated: "In the verdict, when determining the guilt, officials

must accurately cite the laws related to the crime without any additions or omissions." Presumably, due to such regulations, officials engaging in accepting bribes, deliberately covering up or causing miscarriages of justice, faced severe charges. Those who tried to persuade the accused to pay bribes faced royal reprimand and were admonished as follows: if individuals sought to bribe someone involved in a crime, the rich could escape punishment by offering bribes, while the poor, lacking Emperor money, would bear the blame unjustly. To rectify this, the royal decree instructed the judiciary to administer justice according to established laws [4] (p. 509). This highlights Emperor Le Thanh Tong's commitment to fairness and accurate attribution of guilt in handling bribery offenses. While penalties for abuse of power, soliciting bribes, and causing disruption among the populace were limited to compensation and demotion, for wrongful judgments due to accepting bribes, the highest punishment was death. Article 197 specifies that supervisors who, for personal gain or bribes, turn truth into falsehood would face either exile or the death penalty, irrespective of the severity or scale of the offense. Additionally, "high-ranking officials, magistrates, and judicial officials, if they sympathize with the guilty and try to grant special pardons, manipulating or accepting bribes in the process, face charges of conspiracy or the death penalty" (Article 626). Those aiding and abetting criminals or distorting facts were subjected to severe penalties. Thus, individuals overseeing markets or soldiers accepting bribes to condone the sale of counterfeit goods in markets faced charges or fines (Article 192). Prison officials receiving goods from prisoners to influence their statements or officials accepting money to erase or falsely accuse others, all acted against the law (Articles 664, 137, and 718). Officials who erred in their duties or provided inaccurate reports were charged with negligence or conspiracy. If their actions were motivated by personal ties or grudges, additional charges were applied, and if they accepted bribes, their punishment was further heightened by two degrees (Article 120). Besides prosecuting those accepting bribes, the Hong Duc Code also included specific measures to deter individuals offering bribes in exchange for lenient sentencing or to contravene the law (Articles 137 and 140). However, these penalties were milder compared to those for officials accepting bribes (two to three degrees lighter). Thus, it's evident that the Hong Duc Code rigorously punished officials who disregarded the law, committed wrongful judgments, and covered up criminal acts. This demonstrated a firm commitment to upholding the rule of law as established by Emperor Le Thanh Tong right from the beginning of his reign.

Fourthly, the act of receiving bribes to manipulate military conscription and lenient troop deployment. The process of recruiting soldiers during the reign of Emperor Le Thanh Tong was both stringent and aimed at societal fairness, as it didn't solely rely on commoners but also involved the families of officials who frequently had to enroll in the army [3] (p. 55-61). Nevertheless, there were persistent deficiencies in

conscription and military management during this period. To curb these negatives, the Hong Duc Code explicitly addressed the offense of accepting bribes to manipulate troop recruitment and negligently recruit soldiers. Concerning irregularities in conscription, Article 170 stipulated: 'During troop recruitment... those who bribe or plead to avoid enlistment face severe charges, while those who accept bribes to overlook this offense are also guilty; aiding others to evade military service incurs a lesser charge by two degrees.' Captains and deputy chiefs of military units faced demotion by three ranks if they substituted individuals during significant military drills. If they substituted family members or servants, they faced an additional charge, and receiving money for such substitutions led to further penalties (Article 283). If civilians intentionally feigned disability to avoid military service and military leaders knowingly condoned this by accepting money, they were prosecuted for malfeasance (Article 525). Officials in charge were also demoted if they accepted bribes due to negligent or inadequate troop deployments. Specifically, 'Officials commanding troops inappropriately leading to desertion or causing hardship to soldiers through bribery faced charges of misconduct, malfeasance, or severe charges depending on the circumstances' (Article 268). 'Individuals tasked with recommending candidates but unable to propose suitable candidates faced penalties or demotion. If motivated by personal gain or accepting money, they faced two degrees of increased charges' (Article 174). 'Individuals who manipulated or meddled with conscription faced a fine of 70 *truong* and demotion by three ranks. Accepting bribes led to double fines, and the bribed money was seized' (Article 311). Thus, the scope of bribery concerning military matters ranged widely, from civilians offering bribes to local officials and high-ranking Emperor authorities within the court. Sanctions for the offense of accepting bribes in military conscription were strict, mostly resulting in demotion or removal from office, emphasizing a high level of deterrence.

In summary, the Hong Duc Code encompassed stringent regulations concerning bribery, addressing a broad range of offenses, including bribery in general, extortion, manipulating funds of the populace, miscarriages of justice, lenient military conscription, and pardoning conscription standards. It imposed specific penalties for officials in office, close relatives (spouses, servants), and involved parties who received bribes. Depending on the magnitude of the bribe, corresponding penalties varied from fines, demotion, to exile or execution.

Moreover, the Hong Duc Code outlined aggravating and mitigating circumstances to ensure fair and just adjudication of bribery offenses. Notable cases like Nguyen Thu and Phan Tong Trinh exemplified this approach. Nguyen Thu, a close aide accustomed to accepting bribes, faced a death sentence but was commuted to life imprisonment because "he still had a chance to mend his ways and serve well" [2] (p. 461). Meanwhile, Phan Tong Trinh, an adopted son of a senior official, committed severe crimes, which warranted a harsh penalty.

Additionally, individuals reporting bribery were generously rewarded by Emperor Le Thanh Tong, strengthening oversight over officials, and reducing the possibility of corruption among courtiers, both at the central and local levels. Another noteworthy aspect was Emperor Le Thanh Tong's governance style, emphasizing law and order while upholding humanity and compassion. An example was the case of Admiral Nguyen Su Hoi, pardoned due to his significant contributions during the nation's founding [2] (p. 434).

Reiterating once again, the evidence from these laws and their practical enforcement showcased a relatively comprehensive framework of punitive measures and regulatory scope for bribery. This foundation highlights the Hong Duc Code as an influential legal system specifically targeting corruption, marking a significant milestone in our nation's legislative history.

3. The Value as a Reference for the Current Criminal Law System in Vietnam

The Hong Duc Code emerged within a feudal state, reflecting the intentions of safeguarding the interests of the ruling class and solidifying the position of Emperor Le Thanh Tong and the royal court. Despite this, it's regarded as a comprehensive, progressive, and profoundly humane legal code. Through the laws highlighted regarding the trial of bribery among courtiers and officials at all levels, we witness the outstanding progressiveness of Emperor Hong Duc. Despite the historical ups and downs, the legislative system of the court leaves behind valuable lessons and references for modern laws in handling bribery among government officials.

A few notable aspects include:

Comprehensive Legal Framework: The majority of the bribery laws within the Hong Duc Code were systematically structured with three essential components: assumptions, regulations, and penalties. Moreover, many provisions succinctly describe specific scenarios. By addressing events and their surrounding issues, these regulations become clearer, more memorable, and easier to apply. This aids citizens in understanding which actions to take or avoid, and it simplifies the judicial process for judges, minimizing arbitrariness in application.

Transforming Complexity into Simplicity: The feudal lawmakers adeptly translated intricate legal matters into straightforward situations, enabling society at all levels to comprehend the law. Evaluating Vietnam's current legal system, it's evident that legislative bodies haven't effectively detailed legal texts along with guidelines for enforcement. To construct more detailed laws accessible to all levels of society, modern lawmakers could refer to the methods used during the Le Dynasty, from law construction to situational descriptions. This approach could bring laws closer to the lives of the people, enhancing the regulation of bribery behavior within the

existing Vietnamese Penal Code.

In essence, the Hong Duc Code, rooted in a feudal context, offered insights and practices that could refine and enrich modern legal systems, particularly in dealing with bribery among officials and creating a more accessible and understandable legal framework for society.

In the Law of the Hong Duc era, Emperor Le Thanh Tong regarded the acts of demanding bribes and abusing power to harass the people as crimes within the category of receiving bribes. As previously mentioned, for officials and their close relatives who abuse their positions, actively see Emperor bribes will result in a penalty of double the amount received, with heavier consequences such as being convicted as criminals or disgraced. This penalty serves as a warning and example for other officials. However, the demand for bribes is only stipulated as an aggravating factor under point g, clause 2, article 354 of the 2015 Criminal Law (amended in 2017) [10, 11]. According to the Corruption Perception Index 2019, 38% of people offer bribes to traffic police, 22% offer bribes when dealing with courts, and 11% offer bribes in public hospitals and police stations. The notable aspect here is that without a "supply," there wouldn't be a "demand," and without demanding bribes, there wouldn't be a receipt of bribes. To smoothen things, one needs to oil the wheels, which seems to have become a de facto rule, eroding the integrity of officials and creating inequality in public service access. The act of demanding bribes tarnishes the image of government officials, civil servants, and employees, diminishing citizens' trust in the state apparatus. From this reality, the research team finds it necessary to inherit the values of the Hong Duc Law regarding regulations on the act of demanding bribes and abusing power. Treating the act of demanding bribes as a severe offense with strict and appropriate penalties will have a more deterrent effect on individuals wielding public power.

Regarding individuals who bravely report incidents of receiving bribes, the Hong Duc Law stipulates substantial rewards (articles 170, 172, 197, 525). This ensures fairness for those who prevent acts of receiving bribes, while encouraging the supervision role of citizens over officials at all levels. In current Vietnamese law, under articles 67 and 68 of the Anti-Corruption Law 2018 (referencing article 47 of the Whistleblower Protection Law 2018 and article 4 of Joint Circular No. 03/2011/TTLT-BNV-TTTP), whistleblowers of corruption in general, and bribery in particular, are protected and rewarded (medals, commendations). However, a wider variety of rewards is necessary to stimulate regular participation from the public and officials in the ongoing fight against bribe-taking. Strict penalties should be matched with substantial rewards. Homans' theory of rational choice suggests that when choosing among available actions, individuals will select the path leading to the highest chance of success and greatest reward value [5] (p. 354). Hence, incentives for whistleblowers of bribery are vital. Encouraging and rewarding those brave enough to expose incidents of receiving bribes also boosts the oversight role of citizens over officials,

contributing to a cleaner and more transparent government. Especially in the age of mass media, leveraging the social supervisory and critical role of the press can enhance public scrutiny over incidents of receiving bribes, bringing these matters to light and commending individuals or groups that speak out, serving as examples and motivating others to act.

Examining the policies of incentives during the Le Thanh Tong era also sheds light on efforts to prevent bribery by these officials. Although not explicitly regulated in the Hong Duc Law regarding favorable treatments for officials at various levels, historical records indicate that fostering integrity played a significant part in the fight against receiving bribes. During the Hong Duc era, officials with integrity and honesty were promoted, receiving various bonuses such as land grants, titles, or public grants. Emperor Le Thanh Tong believed that "only when officials are content can they begin to do good deeds," ensuring that officials are "adequately compensated before being required to be righteous." [7] (p. 642-643). Reflecting on contemporary Vietnam, issues regarding salary increases for officials and civil servants are ever-present; incremental salary increments, and insufficient wages continue to be a concern. This situation partly leads to unwarranted negative behaviors such as bribery and corruption. A study by R. Van Veldhuizen (2013) indicated that 91% of low-paid civil servants receive bribes compared to 38% of high-income ones, with higher-income officials less likely to engage in such behavior. This prompts a reevaluation and learning from the integrity-promotion policies of Emperor Le Thanh Tong to retain officials' integrity and combat the acceptance of bribes in the public sector.

Recent anti-corruption efforts in Vietnam have demonstrated significant efforts in preventing bribe-taking. From enacting laws to strengthening institutions and leadership, implementing preventive measures such as transparency in public activities, administrative reform, asset declaration, and holding leaders accountable [12]. Cases such as those involving Phan Van Vinh, former Minister Nguyen Bac Son, the gasoline smuggling case from Singapore to Vietnam, and the Viet A Bank scandal show the determination of our Party in combating the scourge of receiving bribes. Despite the passage of time over the pages of the Hong Duc Law, we cannot overlook the bright spots and values that Emperor Le Thanh Tong embedded within it to eliminate deep-seated issues and combat the acceptance of bribes. The Vietnamese criminal law system can reference some of these standout and progressive points in handling the root cause of receiving bribes.

4. Conclusion

The Hong Duc Code, a strong testament to the legal quintessence of the Vietnamese people during the early Le Dynasty, was not only the most progressive criminal code in the region at that time but also a mirror reflecting the spirit of the rule of law, upholding morality and profound humanity. In particular, the law's provision of many detailed and strict provisions on

the crime of bribery, with a wide scope of application and strict sanctions, clearly demonstrated the Le Dynasty's determination to eradicate corruption, strengthen the discipline of the law, and create a fair and honest society. Through analyzing the content of the provisions related to the crime of bribery in the Hong Duc Code, the article has highlighted several breakthroughs highlights, demonstrating the timeless vision of the lawmakers during the early Le Dynasty. First of all, the scope of this crime is overly broad, covering a variety of acts such as receiving money, and gifts, or taking advantage of positions and powers to harass, extort, wrongly convict, cover up criminals, etc. Even the act of demanding bribes is considered by Hong Duc law as an independent crime, instead of just an aggravating circumstance as prescribed by current law. This shows the Le dynasty's deep awareness of the dangerous nature of acts of harassment and extortion, and at the same time affirms a strong determination to prevent and punish this problem at its root. In addition, the system of sanctions for accepting bribes in Hong Duc code is also built very strictly, with many different levels, commensurate with the nature and danger of the crime. From additional penalties such as fines, and confiscation of property, to main penalties such as demotion, dismissal, exile, and even the death penalty, all aim to deter, educate, and severely punish greedy and dishonest people. The spirit of "no forbidden zones" in handling corruption crimes is also clearly demonstrated through the Hong Duc Code's provisions on applying sanctions to both incumbent officials, relatives, and any individual involved in bribery. Although existing in a historical context with its characteristics of feudal society, the provisions of the Hong Duc Code on bribery still have certain reference values, contributing to the improvement of our country's criminal law system in the current period. The lesson of specifying legal provisions, using easy-to-understand language, close to the public so that people can easily access and apply, is also a bright spot worth inheriting. In addition, the fact that Hong Duc Code considers "bribery" as an independent crime is also a thought-provoking suggestion for modern Vietnamese lawmakers. In the context that corruption is still a burning issue, a "national disaster" that needs to be eliminated, the lessons from Hong Duc Code on building and perfecting the legal system to prevent and combat corruption, and tightening discipline and integrity in the state apparatus are more urgent than ever. Selectively inheriting the progressive points from the legal quintessence of our ancestors, combined with studying and applying international experiences suitable to the socio-economic conditions of Vietnam in the current period will be the key to building a fair, civilized, law-abiding society,

aiming at the goal of developing a strong and prosperous country.

Conflicts of Interest

The authors declare no conflicts of interest.

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