

CONCEPT NOTE

Writing the publication on Vietnamese Feminist Judgments

Background

The idea of the feminist judgment project is carried out increasingly worldwide, including in Canada, England, Australia, New Zealand, Ireland, Scotland, the United States¹. It challenges the conventional judicial method as neutrality and objectivity in terms of the gender matter through commenting and incorporating feminist legal theory into judgments. It is considered a practical way to bring legal theory down to practice and demonstrate how feminist legal theory can provide for an inclusive and diverse approach to justice than the existing judicial decision-making method.²

Meanwhile, precedents have been recognised as the possible authority for courts to make decisions since 2016 in Vietnam. From that day on, court opinions have become a significant research resource both in legal practice and scholarly. At the time of the present concept note, 53 precedents have been approved and announced by the Supreme Court. Also, case commentaries account for a small number of academic publications. Feminist judging, therefore, faces challenges. Judgment-writing and style, particularly fact-finding and analysing, in Vietnam, like other civil law countries, is relatively short and lacks reasoning and argument in detail. Adopting the doctrine of precedent in the Vietnamese context is an opportunity to improve the judgment-writing style in terms of reasoning and arguing, even in a theoretical approach like incorporating feminist legal theory into judicial decisions.

The idea of feminist judgment in this project is inspired by the work of Professor Rosemary Hunter. She has worked on projects of this kind in England, Australia, and the United States as an editor, author, instructor, or advisor. Among her recommendations of feminist judging are "[asking] the women question," including women's experience in judgments, and challenging gender bias, gender implication inherent in gender-neutral rules of law.³

¹ For example: (<https://auspublaw.org/2021/09/launch-of-the-feminist-judgments-and-critical-judgments-projects-website/>)

² Vanessa E. Munro and Margaret Davies, *The Ashgate Research Companion to Feminist Legal Theory* (Routledge 2013) 15–16.

³ Heather Douglas and others, 'Introduction: Righting Australian Law', *Australian Feminist Judgments: Righting and Rewriting Law* (Hart Publishing 2014) 8.

With the aim to promote the feminist legal theory under a practical approach by commenting and incorporating feminist argument into judgments in selected Vietnamese cases, the book preliminarily entitled "Feminist Judgments" is designed with seven (07) cases covering a wide range of law areas and an essay on the feminist judgment method and its challenge in the Vietnamese context.

Objectives for Feminist Judgments

- Provide the feminist approach for original court decisions.
- Enhance the quality of judicial methods by demonstrating how to apply theoretical knowledge for legal reasoning and making a decision.

Provisional outline of an article

An article is made up of a rewritten judgment and a commentary. The outline is recommended as follows:

1. Judgment (not the whole court opinion)
2. Commentary
 - Introduction/Background context
 - The facts and the issue
 - The procedural history
 - The original court decision
 - The feminist contribution

An introductory article should have but not be limited to the followings:

- Overview of feminist judgment project
- The role of feminist judging and its method
- Challenges to feminist judging in the Vietnamese context

An article shall be written in Vietnamese and around 7000 words. The article will be translated into English by the author or other translators.