

Formation And Development of Ho Chi Minh's Ideology On Law-Governed State

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Abstract: *Ho Chi Minh's ideology on law-governed state is one of the basic and core contents in the Ho Chi Minh's ideology system. The study of the contents related to his ideology on law-governed state in which the formation and development of ideologies on law-governed state has certain implication. The main content of this article focuses on the process of formation and development of Ho Chi Minh's ideology on law-governed state in order to prove the formation of ideology on law-governed state in Vietnam; at the same time, prove that the formation and development of Ho Chi Minh's ideology on law-governed state are based on the inheritance and promotion of the values of mankind's ideology on law-governed state.*

Keywords: *Ho Chi Minh, ideology, state, law-governed, development*

1. Introduction

Ho Chi Minh's ideology on law-governed state is one of the basic and core contents in the Ho Chi Minh's ideology system. The study of the contents related to his ideology on law-governed state in which the formation and development of ideologies on law-governed state has certain implication. These studies have contributed to confirm a solid theoretical basis for the cause of building and perfecting the current law-governed socialist state of Vietnam when analyzing the foundations that Ho Chi Minh has influenced to form his ideology on law-governed state. At the same time, it affirms that the formation and development of Ho Chi Minh's ideology on law-governed state was a consistent and lucid revolutionary will of Ho Chi Minh, which underwent a long time of ideology research and formation. This contributes to affirming the core values of Ho Chi Minh's ideology on law-governed state for the cause of building and perfecting the socialist law-governed state in Vietnam today.

2. Content

The formation and development of Ho Chi Minh's ideology on law-governed state was reflected in his revolutionary practice from 1911 until the birth of the Democratic Republic of Vietnam and constitutional and legislative activities of Ho Chi Minh. Noting the formation and development of Ho Chi Minh's

Ideology on law-governed state can be divided into two stages before and after 1945 with the meaning of The process of showing the formation and then the development and perfecting Ho Chi Minh's ideology on law-governed state through the constitutional practice of Vietnam.

2.1. Before 1945 - the period of forming Ho Chi Minh's ideology on law-governed state

During this period, Ho Chi Minh initially formed its ideology of a state with a legal element in that state. This ideology of Ho Chi Minh was realized through the work "The judgment of the French colonial regime" and the "eight-thing claim" sent to the Versaille Conference in 1819.

The reality of Vietnamese society under French colonial rule and feudal feudalism in the late nineteenth and early twentieth centuries had a great impact on the formation of Ho Chi Minh's ideology on law-governed state in Vietnam. Witnessing the opposition between the colonial and lavish life of the colonial people and the miserable life of the working people, Ho Chi Minh formed the determination to find a way to save the country and the people and find a state model for the people. That formation was started from the judgments, assessments and even condemnations of Ho Chi Minh about a "non-law"

regime in Vietnam under the governing policy of French colonialism and feudal feudalism.

When invading Vietnam, the French colonists built and formed a form of state organization which was basically similar to that in France and made some adjustments because Vietnam was quite far different from the mother country. At this time, in France, it was following the parliamentary republic - a state form fixed in the French Constitution 1875. In this regime, the President is the head of state with a term of 7 years and is elected by the Parliament. Not only having great power in the country, but the French President has great power over the colonial countries which is the legislative right. This was truly absurd and even more absurd when the Indochina Union was founded in 1887, the President of France, through the Council of Ministers of France, nominated a "*Indochinese Governor General to take over the entire legislative, executive and judicial right in Indochina*" [4, p.70].

Indochina is a country made up of 3 countries: Laos, Vietnam and Cambodia, but to facilitate and ease the rule, the Governor General of Indochina divided Indochina into 5 regions with different ruling institutions to implement the overall rule and to divide the solidarity block of Indochina countries in general and Vietnamese people in particular. Accordingly, under this ruling policy, "Nam Ky was a colonial region headed by the governor, Bac Ky was the protectorate region headed by the governor, while three regions, Trung Ky, Laos and Cambodia were also protectorate regions, but are headed by a French Resident Superior." [4, p.71]. Under those French Resident Superior and governors, there is a bureaucracy that governs and the system of indigenous kings who have no authority in the regime and are only "puppets" and "minions" for the French colonialists.

Thus, it can be seen that there is no constitutional, legal and constitutional basis for the administration of the French colonial government in Vietnam, nor there is democracy under this rule, but throughout the country and throughout the Indochina Union, it is the arbitrary, dictatorial and non-order governing system of the colonial government. Realizing those unreasonable things, Ho Chi Minh wrote many

works to condemn the colonial regime, typically the French colonial judgment. In this work, under the political perspective of a patriot, Ho Chi Minh revealed the true nature of colonial rule in Indochina when he wrote: "Disguising as civilization opening, the French colonialism wants to keep the indigenous people forever in slavery. Prisons are more than schools, are always open and full of people. One thousand five hundred billion for alcohol and drugs for a thousand villages while only ten schools for such number of villages" [5, p.4; 26, 349, 75]

Vietnamese patriotic scholars have also taken many actions to condemn and denounce the crime and the true face of colonialism, including condemning the organization of power in colonial countries; however, that condemnation is still unclear and quite abstract according to the position of the feudal ideology. Ho Chi Minh carried out this activity, but with a new and progressive ideal. He created an echo, a quite drastic change in the perception and opinion of society about the true nature of the colonialism as they attempted to disguise it with cunning rhetoric. With the sharp pen, Ho Chi Minh's sharp point of view not only showed the true nature of colonialism but was also the preparation of the mind for himself and the preparation of a legal basis for people to come to a new way, which is suitable for the Vietnamese revolution.

Behind the criticism of colonial government, it was Ho Chi Minh's ideological transformation of a state government that he wished to build in Vietnam. That state will no longer oppress, exploit and that state will bring happiness to the people, which is unlike the government of the colonial regime. This is the initial formation of Ho Chi Minh's ideology about the Vietnamese law-governed state, and the foundations for Ho Chi Minh's constitutional ideology.

At the end of 1917, Nguyen Ai Quoc moved to France to live. This is a quite important and historic decision because Ho Chi Minh had many activities and great ideological changes, especially the law-governed state. In France, Ho Chi Minh was able to meet and learn many important theories from the works of great philosophers, such as Rousseau's "Social Contract", Montesquieu's "Legal Spirit", etc. These classic works had many ideologies about

democracy, rule of law and law in the state for Ho Chi Minh to learn, study and absorb.

Not only studying the works, in the years spent in France, on the occasion of the conference of the imperialists won the first world war held in Vecxay, based on the statements of President Uynson in 1917, the Allies would hand over their autonomy to the colonial peoples who had fought with them and their allies Austria, Hungary and Turkey. Therefore, this conference is the appropriate forum for Nguyen Ai Quoc to send requests to the people and their country. That claim was sent to the Allied countries and also to the French government - the Allied country was implementing colonial rule in Indochina. The claim included 8 things that clearly state:

1. General amnesty for all indigenous people in political imprisonment;
2. Reform the legal regime in Indochina by giving indigenous people the same legal guarantees as the Europeans; completely eliminate the convictions used as a tool to persecute and oppress the most honest part of the Annam people;
7. Replace the ordinance mode to the regime of laws;

Permanent delegation of indigenous people, elected by indigenous people, in the French Parliament to help Parliament know the aspirations of the indigenous people [5, p. 435.436].

In this claim, there were two very basic things focusing on the legal regime and law making in Vietnam, which were considered as very important foundations of law-governed state. Because the Constitution is the premise of the rule of law, the rule of law only exists when there is the Constitution. Therefore, the requirement on the Constitution is also the requirement on the rule of law. In 1922, in his Vietnamese work demanding a song, Ho Chi Minh once again emphasized the need for the formation of a constitutional system and the rule of law in Vietnam when he wrote:

“Seven for the Constitution to be issued.

Hundred things must have the spirit of the rule of law” [5, p.438].

It can be said that these works are clear evidences of the formation and development of Ho Chi Minh's ideology on the rule of law. Also from recognizing and pointing out the important role of the constitution and the law for indigenous countries, Ho Chi Minh continued to condemn and denounce the face and the truth about what the colonists called justice in Indochina that is "*In Indochina there are two kinds of justice. One for the French, one for the natives. The French were treated like the French, the An Nam had no jury, nor the An Nam lawyers. People often tried and sentenced according to papers, with the absence of the accused. If there was a lawsuit between the Annamites and the French, the French was always right, even though this guy was a robbery or murderer*" [5, tr.420]. Thus, Ho Chi Minh proved that there was no morality, democracy and the beauty as the French colonialists preached. In essence, only "tricks" were quibbled with cliché. Therefore, in addition to sending the Claim to the Vecxay Conference, Ho Chi Minh also urged other patriots to send to the Van Quoc Association claims with the content of civil rights including mention of "*Arrangement of a political and social constitution with civil rights ideals; the law respects ethnic minorities (that is, it does not infringe on small ethnic groups like Laos and Cao Mien), respects the business, and establishes a democratic Indochina Union*" [3, p. 278]. The claim even expressed a very resolute attitude that if these requirements are not accepted then "*we will soon revolt*" [3, p.278].

Thus, the period before 1930 with many rich and diverse revolutionary activities, Ho Chi Minh's ideology on law-governed state was formed with many important imprints. It was formed on the basis of inheriting the values of human ideology typical of values of democracy and civil rights in the Declaration of Independence of the United States of America in 1776 and the Declaration of Human Rights and the People's Rights of France in 1789. The assertions about the importance and the need for a legal regime and a constitution for a democratic state have been affirmed by Ho Chi Minh through many works and practical actions. These are important milestones for the formation of Ho Chi Minh's ideology on law-governed state. The

formation of these ideological contents is expressed in the following main points:

Firstly, Ho Chi Minh denied the policy of the French colonialists in Vietnam, the ideology that it was an unconstitutional government and its existence was very unreasonable, arbitrary and unscrupulous. Vietnam must have independence and sovereignty. The Vietnamese state in the future aims to build a righteous state, as opposed to the villainous state of the colonial government.

Secondly, the Vietnamese state must be organized according to the Constitution to establish a democratic rule of law. Even, all "things" in society must be arranged and organized in accordance with the law. The Constitution is the basis of the rule of law and also the basis to assert basic human rights.

Thirdly, the state uses laws to govern instead of ordinances, which are essentially a requirement of the rule of law. In this regime, *"People have to live under the law that they have voted for. Statutes will not allow the public to arbitrarily interfere with the freedom of citizens, and will allow citizens to use those laws to protect themselves"* [7, p.31].

2.2. The period after 1945 - the period to develop and perfect Ho Chi Minh's ideology on law-governed state

Ho Chi Minh's role in the Democratic Republic of Vietnam's declaration of liberty through the Declaration of Independence, the birth of the 1946 Constitution and the 1959 Constitution proved the completion of Ho Chi Minh's ideology on law-governed state.

The Declaration of Independence in 1945 with declarations of national rights and democratic rights was important as a foundation for Vietnam's legislative and constitutional work because a state could only become a law-governed state when it is independent.

On the basis of inheriting the values from the American Declaration of Independence in 1776, Ho Chi Minh made a declaration on national rights and human rights. In the Declaration, he cited the two famous declarations of the mankind: *"All men are created equal, that they are endowed by their*

Creator with certain unalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness" [6, p. 1], while the Declaration of Human Rights and Civil Rights of France wrote *"All human beings are born free and equal in dignity and rights"* [6, p.1]. On that basis, Ho Chi Minh asserted, *"By broadening, that sentence means: All peoples in the world are born equal, all nations have the right to life, the right to happiness and freedom"* [25, p.1]. Thus, from human rights, Ho Chi Minh asserted the right of the nation. The people of that people are free which means that the people must also be free and that is why no one can deny it. That is also the truth of the nation and the era.

The Declaration of Independence is an eminent document of Ho Chi Minh, in which Ho Chi Minh declared and affirmed to the world about Vietnam's independence, Vietnam became an independent and autonomous nation and that is the guarantee of the conditions to build a rule of law state. Therefore, September 3, 1945 - one day after the declaration of Vietnam's independence, during the first meeting of the Provisional Government of Vietnam, Ho Chi Minh identified one of the urgent tasks and needed right at that time as to conduct a general election to elect the National Assembly - the highest authority of the state.

In this view, Ho Chi Minh showed two very important things in a law-governed state. One is that democracy and the constitution are closely related. In a democratic state, there must be a Constitution and the Constitution is the basis and foundation for protecting the people's sovereignty. Secondly, all people are equal, without discrimination, caste, religion, etc., to participate in elections or to stand for election to the state apparatus. This is a very progressive and timely perspective. It clearly shows the nature of a real democracy, a regime, a new type of democracy of Ho Chi Minh.

The birth of the 1946 Constitution was an important sign of Ho Chi Minh's ideology on law-governed state.

The birth of the Declaration of Independence was the basis for the birth of the 1946 Constitution. Ho Chi Minh was well aware that the Constitution was born

and existed only in an independent country; vice versa, to an already-independent country, it is necessary to have a Constitution to protect the people of the nation. Therefore, at the first meeting of the Provisional Government, Ho Chi Minh affirmed that conducting the General Election with universal suffrage was a "need for the nation" at that time. Because when there is a Constitution, the people of that nation will be protected and that nation will be completely independent.

According to Ho Chi Minh, the Constitution is a collection of regulations with the highest legal nature to govern the organizational and operational principles of the state as well as the form, structure and relationship of the state with the people in that state. The Constitution is the most important legal document that regulates the way of organizing state power and the way of national political organization. Consequently, the Constitution was born on the basis of independence and national sovereignty. These are important ideologies of Ho Chi Minh about a law-governed state.

National independence is a necessary condition for the Constitution, but independence is not enough. In the history of the nation of Vietnam, there were two separate Declarations of Independence before the Declaration of Independence in 1945, but after those two Declarations of Independence, there was no birth of any Constitution.

In the history of human ideology, the Constitution was born when society developed to a certain historical period. In slave and feudal possession regimes, the state power was organized in the form of a monarchy. The power was concentrated only in the hands of a few people in the society that were the ruling class, even in the hands of only one person - the king in the feudalism. In such society, there was no democracy and no document restricting the king's power and fixing the principles of organizing the state power but only the unwritten practices of the rulers' self-regulations. It shows that there was no democratic Constitution in a non-democratic society and there were just some of the rules and laws set by the ruling class or to protect the interests of their class or to clarify forced responsibility of the working people in the society.

Thus, the necessary and sufficient conditions for the Constitution to be born is national independence and democracy - power belongs to the people. Therefore, when talking about our country's society under the authoritarian monarchy, as well as under colonial rule no less authoritarian, our people had no democracy, so our country had no Constitution. In 1945, with the declaration of our country's independence and affirmation of democracy, Ho Chi Minh embarked on the legislative work of the country. As the President, Ho Chi Minh headed the Constitution drafting Committee and played a very important role with the birth of the 1946 Constitution - the Constitution that laid the foundations for the country's legislative history and the 1959 Constitution. Besides, Ho Chi Minh signed an order to announce 16 laws, 613 decrees and many other by-laws.

On September 20, 1945, as the President, Ho Chi Minh signed the Decree No. 34 to establish the Constitution Drafting Committee, including: Ho Chi Minh, Vinh Thuy, Dang Thai Mai, Vu Trong Khanh, Le Van Hien, Nguyen Luong Bang and Dang Xuan Khu. In which, Ho Chi Minh was the head of the Committee. After drafting the Constitution to submit to the National Assembly, the Government Council conducted discussions, supplements and amendments. At the same time, in order to promote democracy in building the Constitution, the Government Council decided to publish it in the press and send it to villages and communes to collect and collect opinions of the masses. On October 10, 1945 the Draft Constitution was published in the National Salvation Review and attached to the Government's Announcement: "*In order for all Vietnamese people to participate in the constitution of the country, the Government will publish this Draft Constitution so that everyone can read it carefully and be free to discuss and criticize ...*" [2, p.40]. This is essentially a democratic practice, according to Ho Chi Minh, the law must be built from the people and for the people. Therefore, after collecting opinions from a large number of people, "The Constitution Drafting Committee will focus on the proposed amendments and opinions of the people and then submit to the National Assembly for discussion" [2, p.40]. Perform the construction

process seriously, on November 9, 1946, at the second session of the First National Assembly, the Constitution was passed. The 1946 Constitution consisted of the Preamble, 7 chapters and 70 articles.

The 1946 Constitution showed the height of Ho Chi Minh's intelligence and ideology and was an important marker of Ho Chi Minh's development of a law-governed state. In this Constitution, Ho Chi Minh included: "*The laws were on a par with the advanced politics in the world at that time and many things were still hot to ask for topical news until today*" [1, p.70.71]. With the role and activities for the birth of the 1946 Constitution, Ho Chi Minh was recognized as the Founder of the Communist Party of Vietnam and the Democratic Republic of Vietnam. At the same time, he was the author of the Declaration of Independence in 1945 and the 1946 Constitution, later the 1959 Constitution. Therefore, Ho Chi Minh's history has been recognized as the person who laid the foundation and made decisive contributions to the country's legislative history and that is also the construction of the Vietnamese rule of law state.

3. Conclusion

The formation and development of Ho Chi Minh's ideology about the rule of law state is closely associated with his revolutionary activities. It can be seen that, very early in the process of campaigning to find a way to save the country, Ho Chi Minh made the comments and actions to affirm the role of the Constitution and the law for the nation and for people in each of those countries. From criticizing the illegality of the colonial government in the main colonies, Ho Chi Minh affirmed that he had to go ahead to build a legal and constitutional government contrary to the absurdity of the colonial government. It is Ho Chi Minh's affirmation of the necessity and the role of the Constitution that was expressed in the content of the 1919 Claim to the 1922 Vietnam Request. By 1945, after the Declaration of Independence was published - it was a testament to our country's independence, the people were free when Ho Chi Minh considered the conditions for the birth of the Constitution; in other words, the conditions for building a rule of law state are sufficient. Ho Chi Minh affirmed to promote the

promulgation of the Constitution. On a democratic basis - through the General Election with universal suffrage and the widely-publicized draft Constitution for the public poll, in 1946 - the country's first democratic Constitution of Vietnam was born and marked an important milestone in the legislative history of our country and it is also the formation and development of Ho Chi Minh's ideology on law-governed state, with important progresses.

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