

# VALUE OF HO CHI MINH IDEOLOGY OF THE LAW-GOVERNED STATE

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**Abstract:** Ho Chi Minh Ideology of the law-governed state is one of the cores and primary contents of Ho Chi Minh's ideological system. From very start of the revolution, Ho Chi Minh realized, established and organized many important activities for our national course of legislation and constitutional course. During the now construction and completion of the socialist republic law-governed state in Vietnam, Ho Chi Minh Ideology of the law-governed state has been remaining its validity. The term was considered as the ideological foundation and orientation for the Vietnamese process of building the law-governed state, the research and appointment of the core values in Ho Chi Minh Ideology about the law-governed state becomes one of the important contents in the theoretical research of Ho Chi Minh. This article aims at analyzing and explaining the values of Ho Chi Minh Ideology on the law-governed state, while contributing to the systematization Ho Chi Minh Ideological theory, and creating a rational foundation for the completion of the socialist republic law-governed state of Vietnam today.

**Keywords:** state, the rule of law, value, Ho Chi Minh Ideology, application.

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## I. INTRODUCTION

During the now enormous integration and globalization, we could see a huge opportunities and challenges for our country. The State's practical activities shown that the staffing of officials was both deficient and incompetent, particularly the understanding and application of the applicable law was poor. In our society, the breach of law due to deficiency of knowledge or awareness was quite common. The deficiency of legal provisions in governing new social relations arising during the process of constructing and developing a socialist market economy has been giving many issues and they have become the barriers blocking the process of completing a new democratic state which are a government of the people, by the people and for the people. Thus, the Doi Moi set the important tasks including building and completing the socialist public law-governed state. It became an extremely difficult and complicated task, because, in fact, there are types of socialist law-based states that have collapsed resulted from the deficiency of sound knowledge and practice about the State; which have not combined the theory of building the law-governed state and the specific conditions of each country. Markedly, there is no socialist republic law-governed state served as a standard for our country. Thus, it is necessary that the research of Ho Chi Minh Ideology on the law-governed state aims to seek for and affirm the values in Ho Chi Minh Ideology then apply in the construction and completion of the socialist republic law-governed state of Vietnam today.

## II. DISCUSSION OF FINDINGS

According to Ho Chi Minh Ideology about the law-governed state, the application and betterment of the ideology values to build a socialist republic law-governed state in Vietnam required to be guaranteed and strongly understood the principles including inheritance, selectivity, history, practicality, etc. Owing to the basic foundation of Ho Chi Minh Ideology about the law-governed state and on the practicalities of the socialist republic law-governed State of Vietnam, with the following typical values:

### 1. "The rule of law" Ideology and building a democratic legal system in the State

Regarding the State, distinctly the law-governed state, we could not help mentioning the law because the law and the state were seen as a strong tie, having the relevant and close relationship. In that relationship, it is said that the state was the

foundation to enact laws to protect the state existence, while the law played an important part in establishing the state apparatus and strengthening the state authority, concurrently, contributing to the economic management, guaranteeing the social safety and creating the social relations of the state.

According to Ho Chi Minh, from the early age, he was aware of and evaluated the role of the law in a state, his ideology of the laws and legal matters, was particularly valuable for constructing the law-governed state in Vietnam; for example, such core values were expressed in the ideology of the nature of democratic law and the rule of law at the supremacy.

One of the supreme principles of a democratic law-governed state was the state must exercise the social management by the democratic legal system because the law-governed state must be a thoroughly and comprehensively democratic state. What's more, that state must be a legal, constitutional state; the state must organize a democratic constitutional system. Overall, the law-governed state must always asserted the ultimate position of the law in the state.

President Ho Chi Minh perceived the matter at the very start, in the Claims of the Annamite people in 1919 to the Versailles Peace Conference, it is requested that there should be a legal regime for the Indo-Chinese people in 1922, such Claims was transformed into the Vietnamese People's Voice where wrote and mentioned all matters in a society must be resolved on the law-governed state to avoid random, dictatorialness and groundless. The spirit initially formed the traits and requirements of a legitimate state, thanks to such ideology, in the starting days after the success of the August Revolution, Ho Chi Minh asserted that it was required to run the general election with universal suffrage. The purpose of the act aimed at determining the legitimacy of the new government, to legally establish a government regime and follow the "practice" of the modern law-governed state.

One can say that the defining the correct role and position of the law in the state is the utmost valuable thought in Ho Chi Minh Ideology of the law-governed state. The ideology reflected the core nature of the democratic law-governed state, while it turned into the principle in Ho Chi Minh' State management activities throughout many years since the day he declared the founding role of new democratic country and took the mission of the State's top leader. Thus, in the very start of our State, without the new legal system, Ho Chi Minh determined that it was required to apply the previous laws that were relatively suitable to the new background, except for the breaches or the contrariety to the national independence; this is because that according to Ho Chi Minh Ideology, it was impossible for a stable, orderly and equal society to exist without the law even in a minute or an hour. Obviously, Ho Chi Minh Ideology of the nature of law in this perspective. According to Ho Chi Minh, the law was not only an instrument for the state to exercise the functions of management, but also the foundation for assessing the level of equality, democracy and social progress, which reflected the nature of the democratic law-governed state in the afore-said contents, was a method of control and limit the misfeasance by the state agencies. Mentioning the nature of the law of the Feudalism-to-Colonialism, Ho Chi Minh affirmed that the law was used as a kind of weapon by the ruling class to punish the opposite class, the former law expressed the will of the French colonialists, not the joint will of our people. The former one was established to preserve the social order, then brought the benefit to the feudal colonialists, no benefit for the entire people in society. Such law was born for the punishment and oppressiveness. The feudal class' law aimed at punishing workers and common people while the current law is set to protect the interests of millions of labor.

Thus, the value of Ho Chi Minh Ideology on law firstly reflected in the assertion of the position and role of the law applied in a state. The ideology asserted the necessity and essentiality of a constitution, elements of the rule of law applied in a state which have contributed to affirm the reasonable, legal and constitutional nature of Vietnamese state. Besides, the values of Ho Chi Minh Ideology of the law applied in the law-governed state also reflected in the thought about the nature of law. Thereof, the law was not introduced to discourage and punish people, the law aimed at protecting human rights in the state and society. On the other hand, the nature of law in Ho Chi Minh Ideology has still kept its humanity through the dialectical relationship between the democracy and the law. The law aimed to preserve the democracy while the democracy worked as the foundation of the law. According to Ho Chi Minh, the democratic state included all rights of the people which had to be institutionalized by the constitution and the applicable law; there never be the democracy without the law. Ho Chi Minh asserted that our law was truly democratic, due to its protection of the labor's freedom and democracy thoroughly. The legal nature of the new democratic state conveyed the will of labors, it aims to protect the rights and interests of the entire working people. Thus, compared to the former law – the law under the colonial and feudal regimes, the law was in the perspective of Ho Chi Minh's conception was really valuable and meaningful for the building cause of a democratic law-governed state in our country today.

## *2. Assertion of citizenship in the state - the foundation for the building of a democratic law-governed state*

Put it this way, the thought of human rights – citizenship, rights to building always tends to protect human rights as one of the outstanding values in Ho Chi Minh ideological system in general and about the rule of law in particular. The Marxist-Leninist classics said that authority among people because the people can only establish and build the system of state and law at their discretion and according to their will must follow the will of the ruling class in a democracy: “In the democratic regime, the state, its law, its nature – to the extent that the state is a certain political regime which is only self regulated by its people and the defined contents of the people” [1, p.351]. The matter means that the democracy defines the rule of law; the law was set of the people, by the people and for the people in a democratic state. Hence, the rule of law was originated from the democracy. Without the democracy and if the legal system was not created on a democratic basis, the rule of law would exist only theoretically or formally. Thus, the democracy contributed an utmost important role in constructing the law-governed state.

According to the ideology of the state, Ho Chi Minh always remained his idea of a democratic state – a state where the rights to control belong to the majority. In the studying of a variety of state models throughout the history, Ho Chi Minh agreed with the Marxist-Leninist perspective of the state, combined with the value in the contexts between the Eastern and Western ideologist, both at domestically and internationally, Ho Chi Minh built and developed his conception of a democratic state – a state of protection and promotion its people's right of control. Living in such democratic state, the core was the democracy, i.e. all authority in the state and in the society belonged to the people in accordance with Article 1 of the 1946 Constitution. People can behave under their ownership through two forms: direct democracy and indirect democracy. The direct democracy means that the people have the right to decide matters related to the national fate, that one of the practices of direct democracy was People with the polls to vote the representative to join the state apparatus. The bright note of the new democratic state was that such state was elected by the people, would represent the rights and interests of the people, and would be authorized by the people to implement several important tasks including the state and regime construction. However, considering that the same delegates were elected by the people, represented the wills and desires of the people, that on behalf of the people to implement the democracy – it's so called “indirect democracy”. Just from the very start of the new democratic state, Ho Chi Minh asserted: “It's compulsory to elect the National Assembly as soon as possible. Inside the regime, the people would have trust in the democratic regime. Compared to the world's regime, the People-elected National Assembly will include an undeniable legal value” [5, p.190].

Ho Chi Minh also figured out that the People-directly selected delegates must meet the standard and requirements in terms of ethical qualities and competence. The most important requirement for the delegates was the loyalty to the Communist Party and the state and the interests of People, which was so called “Being loyal to the country, filial to the people”. The people trust and vote, whereas, the State also has a right of waiver if those people no longer loyal to the interests of the country. President Ho Chi Minh contributed an utmost role in constructing a democratic state in Vietnam that has not ever been happened in the national history. The special feature of the democratic state under the ideology of Ho Chi Minh is all people in such state have democratic rights. Ho Chi Minh said: “The representatives in this National Assembly are not representing any party but all people of entire Vietnam.” [5, p.190].

Mentioning the democracy, during the primitive era of our country, there were a democratic regime - communal democracy, everyone in society enjoyed the equality; the ownership relationship was public ownership of means of production; the distribution principles was equal, but at the simplest, primitive and earliest level in the history of human development.

Moved to the feudalism period, along with the nature of totalitarian regime, the regime of authoritarian in the society this time belonged to the Emperor and there was a system of bureaucracy under the Emperor. The people were often exploited by the feudal landlords, without democratic rights.

When the French colonialists invaded and oppressed the yoke of foreign domination, Vietnamese people lived under two level of oppressiveness, with many struggling policies of rule and exploitation by the colonial government and the feudal court; Vietnamese people lived miserably, without freedom and democracy.

In fact, from the perspective and the practices in the construction process of the Democratic Republic of Vietnam, the birth of the National Assembly after the General Election has appointed the official Government of Democratic Republic of Vietnam, including 22 members. President Ho Chi Minh was elected as President cum Minister of Foreign Affairs.

Thus, the birth of the National Assembly and the Government elected by the people was due to the fact that the people exercise the right of authority and democratic rights. The people had not only the right to vote, but also the right to follow-up and dismiss the delegates' term if such delegates fail to fulfill their assigned or delegated duties and responsibilities. Ho Chi Minh said that "the people have the right to dismiss National Assembly deputies and People's Council when such delegates are no longer worthy of the people's confidence" [9, p.591]. The delegates who were elected under the authorization of the people must take responsibilities to live close to the people and understand the people; Ho Chi Minh asserted, the people-elected delegates must really be close to the people, listen to understand the people, to be subject to the control of the people. They must stay close to the people, listen to the people for a deep understanding, and work under the supervision of the people. They were the one in the relationship of officials and people. Getting out of the relationship, the state soon collapses in the bureaucracy and stagnation, which was so called "live far from the people, despise the people, avoid the people".

Thus, the determination of the people's rights in the law-governed state through ideology and practices in the state construction and through an important legal document, as the Constitution by 1946. Ho Chi Minh's assertions not only served as the basis for building the law-governed state of Vietnam with the true democratic nature but also created a mechanism for the people to exercise their ownership through the Constitution thanks to the nature of the law-governed state under Ho Chi Minh Ideology, "in the law-governed state, the state must act for the purpose of protecting the people's rights. For such purpose, human rights must be announced in the Constitution as a limit to the state authority. The state is only allowed to do what the law allows, considering the people can do what the law does not prohibit. [2, p.142]. These perspectives shown that human rights were inevitable and obvious, the establishment of a state aimed at protecting human rights, however the state agencies also easily took advantages to violate human rights. Hence, besides its responsibilities and duties to protect human rights, the state must prevent the acts of human rights violations by the state agencies, that also considered as one of the primary functions of the Democratic constitution in the law-governed state. Fundamentally, Ho Chi Minh Ideology of human rights in the law-governed state was significant to the construction and completion of the Vietnamese socialist republic law-governed state with the following points:

Firstly, the people have the election right to choose their own delegates to participate in the organization of state apparatus. It shown that the People's role in the course of constructing a state. In this case, the People were acting the subject of state power.

Secondly, the people have the supervision right to follow up the activities and dismiss their elected delegates if such delegates betray the interests of our nation. It shown that Ho Chi Minh's creativity in establishing the law-governed state because he introduced the perspective of controlling state power and identified exactly the subject of control power as the People. On the other hand, the control of state power by the People could avoid the reliance on and irresponsibility to their delegates. Meanwhile, the people-elected delegates must also make the best effort to deserve the people's confidence. The matter not only enhanced the spirit and the responsibility of the people's ownership, but also encouraged the people-elected delegates to regularly improve and train for the quality betterment of revolutionary morality and intelligence and competence as well, deserving the assigned responsibility. Ho Chi Minh's perceptions and warnings about risks and phenomena arising during the practice of the state apparatus and methods to prevent and overcome have been still valid until now, particularly in the combat against the corruption, waste and negative manifestations of some governmental officials. The ideology was seen as a guideline of President Ho Chi Minh in constructing a democratic state – a government of the people, by the people and for the people.

Thus, one can see that, with the regulation of human rights in the Constitution by 2013 – which could be seen as a great step in the history of building a socialist republic law-governed state in Vietnam; the regulation of the primary rights of the people in the Declaration of Independence; the citizenship in the Constitution under Ho Chi Minh Ideology was considered as the founding ideas of fundamental significance during the construction of a democratic law-governed state in Vietnam. The ideology introduced some remarkably valuable points paving the foundation for the now Socialist Republic law-governed State of Vietnam.

### ***3. Legal Humanism – Ho Chi Minh Ideology's unique feature of the law-governed state***

The rule of law in social management was a dominant value in Ho Chi Minh Ideology of the law-governed state. However, the unique point was that Ho Chi Minh did not take the most absolute priority to the law, but his ideology in the method of governing was a thorough combination between "the kindness-based rule of law, the moral leadership-based

rule of law” of Confucius and “rule of law” by Hán Fēi that Ho Chi Minh inherited. It shown that the inheritance and development of Ho Chi Minh Ideology of the foundation of mankind's ideology about the integrity of the law while always combining with the ethics and the humanity.

Ho Chi Minh Ideology included many comments of the authors in the studying of evaluating Ho Chi Minh Ideology of the relationship between the morality and the law, for example “The philosophical foundation of Ho Chi Minh's Moral Ideology was shown in the relationship between the morality and the law. The law not only simply demonstrated the citizenship but also aimed at constructing a social morality that guaranteed the people’s happy living, and the villains would be punished” [8, p.64]. Studying such relationship, morality was considered as the content and the law as its expression. The Ethics/ Morality was the foundation for the formation of the law; after all, the law implemented the protection function for social order, justice, equality, and happiness for our people – it is the ethics. Hence, Ho Chi Minh ideology in the administration and management did not take the most absolute priority to the ethics or the law. This perspective resulted from the combination of the Western law-governed state philosophy and the Eastern sentiment thinking in President Ho Chi Minh. Accordingly, commenting on the primary features of the law-governed state under Ho Chi Minh Ideology, the author Vu Dinh Hoe asserted that the rule of law of Ho Chi Minh was “legal humanism”.

The Ethics/ Morality in Ho Chi Minh's perception was always appointed as the “root”, “foundation”, also was the root of all Government policies; President Ho Chi Minh wrote, “moral legitimacy is the Government's policy towards the People – the policy must match the desires and interests of the people, for the people; the Government must comply with the integrity politics such as the betterment of the People’s living standard, resolution for unemployment, amendment of social-economic regime for the future development, the development of culture, etc. Accordingly, the people would unify and surround the Government, just for their close interests to struggle with the enemy” [6, p.227]. In such relationship, the law possessed the role of guaranteeing the ethical values to be implemented, considering its nature, the law was the normative standard and forced the people to comply with, both the law and the ethics was important and inseparable; Ho Chi Minh said, “the morality is the root, law is the standard. The morality stays, the nation will be preserved. In case, a country applying the law without morality, the people will disregard the law” [8, p.64]. The morality in Ho Chi Minh Ideology does not only focus on individual morality but also the revolutionary morality and the community-social ethics. These ethical values targets the humanity of the entire community and society. Thus, according to Ho Chi Minh Ideology, the relationship between the ethics and the law in social management is a dialectic relationship, “the ethics and the law are unified. Such unification does not always remain the status. No matter how it changes, along with the transformation of all of things, etc., the root remains. It is called the humanism nature of the ethics and the law. Mastering such constant core, President Ho Chi Minh uses it to respond all changes of society, both domestic and international changes. That constant is named Humanity” [4, p.327-388].

Observing from the principle of guaranteeing the unification between the law and the ethics in social management, President Ho Chi Minh affirmed the demand to enhance the strictness of the law while improving the education of revolutionary morality. Mentioning the practice of law, President Ho Chi Minh has always been regarded as the great legislator and the legal executor.

The unification between the ethics and the law in Ho Chi Minh Ideology was also reflected in the method to resolve the illegal acts. Starting from the viewpoint of human nature that could be good or evil, largely affected by the surrounding environment where education played the most important role. According to President Ho Chi Minh, every individual has a good side or bad side; it is required to strictly comply with the applicable law to adjust the bad behavior, whilst improving the propaganda of revolutionary morality, to encourage the good side of the people at a higher level. All ethics and laws directed people towards the values of truth, beauty, goodness. Ho Chi Minh's perspective of “the rationality, the affection” shown that his perspective was a combination of objectivity, fairness, and transparency but also needs tolerance and generosity without shielding. This is because of the uniqueness created a typical value in the history of the legislation and constitution of our country so far in the cause of constructing a socialist republic law-governed state, it is still kept the profound theoretical and practical meanings.

#### ***4. Mechanism of assignment, coordination, and control - great value in the organization of state apparatus by Ho Chi Minh***

Decentralization was one of the primary theories, remarking an important significance in the world politics in general and setting up the state apparatus of the law-governed state in particular. The theory of decentralization was reviewed as a significant milestone of the transition from “barbarous” to “civilized” use of power. The establishment and development of the theory is attached with the process when human being struggled for the equality, freedom and social progress,

towards the enhancement of the fundamental relations between the power-and-the law, the individuals-and-the community, the people-and-the state, guaranteeing the highest efficiency of the exercise of state power. Thereupon, decentralization was considered an indispensable element of a democratic law-governed state.

Regarding Ho Chi Minh Ideology of the law-governed state, the establishment and division of state power always relies on the following principles: all the state power is of the people; the people have the right to control the state agencies' activities. Ho Chi Minh's perspective on the state power assignment is not the decentralization, actually it mentions about the assignment, coordination and mutual control among the organizations of state apparatus. Fundamentally, the ideology of organizing the power in the law-governed state is expressed as follows:

*Firstly*, all the state power is of the people, the supreme power in the state is elected by the people through the General Election with universal suffrage. This important principle was affirmed by President Ho Chi Minh as an urgent duty of our country immediately in the first conference on the date of September 3, 1945 of the Provisional National Government; Ho Chi Minh said, "The Government should organize the General Election with universal suffrage as soon as possible. All Vietnamese eighteen-year-old citizens, without restriction due to genders (male and female), social status, education level, or wealth, religion, race, etc." [6, p.8]. All at once, along with the assertion of the demand to carry out the General Election, Ho Chi Minh said that it was required to construct a democratic constitution as the constitution was the highest expression, the highest centralization of the state power belongs to the people. In the practice of Vietnamese revolution, the birth of the Constitution by 1946 included the great role of Ho Chi Minh and the Constitution by 1946 clearly manifested Ho Chi Minh Ideology of the concentration of state power. Pursuant to Article 1 of the Constitution by 1946, "Vietnam is a Democratic Republic of Vietnam, all the state power belongs to the People of Vietnam, regardless of race, gender, wealth, class, religion, etc." [3]

*Secondly*, the state power in the law-governed state must be assigned and controlled.

When mentioning the power assignment among organizations and agencies in the state apparatus, it is required to emphasize on the primary principle that state power belongs to the people. The article was stipulated in Article 1, Article 31 of the Constitution by 1946, "The people have the right to vote on the Constitution and matters relating to national destiny" [3]; Articles 32 and Article 70 stipulated, "Any alternations that are approved by the Parliament must be brought to the entire people to make a final decision" [3]. These regulations show that the people are the subjects deciding the design, organization and mechanism determination of controlling the state power. These regulations contribute to limiting and controlling the misfeasance by officials and agencies in the state apparatus. With regard to the assignment and coordination among the state authorities, Article 22 of the Constitution by 1946 stated, "the People's Parliament is the most powerful authority of the Democratic Republic of Vietnam". [3]; Article 43 stated, "The highest administrative authority is the State of the Democratic Republic of Vietnam" [3]; Article 63 clearly states, "The court is the judicial authority of the Democratic Republic of Vietnam" [3].

One can say that, the state of the Democratic Republic of Vietnam from the very first days of its establishment has shown it with the nature and virtues of a progressive democratic state. The decentralization of the state apparatus under Ho Chi Minh Ideology does not imply that these institutions operate independently and separately since this perspective shows that these are just different function branches in the state apparatus, while being a simple technical division on the basis of all state power gathered by the hands of the people in accordance with the Constitution. The decentralization of the state power under Ho Chi Minh Ideology was not an inflexible division; this division must empower the rights and responsibilities of the state apparatus clearly.

Nevertheless, the value of Ho Chi Minh Ideology of decentralization still manifested that, though these competent agencies have delineation about specific functions and tasks, such agencies always made mutual coordination and self-examination. Decentralization among the competent agencies of the law-governed state under Ho Chi Minh Ideology is not a division of power mechanically, but the decentralization is to avoid the power overlapping, misfeasance and authority exceeding in the State's agencies, all for the set purposes and guaranteeing the ownership of the people. Ho Chi Minh Ideology on decentralization and practice of establishing and constructing the positions and responsibilities of the competent agencies in the state apparatus terminated the monopoly and authoritarian regime (Before 1945, there was only the feudalism) to opening in a new history of state-tradition development that was called the period of democracy. In the meanwhile, the state decentralization created a specialization and professionalization mechanism for public agencies that contributed to improve the efficiency of the state apparatus.

### III. CONCLUSION

In the study, the author's findings include many different approaches to the content of Ho Chi Minh Ideology of the law-governed state, but in any aspect, the law-governed state under Ho Chi Minh ideology has radical and core characteristics, as follows: the law-governed state is a democratic state, that's of the people, by the people and for the people; The state must be a legal and constitutional state; The state with the rule of law takes great importance to the strict legal enforcement, all at once, constantly educating the people on revolutionary morality.

Up to now, Ho Chi Minh Ideology of the law-governed state has been still valid, these values are drawn on the foundation of Ho Chi Minh thesis on the law-governed state that the Heirs filtered to develop properly in accordance with the practical conditions for Vietnamese revolution. These values are considered as principals in the practice and completion of the rule of law in Vietnam, which can be summarized into the following fundamental values: The ideology of the position and role of the law and constructing a democratic law-governed state; the ideology of asserting and establishing citizenship; the ideology of legal humanism and the establishment of assignment regime, coordination and control among agencies in the state apparatus. All of these factors play an important role in the establishment of a new Vietnamese democracy, which is particularly the course of constructing and completing the socialist law-governed state in accordance with Ho Chi Minh Ideology.

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- [9] The article is the result of a research sponsored by Thai Nguyen University of Technology.