



**ROUSSEAU AND HO CHI MINH'S VIEWS
ON THE CONSTITUTIONAL AND LAWFUL STATE –
FROM THEORY TO PRACTICE IN VIETNAM**

**Nguyễn Trung Hiếu¹,
Nguyễn Anh Thường²ⁱ**

¹Lecturer,
Hong Bang International University,
Vietnam

PhD Candidate,
University of Social Sciences and Humanities,
Ho Chi Minh City,
Vietnam

²PhD and Lecturer,
University of Social Sciences and Humanities,
Ho Chi Minh City,
Vietnam

Abstract:

Inheriting the humanistic and revolutionary spirit of the French Enlightenment, especially from Rousseau, in the twentieth century, President Ho Chi Minh, on the foundation of Marxism-Leninism, solved the problem of the liberated nation, human rights, and civil rights with realistic social revolutions, contributing to the common progress of humanity according to the ideals of freedom and equality for all people and peoples. The socialist state of Vietnam, from the first days of its founding, has been a constitutional and legal state in accordance with all principles of a legitimate state. Thanks to its legitimacy, the Vietnamese state had gained the strength and legitimacy needed in the struggle to protect national independence from hostile forces. Facing the requirements of socio-political reality, Vietnam, on the theoretical basis of Ho Chi Minh's thoughts, has made efforts to consolidate and perfect the state to ensure civil and human rights in the country, contributing to promoting peace, cooperation, and progress of the world. Researching a variety of thoughts from Rousseau's views on the legal and constitutional state to Ho Chi Minh's thoughts and drawing out the core values and orientations for building the administrative system in Vietnam today is the purpose of the article.

Keywords: Rousseau, Ho Chi Minh, Vietnamese lawful state

ⁱ Correspondence: email trunghieutr252@gmail.com, hieu93hieu123@gmail.com

1. Introduction

The history of the Vietnamese nation was wrought with many difficulties due to its continuous fight against foreign invaders. As a consequence, citizens' lives were miserable. The greatest aspiration of the Vietnamese people is peace, independence, and cooperation with the world to develop and improve their lives. However, because of political conflicts, Vietnam was placed under embargo by the US and the West from the end of the Vietnam-US War in 1975 to 1995. After the embargo was lifted, Vietnam's economy is still slow to develop because it has not received much support from international friends. There are still doubts and reservations about Vietnam's politics. However, as soon as the Democratic Republic of Vietnam was founded by Ho Chi Minh, the Vietnamese state became a constitutional state, not inferior to any other legitimate constitutional state in the world. The government of the Democratic Republic of Vietnam is a government that adheres to all legitimate principles of the world: formed through elections of the whole people, performing state management according to its constitution and laws, state power belongs to the people, ensuring the rights and interests of the people, etc. Thanks to its constitutionality and legality, the Democratic Republic of Vietnam has sufficient legal grounds and strength to resist interference from other countries, laying the premise for the victory of the national liberation revolution and national reunification. The political reality of nearly 30 years of economic integration has shown that Vietnamese politics is a stable, sustainable politics suitable for long-term investment plans. Vietnam's prestige and position in the international arena are increasingly enhanced. Today, in order to meet the requirements of integration and development, the Vietnamese State needs to build and develop the legal values of Vietnam with the legal culture of countries and other ethnicities. These are objectively inevitable matters. Recognizing that requirement, Vietnam's leaders sought to promote and perfect a constitutional and legitimate state based on the Marxist-Leninist stance, Ho Chi Minh's thought, and the ideological quintessence of the Enlightenment scholars, most notably Rousseau. On the basis of studying the views of Rousseau and Ho Chi Minh on the constitutional, legal state and its practical relation to Vietnam, the author of this research paper seeks to contribute to bringing an assessment of the constitutionality and legality of Vietnam from the Ho Chi Minh era to the present in comparison with the progressive views of the West. Thereby improving the understanding of the current Vietnamese government, and promoting international cooperation between Vietnam and friendly countries for the goal of peace, self-reliance, and prosperity.

2. Literature Review

The research is based on a number of documents related to Rousseau and Ho Chi Minh on a constitutional and legal state as well as documents on building a rule of law state in Vietnam today.

The work *Rousseau's Law and the Sovereignty of the People* by author Ethan Putterman, Cambridge University Press, 2010. The content of the work shows that according to J. J. Rousseau, law and freedom have a dialectical relationship, but this is not the case. Where there is law, there is freedom. Law is a means to help achieve freedom, but true freedom lies in the political consciousness of individuals and communities: "*Freedom in the work Social Contract is not achieved by law...but rather relies on whether or not it is possible for the public to make that community politically free from the preference for dictatorship of its members*". Based on the analysis of the relationship between law and freedom, the author continues to analyze the issue of popular sovereignty in the thought of J. J. Rousseau. Accordingly, sovereignty belongs to the people expressed through legislative activities, power directly belongs to the people is the basic thesis of J. J. Rousseau.

The work *Rousseau - A Free Community of Equals* by author Joshua Cohen, Oxford University Press, 2010. The work delves into J. J. Rousseau's idea of a free and equal social order - the core of the rule of law ideology by J. J. Rousseau. Chapter 1 examines the issue of "freedom", "chains" and social order based on the common will. In chapters 2 and 3, the author discusses basic problems and its solution: the first problem - the content problem. In chapter 4, the author presents the concept of human nature and natural goodness. In chapter 5, the author discusses the issue of political reality and the possibility of building a constitutional order on the basis of human nature. The author explores more specific proposals, including democratic rule-making, community participation, and the rule of law, on how to institutionalize the common will in ways that suggest issues in political practice.

Ho Chi Minh's thoughts textbook of the Ministry of Education and Training of Vietnam, published in 2018. The book is divided into 6 chapters. In addition to the opening chapter, the remaining 5 chapters discuss 5 core concerns of Ho Chi Minh's thoughts, which contain the content of Ho Chi Minh's thoughts on the state of the people, by the people, and for the people. According to the work, Ho Chi Minh's ideology has always been consistent in affirming that since the Democratic Republic of Vietnam was established, state power belongs to the people. The government is elected by the people and built by the people. The powers of the state are entrusted to the people. Ministries at all levels, even Ho Chi Minh, are servants of the people. State activities as well as social life must comply with the Constitution and laws. The leadership of the ruling Party must also be placed under the Constitution and laws. There will never be a case of the Party leading subjectively, regardless of the Constitution and the law. Ho Chi Minh emphasized the content of building a clean, effective state to truly be a tool to serve the people. The requirements for building a rule-of-law state in Vietnam according to Ho Chi Minh's ideology remain valid today for the Party and State of Vietnam to use as a principle of operation and building political life.

The work *Contributions to The Study of The Constitution and The Rule of Law State* by author Bui Ngoc Son, 2005, Hanoi Legal Publishing House. The work analyzes modern rule of law ideas through famous delegates such as J. Locke, Ch. Montesquieu, J.

J. Rousseau as the theoretical foundations of the Constitution, thereby determining the basic principles in building the Constitution of a modern law-governed state. A modern Constitution must be built on the basis of a "Social Contract", where the contract is not completely explained from the social contract plan of modern rule of law thinkers but simply is the common agreement of all citizens in building the Constitution. The work analyzes Ho Chi Minh's rule of law ideology through the legislative process in Vietnam after the successful August Revolution of 1945. Ho Chi Minh was very interested in legislative issues, organizing state power, and building the National Assembly, Government, and Courts throughout the entire career of building a rule-of-law state of the people, by the people, and for the people. Finally, the work analyzes a number of issues about the Vietnamese state apparatus, specifically: the National Assembly; Government; and Courts in the context of building a rule-of-law state.

The work *Modern Western Rule of Law Thoughts with The Building of A Socialist Rule of Law State in Vietnam Today* by author Nguyen Hung Vuong, 2015, Da Nang Publishing House outlines the basic contents of The concept of the rule of law; Basic contents of modern Western rule of law ideology; Applying modern Western rule of law ideology to build a rule of law state in Vietnam today. Writing about J. J. Rousseau's philosophical ideology of the rule of law, the author presents J. J. Rousseau's ideology on three issues: the origin and role of the state, natural human rights, and how to divide power. government. Regarding the issue of state power organization, the author evaluates J. J. Rousseau's views as unique because they are different from other philosophers: "*Following Montesquieu, Rousseau with his work "The Social Contract" has offered very new and progressive perspectives on the division of power in the organization and operation of the state apparatus*". The greatest significance of the work is to suggest research on the application of J. J. Rousseau's rule of law ideology in building a socialist rule of law state in Vietnam.

3. Material and Methods

The results of this article are drawn based on analysis, comparison, and evaluation of documents then compared with the practice of political life in Vietnam. In the research process, the author used a dialectical materialist worldview and materialist dialectics to conduct his research, particularly adhering to some principles:

First, the principle of objectivity. The results of the research honestly reflect Rousseau's theory on democracy and the reality of political life in Vietnam, comparing and contrasting scientifically, up-to-date, and in the spirit of respect for history.

Second, the principles of comprehensiveness and historical perspective. The research analyzed Rousseau's theory of democracy in relation to other issues such as freedom, equality, state, law, and more while relating to democracy in Vietnam. The author has closely followed social, political, and historical conditions in Vietnam with its specificities, thereby drawing general, correct, and accurate judgments.

At the same time, the research works also use methods such as analysis and synthesis, interpretation and induction, comparison, contrast, history and logic, systematic approach, etc.

4. Results and Discussion

4.1 Rousseau's views on the constitutional, legitimate, and historically valid state

4.1.1 A constitutional and legal state is an elected state with state power belonging to the people

From Rousseau's writings, it can be seen that his main concern was the relationship between a legitimate state and an order in which the highest power belonged to the people. In that relationship, supreme power belonging to the people is an important feature that defines a legitimate political institution. Agreeing with J. Locke, J. J. Rousseau said that the government is an "*intermediary body between subjects and the supreme authority so that the two parties can correspond with each other, enforce laws, preserve civil liberties as well as political freedoms*"ⁱⁱ which is established from the supreme power of the people. Therefore, a legitimate state derives its power from the power of the people, and the people have full power to limit, change, or revoke this power.

J. J. Rousseau distinguished the three basic types of government and asserted that only elected forms of government are legal. First, if there is someone who excels in power, virtue, and wealth, that individual becomes the sole praetor, and all other officials of the state obey their personal orders, then it is a monarchy. This is a regime that continues to maintain social inequality at a very high level. If a number of individuals, almost equal in prominence, stand above the rest, inequalities are narrowed, and they are elected to run the government then the state is a form of aristocratic polity. Finally, when there are fewer inequalities, fewer property or interpersonal talents inequality, and the majority of the population runs the government, a democracy is formed. In aristocratic government, Rousseau asserted that the form of elective aristocracy was superior to the two forms of natural aristocracy and hereditary aristocracy, for at least it could be hoped that the chosen individuals would rule wisely. According to Rousseau, state power lies only in a specially designated individual based on hereditary is completely "irrational." He wrote: "*There will be no more chiefs or laws, but only tyrants. From that point on there will be no question of virtue or morality; Because authoritarianism wherever it prevails will admit no other master.*"ⁱⁱⁱ

Thus, completely opposed to the absolute monarchy, J. J. Rousseau strongly supported systems that allow election. Rousseau was always worried about the possibility that the state would degenerate into an unacceptable form of totalitarian government. Appropriate checks and balances are required to prevent the government from becoming repressive and authoritarian, or the government from somehow rising above the power of the people. J. Delaney writes: "*Rousseau was always suspicious of*

ⁱⁱRousseau (2020). On The Social Contract (Translated by Hoang Thanh Dam), The gioi Publishing, p.134

ⁱⁱⁱRousseau (2008b). Discourse on the Origin of inequality. (Translated by G. Cole). United States: Barnes & Noble, Inc, p. 81

executive power, even in a political system where legislative power belongs to the entire people. For him, to protect freedom and community sovereignty there must always be vigilance; or in other words, a sharp eye for abuses of power."^{iv} J. J. Rousseau asserted that, in a legitimate institution, those to whom executive power was vested were not the masters of the people but only their executors; the people could elevate them and remove them from office. For them, there is no "contract" but obedience, and when taking on responsibilities given to them by the people, they do nothing but fulfill their civic duties without the right to dispute the conditions to which they are subject. More importantly, the will of the government depends on the will of the people and does not absolutely represent the will of the people. There are important differences between the two words "depend" and "represent". When it is said that the government represents the people's will, all actions of the government are the will of the people. It could be construed that if the people resist, they are against themselves. When we say that the government depends on the people's will, it means that what the government declares and acts are not necessarily legal, and the people can consider and reject.

Rousseau emphasized: *"Even though the government can carry out domestic policies as it pleases, it still cannot speak to the people in the name of the supreme authority; That is, the government cannot act in the name of the entire people. Please don't forget this."*^v This means the people need to constantly monitor government actions, be vigilant, and be able to resist actions that go against the common will. In fact, the private will of the government always tends to be contrary to the supreme power of the people. The more that trend increases, the more the country declines. In order to prevent the usurpation of power by the executive branch of the government, in addition to periodic meetings to establish the constitution or form the government, the people may hold special meetings in which the people can decide two things: first, whether the people want to dissolve the current government; secondly, would the people be happy to hand over the right to rule to those who presently hold it. That is to say, there is no law or power that cannot be revoked if the people gather together. Here, J. J. Rousseau is more decisive than J. Locke in clearly delineating the position between the "Lord" of the People and the "Executor" – the government. With governments set up with self-appointed power, stifling freedom, pushing the people into the shackles of slavery, and starting an extreme period of injustice, everyone becomes equally powerless against the despot who needs to be eliminated, and the people has full rights and abilities to perform this task.

Through the above ideological content, it can be seen that in Rousseau's conception, the power of the state comes from the people and the implementation of the people's will is the legitimate power, on the contrary, if the state power goes against the will and interests of the people, all are irrational and need to be abolished. Thereby, Rousseau was more decisive than his contemporaries in affirming the autonomy of the collective or the autonomy of the community, ultimately in order to protect the legitimate

^{iv}Delaney (2009). Starting with Rousseau. England: Continuum, p.254

^vRousseau (2020), On The Social Contract (Translated by Hoang Thanh Dam), The gioi Publishing, p.150-151

power of the people. According to author Dinh Ngoc Thach-Doan Chinh, "*The lord or supreme power is not Leviathan with the power of tyranny - the individual, but the people. Political institutions are established by the people and belong to the people*"^{vi}.

4.1.2 The constitutional and legal state is a state governed by a fair legal system with respect for the law

Rousseau asserted that all justice is only created and enforced on the basis of a man-made legal system that regulates the relationship between people in society. In society, there is a need for basic laws, namely a constitution, civil laws to deal with relations in civil society, and criminal laws to prevent and combat violators of social interests. Linking morality to law, J. J. Rousseau showed that law is a double-edged sword as it is the most effective and important tool in establishing social order and human rights, but if the law is not created in the right way, it will become a tool for oppression and injustice. "*The evil will of the rulers can in fact easily render the law ineffective,*" he wrote. "*Laws abused by authorities serve the powerful as a dangerous weapon and as a shield against the weak.*"^{vii}

For the law to always be fair, and not to become an instrument of oppression and enslavement of one class above another, according to Rousseau, the law must be passed directly by the people. That is, the law must come from the "common will". J. J. Rousseau wrote: "*The material for building laws is the common material, just as the will to build is the common will.*"^{viii} The law has always considered all citizens as one body. The law may stipulate some privileges for some cases but never determines which individuals will be entitled to the privileges. The law can also divide citizens into categories but does not specify which category they belong to. The object of law is everything and only towards the common good. The law will "*attach rights and obligations, bringing justice to its subject*".^{ix} On the basis of reflecting the "common will", the law brings about legal equality of human beings. All must only do what the law allows and be equally punished for breaking the law. Under a proper legal system, the object of law is all citizens, without exception, regardless of wealth, rank, and position. The value of the law is to create equality of rights and obligations, so that all citizens participate in the same conditions and benefit from the same rights.

In such roles, the law must always be placed in the highest position, only then will the rule of law be ensured. By obeying the law, every citizen obeys himself, demonstrating the dialectical unity between rights and laws and freedom and obedience. The basis of the unity of laws and rights is the unity between the common will and the freedom of each person. When considering the relationship between law and politics, Rousseau argued that wherever the law rules, that is, the common good rules, there is

^{vi}Dinh Ngoc Thach – Doan Chinh (2018). *The History of Western Philosophy – Volume 1*. Truth National Political Publishing House, p.869

^{vii}Rousseau (2008b). *Discourse on the Origin of inequality*. (Translated by G. Cole). United States: Barnes & Noble, Inc, p. 112

^{viii}Rousseau (2020). *On The Social Contract* (Translated by Hoang Thanh Dam), The gioi Publishing, p. 104

^{ix}Rousseau (2020). *On The Social Contract* (Translated by Hoang Thanh Dam), The gioi Publishing, p. 102

the Republic, and of course, this is the most legitimate polity. If the law rules, no citizen can be outside the law's control. Citizens who have done well for their country, he wrote, should be rewarded with honors but never with privileges: "*for the Republic is on the brink of collapse when anyone thinks it is okay to disobey obey the law*"^x.

4.1.3 The constitutional and legal state must ensure basic human rights such as freedom, equality, and property rights

A legal order is where the law always has the ultimate position, that is, all issues of social and political life must be under the general control of the law. However, the dominance of the law is not enough to affirm the legitimate nature of the state. According to Rousseau, the law is only fair and valuable in building a legitimate and sustainable political regime when the object of the law is to protect and promote human rights, the most basic of which are freedom, private property rights, and social equality. In *On Social Contract*, Rousseau asserted that human beings are born free and equal. A legitimate state is one created to protect and promote this good human nature. In this work, he critiques illegally erected political institutions and legal systems. J. J. Rousseau's basic thesis was that "*man is born free and owns himself, and no one should use any excuse to force others to depend on him if they do not consent.*"^{xi}

Through the "Social Contract", J. J. Rousseau formulated a coherent logical argument: when we assert that existing state power is legitimate, we must recognize that it comes from a just social contract, and thus recognize that all individuals constituting society must be equal politically and socially. On the contrary, any institution that establishes social inequalities between people and protects them by law, both those institutions and laws are "illegal" and "immoral". To a certain extent, if they need to be eliminated by social means then it must be done. All citizens have equal rights to comment on every decision of the supreme power. When the people gather to exercise supreme power, "*the character of every lowest citizen is as sacred, as sacrosanct as that of the high praetor.*"^{xii} Thus, while acting as ordinary citizens and in a position of exercising supremacy all citizens have equal power and virtue, J. J. Rousseau emphasized, "*It is the right of the citizen, no one must infringe.*"^{xiii}

On the basis of social equality, civil liberties were rights to which Rousseau expressed the greatest interest. In Rousseau's view, freedom is not for man to judge for himself and arrange things according to rational guidance as in J. Locke's view but rather the behavior that one must conform to a pattern, although this conformity sometimes requires restraint in aspirations, needs that draw the person in opposite directions. Civil liberties are subject to constraints. But this constraint is not imposed by outside, nor is it a law drawn from reason but is dictated by the "common will." Rousseau writes: "*With*

^xRousseau (2008b). *Discourse on the Origin of inequality*. (Translated by G. Cole). United States: Barnes & Noble, Inc, p. 103

^{xi}Rousseau (2020). *On The Social Contract* (Translated by Hoang Thanh Dam), The gioi Publishing, p.209

^{xii}Rousseau (2020). *On The Social Contract* (Translated by Hoang Thanh Dam), The gioi Publishing, p.187

^{xiii}Rousseau (2020). *On The Social Contract* (Translated by Hoang Thanh Dam), The gioi Publishing, p.207

the social contract, man loses his natural freedom and his limited right to do what he wants to do; But on the other hand, man gains civil liberties and the right to own what he has. It is necessary to distinguish between natural freedom, which is limited to the capacity of one individual, from civil liberties, which are broadly limited to the common will of many."^{xiv}

While asserting that private property is the source of social inequality, on the other hand, J. J. Rousseau argues that private property is the foundation of society. The right to private property in J. J. Rousseau's thought is a particularly important right, the foundation of all social constraints, and therefore it is necessary to be protected as a sacred, inalienable right. By social contract, a person's right to private property is not only respected but also protected by all its members and the state with its existing power against infringement by outsiders. One of the most important functions of government, therefore, is to prevent inequality of private property, not by depriving people of wealth from their possessors but by making it impossible to rely on nefarious means to accumulate wealth but by genuine labor; *"Not by building hospitals for the poor, but by making sure citizens don't fall into poverty"*.^{xv}

J. J. Rousseau's idea of a constitutional and legal state was actually aimed at protecting human freedom, promoting social equality, and containing high human values in the Enlightenment. He denounced the autocratic monarchy along with the church in eighteenth-century France. Not only criticized the existing institution, but he also expressed his indignation and vehemently criticized many doctrines that justify the origin and foundation of that irrational political regime, in order to put on the neck of the people the yoke of oppression that seems "natural", "right", strengthen privilege, etc. privileges for the ruling class. In addition, J. J. Rousseau's view of the constitutional and legitimate state was the theory that directly led to the French Revolution, building the rule of law for modern legitimate politics. J. J. Rousseau's study of the constitutional, legal, state can be seen that he certainly had a great role to play in the French Enlightenment as a rule-of-law thinker who fought for a new social order where the authority of the law replaced the authority of the gods, freedom and equality instead of enslavement and caste discrimination. With such great ideological values, in the eighteenth century, J. J. Rousseau gave the French bourgeois revolutionaries one of the most radical theories of the rule of law and universal sovereignty, including the claim that all men are created equal, that legitimate political power comes from the consent of the people, placed under the administration of the law. What J. J. Rousseau spoke out against the contemporary feudal order reflects the aspirations of the masses of the people, especially the lower classes of society. Rousseau's thought made the majority of the masses gradually realize that they were not obliged to submit to the rule of a king in the name of the gods and then be suffocated of their freedoms, living in a state of inequality, material, and spiritual life falling into a stalemate and misery. They can all stand up to change the social order in which they live, building a new society that is more reasonable.

^{xiv}Rousseau (2020). *On The Social Contract* (Translated by Hoang Thanh Dam), The gioi Publishing, p.79

^{xv}Rousseau (2008b). *Discourse on the Origin of inequality*. (Translated by G. Cole). United States: Barnes & Noble, Inc, p. 112

W. Durant wrote: *"Whereas the philosophers, having attached themselves to the status quo, called only for the gradual reform of individual diseases, Rousseau attacked the whole economic, social, and political order so thoroughly that there could be no other remedy but revolution."*^{xvi}

The French bourgeois revolution broke out not long after J. J. Rousseau's death, the monarchy was overthrown, and in the subsequent revolutionary stages, France transformed into a Republic, it was time for the revolutionaries to think about the basic principles on which to base the new society, the language and spirit they chose were very similar to the passages in *On the Social Contract*: *"The law is the expression of the will of the community; every citizen has the right to consent, individually or on their behalf, in the making of the law; the law must be equal to all, whether it protects or punishes"*. If the French Revolution is divided into two stages: the first is the revolt of the bourgeoisie against the aristocracy; the second is the revolt of the masses of the lower classes in society, then J. J. Rousseau is the spiritual source of both: anti-feudalism and the construction of the rule of law to express people's sovereignty.

4.2 Ho Chi Minh's views on the constitutional and legal state – from theory to practice of Vietnam

Rousseau's ideas about the constitutional and legal state not only had value for French history but also had an influence on the legal and political life of the modern world. In Vietnam, in the nineteenth century, influenced by the thought currents of the French Enlightenment, patriotic patriots initiated many ways of national liberation in the direction of bourgeois democracy, but all failed. Ho Chi Minh overcomes the limitations in the thought of predecessors such as Phan Chu Trinh and Phan Boi Chau to chart a new path to save the country. By combining the revolutionary spirit of the French Enlightenment with the proletarian revolutionary stance of Marxism-Leninism, Ho Chi Minh successfully led the cause of national liberation from French colonial rule and slavery. On September 2, 1945, after the successful August Revolution, President Ho Chi Minh read the Declaration of Independence that gave birth to the Democratic Republic of Vietnam, affirming the birth of the first constitutional and legal state in the history of the Vietnamese nation. In that great Declaration, Ho Chi Minh cited the idea of freedom and equality in the French Declaration of Human and Civil Rights. It can be seen that From Rousseau to Ho Chi Minh is the process of succession and development, going from theory to revolutionary reality. Both thinkers fought for a political life that better served man and for man.

4.2.1 Ho Chi Minh affirmed that building a constitutional and legal state in Vietnam is an inevitable part of the history of the Vietnamese nation

The Vietnamese nation maintained a feudal regime for thousands of years until the French colonialists invaded and dominated, turning Vietnam into a semi-feudal colony. Thus, from the time when Vietnam was formed until before Ho Chi Minh created the

^{xvi}Durant, W. & Durant, A. (2015). Jean Jacques Rousseau. (Translated by Bui Xuan Linh). VNUHCM Press, p.222

Democratic Republic of Vietnam, the vast majority of Vietnamese people were farmers, they lived in a situation of severe oppression and exploitation by the feudal landowners and colonial invaders. Therefore, the thousand-year-old aspiration of the majority of Vietnamese people is that the country be liberated, live a free and equal life, and master its political life. Infused with the expectations of the masses, President Ho Chi Minh led the revolutionary movement to national liberation to victory. Immediately after the country's independence, he affirmed that he must build a constitutional and legal state to exercise the right to mastery for the Vietnamese people.

Ho Chi Minh wrote: *"Before us, we were ruled by an absolute monarchy, then by an equally absolute colonial regime, so our country has no Constitution. The people do not enjoy democratic freedom... I request the Government to organize as soon as possible or the General Election with the first universal suffrage. All eighteen-year-old male and female citizens have the right to stand for election and vote, regardless of wealth, religion, and race"*. Thus, President Ho Chi Minh clearly recognized that human rights can only be guaranteed in a state with a Constitution and laws, the state government is operated on the basis of the Constitution and laws. Therefore, it can be seen that, according to Ho Chi Minh, the construction of a constitutional and legal state in Vietnam is an inevitable requirement of history, he considers a constitutional and legal state to be the best condition to build a free and happy life for the people; Moreover, a constitutional and legal state is also a prerequisite for the Vietnamese people to be able to protect the Fatherland against invading plots. It can be explained that, after Vietnam expelled the Japanese fascists, if the country gained independence but did not have a unified and legitimate government, it would not be possible to gather the will and strength of the entire Vietnamese people to resist the French and allied aggression. The reality of the Vietnamese revolution has shown that thanks to the presence of a legitimate Vietnamese state after the revolution, Vietnam's struggle to protect the Fatherland was won by the Dien Bien Phu war in 1954. The decisive factor in that victory was the unifying power of the Vietnamese people in the face of an enemy force that was many times stronger in terms of force, material, and financial resources.

4.2.2 Ho Chi Minh's concept of the constitutional and legal state being a democratic state, a state of the people, by the people, for the people

Ho Chi Minh defined the democratic nature of the State of Vietnam as follows: *"Our country is a democratic country. All benefits are for the people. How many equal rights of the people... The government from the commune to the central government is elected by the people. Unions from the Central to the commune are organized by the people. In short, power and force are in the people."*^{xvii} In Ho Chi Minh's thought on the new type of state, the rule of law and the people are the supreme and only subjects of state power. All state power comes from the people. Article 1 of the 1946 Constitution drafted by the Head of the Drafting Committee affirmed: *"Vietnam is a democratic republic, all military rights in the country belong*

^{xvii}Ho Chi Minh Complete Collection, Volume 6 (1995), National Political Publishing House of Vietnam, p. 232

to the entire Vietnamese people. Regardless of race, gender, wealth, class, religion"^{xviii}. The state apparatus is selected, elected, and authorized by the people to implement the will and aspirations of the people. Therefore, unlike the feudal regime where the King is the master, which is now a democracy and the state of the people, the people are the master, the contingent of state officials and civil servants cannot be revolutionary officials, but the public servants of the people. Ho Chi Minh pointed out: "*We understand that the Government agencies from the whole country to the villages are the servants of the people, that is, to bear the common work for the people, not to oppress the people as in the period under the rule of France and Japan.*"^{xix} The people enjoy all democratic rights, have the right to do anything that the law does not prohibit, and are obliged to obey the law.

While affirming the subjective role of the people to the State, Ho Chi Minh also always considered a decisive thing: "*How can people enjoy democratic rights, know how to use their democratic rights, dare to speak and dare to do*"^{xx}. He pointed out that the State must seek to form democratic institutions to exercise the people's mastery and the State cadres and employees must wholeheartedly serve the people with the spirit of need, thrift, integrity, integrity, and impartial merit, "*What is beneficial for the people, We have to do our best. Anything that harms the people, we must do our best to avoid.*"^{xxi} In order to ensure the legitimacy of the government in receiving the people's authorization, to make our State truly the State of the people, from the very first days of independence, in the urgent tasks of the State, Ho Chi Minh paid special attention to organizing the General Elections so that the people could directly elect worthy representatives to shoulder the burden of water on their behalf. According to him: "*General elections are an occasion for the entire nation to freely choose talented and virtuous people to carry out the affairs of the country... General elections are free and equal; this means democracy and solidarity.*"^{xxii} Important things that the State must put forward to collect people's opinions. Article 32 of the 1946 Constitution states: "*Matters concerning the destiny of the nation shall be subject to the people's decision.*" In fact, this is the way of "referendum", a form of direct democracy of the modern rule of law that was realized and proposed by Ho Chi Minh quite early in our country.

In Ho Chi Minh's thought, a state of the people must consult the people on important tasks and subject itself to the inspection, supervision, and disposition of the people. The people have the right to dismiss members of the National Assembly and

^{xviii}The Constitution of Vietnam through the periods 1946, 1959, 1980 and 1992 (1995). National Political Publishing House of Vietnam, p. 8.

^{xix}Ho Chi Minh Complete Collection, Volume 4 (1995), National Political Publishing House of Vietnam, p. 56

^{xx}Ho Chi Minh Complete Collection, Volume 12 (1995), National Political Publishing House of Vietnam, p. 223

^{xxi}Ho Chi Minh Complete Collection, Volume 4 (1995), National Political Publishing House of Vietnam, p. 56-57

^{xxii}Ho Chi Minh Complete Collection, Volume 4 (1995), National Political Publishing House of Vietnam, p. 133

People's Councils if they prove unworthy of the people's trust. He also wrote: "*If the Government harms the people, the people have the right to expel the Government.*"^{xxiii}

4.2.3 Ho Chi Minh believes that a constitutional and legal state must be a law-abiding state, organized and operating within the framework of the Constitution and law

Through practical contact with European and American civilization and reference to the experience of organization and operation of the State in social management, Ho Chi Minh soon realized the important role of law in social management and administration. In 1919, in the Claim of the Annam people sent to the Varnish Conference, Ho Chi Minh demanded legal reform in Indochina, the abolition of rule by decrees and its replacement by-laws, upholding the role of state management by law in the spirit of "*a hundred things must have the spirit of rule of law*", reflecting Ho Chi Minh's core ideas of a new democratic state, a law-respecting state, and managing society by law.

In the spirit of the "rule of law", the State must be organized and operate in a constitutional and lawful manner, only one day after gaining independence, reading the Declaration of the Creation of the Democratic Republic of Vietnam, Ho Chi Minh set to the Government one of the six urgent tasks that "*we must have a democratic Constitution. I ask the Government to hold as soon as possible general elections with universal suffrage.*"^{xxiv} In a short time, Ho Chi Minh successfully held general elections to elect the National Assembly, and urgently formulated and adopted the 1946 Constitution, laying the foundation for building the rule of law in Vietnam. In the process of directing the formulation of the Constitution and laws, organization and operation of the State, Ho Chi Minh always reminded that our State is the State of the people, our laws are democratic laws, protecting the interests of the people, but must be strict and bring into play practical effect. He pointed out: "*Relentless strengthening of the people's government. Strictly implement democracy with the people, and dictatorship with the enemy. Thoroughly abide by all regimes and laws of the State*"^{xxv}; "*The law must punish unscrupulous people, regardless of their position or profession.*"^{xxvi}

Ho Chi Minh always set an example by encouraging people to criticize and supervise the Government's work, at the same time, reminding officials at all levels and branches, first of all, officials of the executive and judicial branches to be exemplary in observing the law. In his letter to the National Judicial Convention, he wrote: "*You are the ones in charge of law enforcement. Of course, you must uphold the example of "Service, procedure,*

^{xxiii}Ho Chi Minh Complete Collection, Volume 7 (1995), National Political Publishing House of Vietnam, p. 282

^{xxiv}Ho Chi Minh Complete Collection, Volume 4 (1995), National Political Publishing House of Vietnam, p. 8

^{xxv}Ho Chi Minh Complete Collection, Volume 11 (1995), National Political Publishing House of Vietnam, p. 234

^{xxvi}Ho Chi Minh Complete Collection, Volume 6 (1995), National Political Publishing House of Vietnam, p. 127

merit, impartiality", for the people to follow."^{xxvii} The new type of rule of law, by the people, by the people, for the people must be a clean, strong, and effective State. As Head of State, President Ho Chi Minh is always concerned about how to make our State become a new, clean, strong, and effective rule-of-law state, overcoming the inherent diseases of old-style states. Among the many solutions that have been implemented, there are two basic contents that receive special attention from him: Strengthening the law along promoting moral education. In Ho Chi Minh's conception, to build a clean, strong, and effective State, it is necessary to closely combine "rule by virtue" and "rule by law". This is a similar argument in Rousseau's view on the relationship between morality and the rule of law. Along with moral education, Ho Chi Minh was also very determined with violations of the law and severely punished criminals, regardless of their position. On November 27, 1945, President Ho Chi Minh signed a Decree setting penalties for giving and receiving bribes. On January 26, 1946, he signed the "National Order" condemning embezzlement and theft of public property to the death penalty. In response to a question from the National Assembly in 1946, he said: *"The government tries its best to set an example. If it fails to set an example, it will use the law to punish bribers. It has punished, is punishing, and will punish." cure until the end*". President Ho Chi Minh rejected the application for amnesty to reduce the death sentence of many particularly serious criminals, even though they were high-ranking officials of the Party and State. In exercising his powers and responsibilities as President, Ho Chi Minh did not cover up or tolerate anyone's mistakes, shortcomings, or violations of the law, but at the same time still used his power and prestige to sensitize those who have made mistakes, pull them towards the revolution, and educate those with flaws so that they avoid breaking the law.

Very early on, President Ho Chi Minh pointed out three types of "internal enemies", dangerous diseases hidden in the state apparatus that we must always be on guard against and resolutely fight against. otherwise, it will lead to an unpredictable risk of recession and collapse. He said: *"Embezzlement, waste, and bureaucracy, whether intentional or not, are also allies of colonialism and feudalism... It damages the pure spirit and austere will of our cadres. It destroys our revolutionary ethics of diligence, frugality, integrity, and righteousness. That crime is as serious as the crime of Vietnamese traitors and spies."*^{xxviii} He pointed out the close relationship between fighting internal enemies and destroying external enemies: *"Fighting against corruption, waste, and bureaucracy is as urgent as fighting enemies on the front... If our soldiers and people try their best to fight foreign invaders and forget to fight internal invaders, then they have not fulfilled their duties."*^{xxix} At the same time, he did not forget to emphasize that this was a very difficult and complicated struggle, requiring high determination: *"Fighting with the enemy on the front lines with guns and swords is still*

^{xxvii}Ho Chi Minh Complete Collection, Volume 5 (1995), National Political Publishing House of Vietnam, p. 382

^{xxviii}Ho Chi Minh Complete Collection, Volume 6 (1995), National Political Publishing House of Vietnam, p. 490

^{xxix}Ho Chi Minh Complete Collection, Volume 6 (1995), National Political Publishing House of Vietnam, p. 495

easy, but Fighting with the enemy within the body, internally, in the spirit, is difficult and painful... therefore, one must have the determination to fight."^{xxx}

The first state of independent Vietnam was a constitutional and legal state. Currently, on the basis of inheriting the revolutionary ideology of the Enlightenment, including Rousseau, and standing on Ho Chi Minh's ideological stance, Vietnam's socialist rule of law state contains a number of characteristics that are both it is both universal and unique in humanity. Despite these specific features, the Vietnamese state has always been a constitutional state, legal according to the common principles of humanity, contributing greatly to the cause of peace, freedom, and human rights worldwide. We can highlight some outstanding achievements in building a constitutional and legal state over the past 40 years as follows:

First, socialist democracy in Vietnam has developed significantly. The requirements and content of socialist democracy were initially institutionalized into laws, ordinances, and decrees and were seriously implemented. The ability of officials, party members, and people to perceive and practice democracy is increasingly improved. *"The rights of citizens to participate in State and social affairs and make important decisions of the Party and State have been expanded and progressed. The people's level and sovereignty capacity are gradually improved."*^{xxxi} Vietnam has created positive and relatively stable changes in the awareness, methods, working style, and behavior of party members and people toward democracy, gradually overcoming the bureaucratic working style. bureaucracy and authority of officials. Democratic institutions and mechanisms increasingly ensure that state power belongs to the people, the political activism of citizens is increasing, the democratic atmosphere is increasingly spreading, interest and political participation are increasing, and people's participation in state management is increasingly widespread.

Second, the organization and operations of the state apparatus are increasingly perfected, and state operating methods are innovated. The state manages mainly by law, strategy, planning, plans, policies, etc. Up to now, administrative orders that interfere with economic fields have been reduced. The effectiveness and efficiency of state management have been improved, increasingly meeting the requirements of the reform process, developing a socialist-oriented market economy, industrialization, modernization, and integration.

Third, the legal system has been amended, supplemented, and continuously improved. During nearly 40 years of innovation, under the leadership of the Communist Party of Vietnam, the process of researching, building, and perfecting the legal and judicial system in Vietnam has achieved much progress. The process of promulgating legal documents is constantly being innovated. Many new laws, statutes, and ordinances have been promulgated promptly, creating an increasingly complete legal framework for the state to manage society by law in the fields of economy, society, security, national

^{xxx}Ho Chi Minh Complete Collection, Volume 7 (1995), National Political Publishing House of Vietnam, p.36

^{xxxi}Communist Party of Vietnam (2010), Summary of 20 years of implementing national construction during the transitional period to socialism, National Political Publishing House of Vietnam, p.128

defense, foreign affairs, etc. This ensures the promotion of democracy, promoting the development of a socialist-oriented market economy, and proactive international integration.

However, in addition to the achievements, the rule of law in Vietnam needs to be continuously supplemented and perfected to well perform state management functions and promote the country's international economic integration process. Vietnam. Based on the study of Rousseau's ideology of a constitutional and legal state, the author finds that it is necessary to pay attention to the following issues in perfecting the rule of law in Vietnam in the current context.

The first issue: continuing to improve the organization and control of state power so that the state truly belongs to the people. Besides Rousseau's radical theory, revolutionary practice in Vietnam shows that the people's right to mastery comes from the people's historical role and mission in the work of national liberation. In some forms of state, the power of the people only exists legally, and that right, as J. J. Rousseau emphasized: is the right that the people have to choose representatives in parliament to replace the old ones. continue to own the state, then the people will never truly be the masters. Therefore, the people's right to mastery in the Vietnamese socialist rule-of-law state needs to absorb and develop Rousseau's following extremely revolutionary thesis: ensuring unified state power belongs to the people.

The Constitution of Vietnam affirms that the National Assembly is the highest representative body of the people and the highest state authority of the Socialist Republic of Vietnam. The National Assembly is the only body with constitutional and constitutional rights. legislating, deciding on important issues of the country, and supreme supervision of all State activities; Therefore, to ensure that state power belongs to the people, it is necessary to build a strong National Assembly with expertise, fully implementing tasks and powers according to the law. Ensuring the supreme power of the National Assembly in constitutional and legislative activities is to demonstrate the people's mastery. In addition, it is necessary to effectively exercise the right to directly participate in the election of National Assembly Deputies according to the principles of universality and equality by secret ballot. Collecting people's opinions on law projects must also become a mandatory regulation in the law-making process, creating the most favorable conditions for people to directly contribute opinions on law-making. This is not only an important condition for the law to truly be of the people, by the people, and for the people, but also a prerequisite to affirm the constitutionality and legality of the Vietnamese state. National Assembly deputies must be subject to people's supervision and have their activities evaluated by the people through many different forms such as through the mass media, through meetings with voters, and through communications. Through our professional activities at agencies and units, we create conditions to collect opinions from all classes of people, especially on important issues related to the destiny of the country, to ensure that the Association is truly an agency representing the people's interests, reflecting the voice and will of the people. The Vietnamese Constitution stipulates that the people have the right to vote, the right to supervise elected

representatives, and the right to dismiss delegates when they prove unworthy of their position as representatives of the people. However, in reality, there are no legal documents or articles that specifically define the people's supervision and dismissal of their elected representatives. Here, there is a lack of a legal mechanism for the people to exercise their right to mastery through interaction with the National Assembly. Therefore, it is necessary to have a specific mechanism in voter contacts to be able to grasp the thoughts, aspirations, and legitimate interests of the people, and a mechanism to monitor and fire representatives who are not qualified, etc.

However, for people's opinions to contribute to creating correct conclusions for the country's problems, it requires people to have a high level of awareness and enough understanding to contribute opinions and make decisions. determined. Therefore, along with recognizing the people's right to mastery, the state must also promote the people's mastery capacity. A very simple argument: if you want to be the master, you must have power and ability. Having the right to master but not having the ability to exercise that right is also useless. The ability to master is demonstrated in knowledge of the law and democratic consciousness. Reality shows that the Vietnamese people currently do not really have enough capacity to become "kings". It is necessary to improve education and raise people's sense of ownership and ability to take ownership. This is the most important but overlooked factor in the process of building a rule of law state of the people, by the people, and for the people. The state must constantly promote propaganda and education of the sense of ownership among the people, making people understand that their position of ownership not only reflects their rights but also the obligations and responsibilities they must carry out. Only then can the spirit of the entire people be mobilized to build the state, and the work of the state is the work of the people. This requires a long process to achieve results but it must be set as the most urgent task today. If the rule of law is of the people, by the people, and for the people, if the people do not dare to take control or do not know how to take control, it is clear that we will never successfully build a socialist rule of law state.

The second issue: it is necessary to strengthen the legal system and implement the rule of law in social management. A constitutional and legal state must recognize and comply with the rule of law in all aspects of political and social life. Recognizing the supremacy of the law means placing the Constitution and the law in the highest position, "standing" above all institutions and powers in the general architecture of society. Respecting the Constitution and the law is using the law as a tool to "restrain" the power of state agencies, these agencies can only do things prescribed by law. Obeying the law "without exception" means that no one is outside the law and all individuals and organizations are equal before the law. Currently, in Vietnam, the phrase "no restricted areas" is often used, which is also an expression of the spirit of "respect for the Constitution and the law" in law enforcement, ensuring strictness. Respect for the Constitution and the law is shown that each person in society always needs to live and work according to the Constitution and laws, all state agencies, socio-political organizations, as well as all Citizens must place themselves under their constitution and

laws. Furthermore, the rule of law is only fully demonstrated when people comply with the law voluntarily and voluntarily in all cases, not mechanically or forcibly. To create such a spirit of respect for the law, there must be unity between legal knowledge, legal emotions, and legal behavior of each citizen.

However, the effectiveness of the law in Vietnam is currently not high, in many areas, the law lacks rigor and does not meet sustainable legal needs, especially in the economic field in the context of international integration. The spirit of respect for the law, the sense of respect for the law, and the proactive use of the law are still limited, even in some state agencies and state civil servants. Many phenomena of violating the law are not due to lack of understanding, but the main cause is disregard for the law. For example, some localities, for their own benefit, set up arbitrary regulations that hinder law enforcement, while we do not have an effective control mechanism for all activities of these agencies. public officials. On the other hand, due to the perception of a part of people who are not fully and correctly aware of the primacy of law in regulating social relations, they rarely use legal rights or do not voluntarily perform their obligations. law. Vietnam is an Eastern country that often values moral values and customs in regulating behavior and social management rather than being governed by law. The wet rice agricultural production method leads to the formation of local lifestyles, familyism, lineage, lifestyle, and thinking according to the "king's rule before village rules" which is still present in many localities, causing obstacles. the major obstacle to the process of building a rule-of-law state in Vietnam today. Finally, deeply influenced by feudal and colonial cultural habits and old-style state management mechanisms, the reform period of nearly 40 years is not enough for us to completely erase them. thinking of central planning, bureaucracy, and subsidy mechanisms, accumulating experience in law-making, legal conduct, and awareness of the values of law.

In such a situation, in order to increasingly improve the effectiveness of the law and enforce the rule of law, it is necessary to focus on solving a number of issues:

First, build and perfect the legal system, meeting the comprehensiveness, synchronization consistency, and appropriateness of the law. It is necessary to focus on building and perfecting economic laws, with a focus on perfecting socialist-oriented market economic institutions. In the coming time, it is necessary to focus on perfecting the institution of state ownership in the direction of separating the management role of the state and the role of the public owner. Quickly improve enterprise laws to ensure business freedom and foreign investment laws in Vietnam. Improve economic laws in the fields of capital market, labor market, and real estate market. Continue to build and perfect the law on the organization and operation of the state apparatus. Complete the law on the organization and operation of the National Assembly, the Government, judicial agencies, People's Councils, and People's Committees at all levels in the direction of clearly defining the position, functions, tasks, and powers of each agency and unit at each specific level. Develop and improve laws to ensure citizens' rights. To legislate citizens' constitutional rights, first of all, it is necessary to attach importance to perfecting the law on the care and protection of people's health. Improve the law on ethnic and

religious issues, the press and publishing, the supervision rights of elected bodies, and the rights of citizens to directly participate in the supervision and inspection of government activities. agencies, officials, and civil servants.

Second, effectively carry out the work of organizing and implementing the law. Strongly, regularly, and continuously deploy legal propaganda, dissemination, and education. It is necessary to democratize information and create a mechanism to provide complete and accurate legal information to the people. Currently, under the development of information and communication technology, the state must focus on propaganda and education on media channels, and legal documents need to be fully published in the official gazette and other documents. mass media. Carry out propaganda and education in many different forms. Propaganda content must be familiar, easy to understand, and easy to apply in life. Improve the quality of education in schools, especially general education programs so that young people and students will soon be aware of the role of the law and gradually get used to complying with the law. It is necessary to build strong resources for law dissemination and legal education in the new situation. Expand legal consulting and service activities in society. Access to legal issues and using the law to protect one's rights and interests is still very limited in Vietnam, one of the reasons is that there are not many legal support organizations for people. In the context of specific difficulties in education and propaganda work, legal aid activities are even more practical because they meet the pressing needs of the people, diversifying legal and cultural life. resolve problems in all areas of life, especially in the context of global economic integration. The State needs to build effective systems of legal consulting and legal aid organizations to become a support and support for subjects in the process of protecting rights, and interests and implementing legal transactions. International legal translation. In fact, the activities of bar associations, Lawyers' Associations, and professional consulting centers (consulting on marriage, family; real estate; capital; investment; ensuring legal transactions, etc.) activities are still fragmented, inexperienced, and not capable of addressing all requirements of the integration roadmap in all areas.

The third issue: to legalize the leadership activities of the Communist Party of Vietnam to effectively implement the mechanism of Party leadership, State management, People's ownership, and promote socialist democracy. Vietnam's rule-of-law state is a state of the people, by the people, for the people, managing all aspects of social life by law, leading the country to develop in a socialist direction. The Party leads the development of the Constitution and laws, but once the Constitution and laws are in place, the Party must not only respect but also be governed by the Constitution and laws equally as any other political entity. The Party's operation within the framework of the Constitution and law is consistent with the requirements of building a socialist law-governed state. Originating from the Party, the implementation of the principle that the Party operates within the framework of the Constitution and laws not only creates favorable conditions for the Party's activities but also sets higher requirements for the Party. On the one hand, through regulations in legal documents with the highest legal effect, recognizing the leadership role of the Communist Party of Vietnam in the State

and society; Recognize the legal operation of party organizations and party members. From this institutionalization, the activities of party organizations are protected by law, helping the Party legally maintain its ruling position under the consensus of the people. On the other hand, as the only ruling party, with the strict implementation of the principle that the Party operates within the framework of the Constitution and the law, deviations and negative phenomena in the leadership activities of party organizations will be overcome, such as: making excuses, doing things for you, arbitrary, subjective. The Party operating within the framework of the Constitution and laws does not mean lowering the Party's leadership role but is an objective requirement, meeting the requirements of innovation and building a socialist rule-of-law state in Vietnam. , has not only helped build a strong Party but is truly worthy of being the leading force of the State and society. The Party's position and role are regulated in the Constitution and law, ensuring the constitutionality and legality of the Party's leadership role over the State, political, and social systems. All the Party's guidelines and policies must be institutionalized into the Constitution and laws through the constitutional and legislative process, thereby implementing the Party's leadership over society. The Party's organization needs to be consistent with the State's institutions and organizations in the political system prescribed by the Constitution and laws. The Party's content and leadership methods are consistent with the provisions of the Constitution and the law and need to be regulated, institutionalized, and legalized, clearly defining the functions, tasks, and relationships between the Party and the Party. with the State, the front, and people's organizations. Party organizations decide on issues within their scope of authority, but are not allowed to issue resolutions or directives contrary to the Constitution and laws of the State; putting pressure on the proper compliance and implementation of laws and state policies. Party organizations and party members are exemplary in complying with the Constitution and laws. Party organizations, officials, and party members must not only strictly comply, but also be exemplary in complying with State policies and laws. Every party member has the obligation to place themselves under the law and obey the law. Party members assume leadership positions and perform public duties according to the legal responsibility regime. They are not allowed to take advantage of the Party's authority and place themselves above the law to violate the Constitution and the law. Strictly handle according to party discipline and State law those officials and party members who violate the Constitution and laws, no matter what position they hold, without exception.

5. Recommendations

While building and developing the country with the desire for peace, stability, and progress, the Vietnamese people are always attacked by hostile forces. A common tactic used by hostile forces is to incite ethnic minorities in the mountainous areas of Vietnam to set up illegal governments, divide the Vietnamese people, or conduct terrorist activities. with violence against the people. In the opinion of Rousseau and Ho Chi Minh,

a legitimate state must be a state built by the entire people, with a Constitution and laws. In Vietnam today, there is only one legitimate state placed under the leader of the Communist Party of Vietnam. To protect peace and stability for the entire people, the Vietnamese government handles all acts of infringement against the state and the people. When implementing these measures, Vietnam is sometimes misunderstood as violating human and civil rights. In essence, all of the above activities are aimed at maintaining the social order and stability of a single legal state, as well as protecting the Vietnamese people, contributing to regional and world stability. Through this analysis, we hope to contribute another perspective on the state of Vietnam to international friends. Thereby contributing to promoting understanding, cooperation, and stable and sustainable development in the international area.

6. Conclusion

Rousseau and Ho Chi Minh's views on a constitutional and legal state are essentially an inevitable product of history, reflecting the legitimate aspirations of people in political and legal life. If the paradox that Rousseau noticed is "*Everyone is born free, but everywhere we see them living in chains*" and the paradox that Ho Chi Minh noticed is: "*The right to independence and freedom is a sacred right, inviolable, but the Vietnamese people for nearly 100 years had to live in slavery and dependence on colonial countries, and the people lived in slavery and oppression*". Despite their differences, both thinkers affirm that a constitutional and legal state is the only reasonable political organization to protect human and civil rights. The views of Rousseau and Ho Chi Minh became the theoretical basis for the process of perfecting and developing a constitutional and legal state in Vietnam today. Accordingly, the Vietnamese state is under the leadership of a single political party, the Communist Party, but is not a dictatorship or autocracy. The Party's activities and the relationship between the Party and the State and the People are governed by the Constitution and law, strictly complying with the world's common rule of law principles. The essence of building a socialist law-governed state in Vietnam is to build the constitutionality of the Party-leadership relationship. Faced with the demands of the times, Vietnam always strives to perfect the state to continue affirming the position of the country in the international arena, contributing to the common development of humanity.

Conflict of Interest Statement

The authors declare no conflicts of interest.

About the Author(s)

Nguyen Trung Hieu is lecturer at Hong Bang International University and, postgraduate at the University of Social Sciences and Humanities. Research interests in the fields of philosophy, state, and law; some of the published works: '*The issue of inequality in Rousseau's Discourse on the Origin of Inequality and its historical value*'; '*People's sovereignty*

in Rousseau's thought - essence and value'; 'Rousseau's thoughts on law and its significance for building a rule-of-law state in Vietnam today.'

Nguyen Anh Thuong is PhD and lecturer at the University of Social Sciences and Humanities. Research interests in the fields of philosophy, religion, logic study; some of the published works: *'The alienated human'; 'Jiddu Krishnamurti's method of psychological perception'*.

References

1. Delaney (2009). *Starting with Rousseau*. England: Continuum
2. Durant, W. & Durant, A. (2015). *Jean Jacques Rousseau*. (Bùi Xuân Linh dịch). TP. Hồ Chí Minh: Đại học quốc gia Tp. Hồ Chí Minh
3. Đảng Cộng sản Việt Nam (2010). *Báo cáo tổng kết 20 năm thực hiện Cương lĩnh xây dựng đất nước thời thời kỳ quá độ lên chủ nghĩa xã hội*. Nxb Chính trị quốc gia, Hà Nội.
4. Đinh Ngọc Thạch – Doãn Chính (2018). *Lịch sử triết học phương Tây – tập 1*. Hà Nội: Chính trị quốc gia - Sự thật.
5. *Hiến pháp Việt Nam qua các thời kỳ 1946,1959,1980 và 1992* (1995). Nxb. Chính trị quốc gia, Hà Nội.
6. Hồ Chí Minh (1995). *Toàn tập, tập 4, 5, 6, 7, 11, 12*. Nxb. Chính trị quốc gia, Hà Nội.
7. Rousseau (2020). *Bàn về Khế ước xã hội* (Hoàng Thanh Đạm dịch), Nxb. Thế giới.
8. Rousseau (2008). *Discourse on the Origin of Inequality*. (G. Cole dịch). United States: Barnes & Noble, Inc.

Creative Commons licensing terms

Author(s) will retain the copyright of their published articles agreeing that a Creative Commons Attribution 4.0 International License (CC BY 4.0) terms will be applied to their work. Under the terms of this license, no permission is required from the author(s) or publisher for members of the community to copy, distribute, transmit or adapt the article content, providing a proper, prominent and unambiguous attribution to the authors in a manner that makes clear that the materials are being reused under permission of a Creative Commons License. Views, opinions and conclusions expressed in this research article are views, opinions and conclusions of the author(s). Open Access Publishing Group and European Journal of Social Sciences Studies shall not be responsible or answerable for any loss, damage or liability caused in relation to/arising out of conflicts of interest, copyright violations and inappropriate or inaccurate use of any kind content related or integrated into the research work. All the published works are meeting the Open Access Publishing requirements and can be freely accessed, shared, modified, distributed and used in educational, commercial and non-commercial purposes under a [Creative Commons Attribution 4.0 International License \(CC BY 4.0\)](https://creativecommons.org/licenses/by/4.0/)