European Journal of Law and Political Sciences

№ 2 – 3 2022

PREMIER Publishing

Vienna
2022

European Journal of Law and Political Sciences

Scientific journal

№ 2 – 3 2022

ISSN 2310-5712

Proofreading Kristin Theissen

Cover design Andreas Vogel

Additional design Stephan Friedman

Editorial office Premier Publishing
Praha 8 – Karlín, Lyčkovo nám. 508/7, PSČ 18600

Email: pub@ppublishing.org

Homepage: ppublishing.org

European Journal of Law and Political Sciences is an international, German/English/Russian language, peer-reviewed journal. It is published bimonthly with circulation of 1000 copies.

The decisive criterion for accepting a manuscript for publication is scientific quality. All research articles published in this journal have undergone a rigorous peer review. Based on initial screening by the editors, each paper is anonymized and reviewed by at least two anonymous referees. Recommending the articles for publishing, the reviewers confirm that in their opinion the submitted article contains important or new scientific results.

Premier Publishing is not responsible for the stylistic content of the article. The responsibility for the stylistic content lies on an author of an article.

Instructions for authors

Full instructions for manuscript preparation and submission can be found through the Premier Publishing home page at:
https://ppublishing.org

Material disclaimer

The opinions expressed in the conference proceedings do not necessarily reflect those of the Premier Publishing, the editor, the editorial board, or the organization to which the authors are affiliated.

Premier Publishing is not responsible for the stylistic content of the article. The responsibility for the stylistic content lies on an author of an article.

Included to the open access repositories:

ULRICHSWEB™ GLOBAL SERIALS DIRECTORY · НАУЧНАЯ ЭЛЕКТРОННАЯ БИБЛИОТЕКА eLIBRARY.RU · CYBERLENINKA · Google scholar

Typeset in Berling by Ziegler Buchdruckerei, Linz, Austria.
Printed by Premier Publishing, Vienna, Austria on acid-free paper.

Section 1. Political problems of the international relations, global and regional development

https://doi.org/10.29013/EJLPS-22-2.3-3-8

M.A Le Nguyen Thi Ngoc Lan,
PhD student in Public Management,
National Academy of Public Administration, Hanoi, Vietnam

IMPACT FACTORS IN THE BUILDING OF SMART URBAN GOVERNMENT IN DONG XOAI CITY, BINH PHUOC PROVINCE, VIETNAM

Abstract. Planning and investing in building Dong Xoai city into a green city – a smart city in the direction of modernity, ecology, intelligence that is the center of politics, economy, culture and society and national defense – security of the province, a city with high competitiveness and becoming the driving force for the development of Binh Phuoc province is specified in Decision No. 2125/QD-UBND dated October 6, 2022 of Dong Xoai city People's Committee on the approval of the urban development project of Dong Xoai city in the period of 2021–2025, with a vision to 2030. There are also many difficulties beside advantages to successfully build a smart city government. The article focuses on clarifying the factors affecting the building of smart urban government in Dong Xoai city, Binh Phuoc province, Vietnam.

Keywords: impact factors, building, smart urban government, Dong Xoai city.

1. Introduction

Urban government is a specific form of local government, organized in accordance with the characteristics of political, economic, cultural, social life and natural conditions of the city in order to manage urban and full of basic characteristics of local government. Urban government has expressed the general issues of local government in terms of the nature, position, role, representative function of the people and the relationships between governments at all levels in accordance with the law, both express the specific requirements of the method of urban organization, management and development. In Vietnam, urban government is regulated separately in a chapter of the Law on Organization of Local Government 2015 and the Consolidated Document No. 22/VBHN-VPQH dated December 16, 2019 of the Office of the National Assembly.

Smart government is the completion level of e-government and it is the goal in building the current government. In building smart city government, smart government plays a central role. That government is the application of information technology achievements in the management of social issues in order to perform the tasks and orientations to meet the people's demands, bring the people satisfaction and achieve the goals. Smart government will be built based on the conditions of information

infrastructure, information technology human resources, information technology application in serving people and businesses. These are the fundamental and necessary conditions of a smart government, to evaluate the results achieved of a smart government model, it is necessary to be based on the evaluation criteria of the transparency of the government; the level of interaction and transactions between the government and citizens and businesses; the level of people's satisfaction in using the services provided by the government. The smart government model is successfully built when the information systems have been completed and fully integrated. Electronic services will now not be limited by administrative boundaries. In other words, people can now perfectly use services in the G2C and G2B transaction model at any place and any times. Smart government focuses on governance, publicity, transparency, the companionship and trust of people and businesses in the government, and ultimately, improving work efficiency and effectiveness.

Dong Xoai urban area is one of 11 urban centers of Binh Phuoc province according to Decision No. 1836/QD-UBND dated October 5, 2022 of the People's Committee of Binh Phuoc province on the approval of the provincial urban development project phase 2021–2025, orientation to 2030. Dong Xoai city is determined to be the administrative – political, economic, cultural, social and national security center of the province and the northeastern region of the city. Ho Chi Minh City area, with the development orientation as "Modern, ecological and smart city".

2. Research Methods

To conduct this research, on theoretical basis, the author has based on the views of the Communist Party of Vietnam, the State of the Socialist Republic of Vietnam on building urban government, e-government and smart government in Vietnam in general and Binh Phuoc province in particular. Regarding the scientific research method, the author uses the method of scientific inheritance from the authors who have studied before; method of synthesizing and analyzing information to objectively assess the factors affecting the building of smart urban government in Dong Xoai city, Binh Phuoc province, Vietnam.

3. Research content

In the process of building smart urban government in Dong Xoai city, there are many factors that directly affect and influence, which can be mentioned as main factors such as:

Firstly, it's about legal institutions.

Legal institution is a legal system consisting of a constitution, laws and regulations, rules to harmonize the rights and responsibilities of each citizen and every organization in a social order. All activities in society of individuals and organizations must operate under certain legal institutions. Therefore, the building of smart urban government must first be based on the guidelines and guidelines of the Party, policies and laws of the state. The legal environment plays a decisive role in building smart government because information and communication technology is a new, fast-growing, unprecedented field. Therefore, the correct awareness of the role of information and communication technology in the current development conditions in order to promptly improve the legal environment will promote the development and application of information and communication technology. communication, as a basis for governments at all levels to switch from paper work to operating and handling work in the electronic environment. Improving the rate of receiving and handling administrative procedures for public services at level 3 and level 4 towards better serving people and businesses.

Secondly, it's about the organization of the state management apparatus.

The state apparatus is a system of state agencies that is organized closely from the central to local levels, this is a system organized and implemented according to maintain general principles with state power, perform functions and tasks within the scope of their competence.

Currently, the local state administrative apparatus consists of the People's Councils and People's

Committees at all levels. This model of local government is applied nationwide. Meanwhile, urban areas are increasingly expanding, serving as centers of economic, political, cultural and social development at different levels. This process has been directly affecting state management activities in urban areas as well as posing the need to build a model of organization and operation of urban government that is different from that of rural areas. The organization of urban government must be highly centralized, with few intermediaries, ensuring transparency. The operation of the urban government must be effective, efficient, quick and timely to handle arising situations to meet the needs and aspirations of people and businesses.

In that context, it is necessary to renew the adjustment of the law to the organization and operation of urban government. The law on organization and operation of urban government must ensure the principle of centralization, unity, smooth operation and effectiveness and efficiency; at the same time, must ensure clear and unambiguous assignment and decentralization between the central and local governments; creating a favorable environment for urban authorities to actively and actively implement measures for economic, cultural and social development in order to improve people's living standards.

Thirdly, it's about human resources.

Human resource is one of the key factors, deciding the success or failure of the process of building smart city government. In the smart city government apparatus, there must be a contingent of cadres and civil servants who are capable and qualified to meet the requirements to perform the tasks of operating that apparatus. It is necessary to have well-trained information and communication technology experts to manage and overcome problems during the operation of the state management apparatus applying information technology. In addition, professional civil servants working in e-administration also need to be well trained in information technology to be able to exploit and make good use of information technology achievements applied in state administrative management, contributing to improving work efficiency and effectiveness.

Fourthly, it's about the technical infrastructure of information technology – communication.

Technical infrastructure, technology infrastructure between a core role in the application and development of smart city government. Technology infrastructure includes: information and communication technology, internet technology, electronic technology, technology standards, telecommunications technology, operating system, information and communication technology ecosystem.

Information technology infrastructure and telecommunications technology infrastructure are two prerequisites for building smart city government. Technology infrastructure includes hardware, software, and services to apply and develop smart city government to bring economic efficiency. Telecommunications technology infrastructure requires high technology, large capacity, broadband, links to national telecommunications networks, direct connection to international transmission lines with a variety of telecommunications services with high quality lines. High transmission, ensuring confidentiality, safety, information security and reasonable cost, investment and operation costs.

Fifthly, it's about finance.

In any stage of building smart city government, the financial factor is also considered in priority. It's because capital has an impact on the investment in information and communication technology infrastructure, attracting and training human resources, etc. Therefore, the consideration of allocating investment capital for government building Smart cities to harmonize with other socio-economic development goals is one of the factors that need to be carefully considered in the allocation of the state budget.

Sixthly, it's about propaganda to raise awareness.

When the government provides public administrative services, so that citizens and businesses can grasp the information as well as the order of implementation, the government needs to deploy propaganda

activities to raise awareness and change habits. habitual behavior, creating community consensus on development, building smart urban government.

The one-way implementation from higher position to lower position will not bring success but requires the participation of people and businesses, which is the main object of smart city government. If they do not understand clearly, they will certainly not see the intimate benefits related to and the application of science and technology, information technology – communication in the direction, management and administration of the government. Therefore, it is necessary to implement specific solutions to raise the awareness of organizations and individuals in building smart urban government.

3. Recommendations and conclusions

The trend of forming smart cities sets a challenge to urban authorities when applying information technology to transform a city or a locality into smart, this technology also has the task of not letting any whoever is left behind. It means that government must serve most of the needs of all people to build a smart city government, this is also one of the big challenges in improving people's intellectual level. information technology level for people in urban areas of provinces and cities. Because, smart city government cannot succeed if it comes from only one side of service providers while their customers cannot reach.

To overcome and resolve the influence of factors affecting the building of smart urban government in Dong Xoai city. In the coming time, the authorities of Dong Xoai city in particular and Binh Phuoc province as well as Vietnamese state agencies in general need to implement the following solutions:

Firstly, it's about legal institutions.

Accelerating the building and completion of an institution to create a full and comprehensive legal basis for the building and development of smart urban government. The National Assembly and Government should issue legal documents on data sharing; on authentication or electronic authentication; on the protection of personal data and ensuring the privacy of individuals; on the reporting regime among state administrative agencies. Develop regulations and regulations to ensure safety, confidentiality and security of information in the building, operation, maintenance, data backup and exploitation of the city's intelligent system. Building requirements and sanctions for compulsory application of processes, mechanisms and principles of information protection, confidentiality, and information security. Ensuring the stability, backup plan to restore information system, plan for troubleshooting (if any) and power sources/information signals of the information technology – communication system for smart systems of the city.

Secondly, it's about the organization of the state management apparatus.

Cities are the socio-economic, political and cultural centers of an entire region, a locality, and even affect the whole country and region. Cities play an increasingly important role in promoting the development of an entire area or region. In the current trend of globalization, urban development is very fast, the issue of urban management, especially urban government, has always been paid great attention to to well manage and promote urban development. With the specific functions and characteristics of the city, the selection of an appropriate urban government model plays an important and decisive role in the development of the city. The organization of the model of the state management apparatus including the People's Council and the People's Committee at the provincial level → The People's Committee of the district and the equivalent → The People's Committee of the commune and the equivalent will make authority apparatus operate more compact, quicker and smoother, state administrative agencies at district and commune levels will actively and proactively manage and quickly decide on urgent local issues on the basis of clearly define responsibilities.

Thirdly, it's about human resources.

Completing the system of officers and departments in charge of information technology from

cities to communes and wards. Encouraging enterprises, hospitals, and schools to form specialized information technology departments under or responsible for arranging information technology staff in accordance with information technology application in your agency. Promoting the training and fostering of high-quality information technology human resources to serve the task of applying information and communication technology in management and development of intelligent systems; creating conditions for officials, civil servants and related subjects to visit, research, exchange and learn experiences on information and communication technology application in building and developing smart city government in localities, advanced and developed countries in the region and in the world.

Fourthly, it's about technical infrastructure, information and communication technology.

Developing, issuing, organizing the guidance and synchronously deploying information and communication technology applications on cloud computing and virtualization platforms in storage and management of applications and databases; deploy synchronous, modern and effective information technology application in system deployment. Strengthening activities of hiring consultants and services on information technology – communication infrastructure. Invest in developing a centralized information technology park, connected with each other with optimal solutions and new technologies. Receiving and transferring technology, the contents of information technology application in state management that other localities have done well, operate stably, with obvious efficiency.

Fifthly, it's about finance, attraction of investment capital.

In building smart urban government, the state budget for investment in modernizing public administration is an extremely important factor. Therefore, the state needs to ensure sufficient funding and human resources for the application of information and communication technology to serve the building and development of intelligent information systems in the annual budget plan (budget for investing in developing technical infrastructure, applying information and communication technology and training human resources for state agencies of the city). Building policies to attract foreign investment capital and promote investment promotion activities, reducing administrative procedures, creating an open environment to attract foreign investment capital for application, develop information and communication technology to serve the building of smart city government. Promoting socialization, form appropriate mechanisms and policies to encourage enterprises in investment, building, and application of information and communication technology, information and infrastructure. telecommunications to build smart urban government in the form of public-private partnership (PPP).

Sixthly, about propaganda to raise awareness.

Applying modern communication methods combined with tradition to carry out propaganda and dissemination to ensure efficiency, savings and no waste. Timely detecting, propagating and introducing new models, jobs or achieve high efficiency in building smart urban government. Promoting propaganda in the mass media, prioritize investment in development of information and communication technology, especially policies on universalization of postal, telecommunications, information technology and newspaper services. press, radio and television.

The building of a smart urban government in Dong Xoai city, Binh Phuoc province is a testament to the determination of provincial leaders in grasping the development trend and taking advantage of the industrial revolution 4.0 as an gold opportunity without skipping to promote local socio-economic development, quickly narrowing the gap with other localities in the country. More specifically, it is the focus on promoting the application of information technology in building smart urban government. This is also one of the measures to enhance the transparency and efficiency of state management; it is an important solution to

improve the investment and business environment of the province; thereby improving the province's position on the provincial competitiveness index of Binh Phuoc, contributing to raising Vietnam's position on the ranking of e-government building compared to other countries in the world.

References:

1. The Central Steering Committee developed A trial project on organizational model of urban government (2012). Plan No. 78/KH-BCDTWCQDT dated July 13, 2022 to develop a trial project on the urban government model.
2. National Assembly (2015). Law on Organization of Local Government.
3. National Assembly Office (2019). Consolidated Document No. 22/VBHN-VPQH dated December 16, 2019 Law on Organization of Local Government.
4. People's Committee of Binh Phuoc province (2022). Decision No. 1836/QD-UBND dated October 5, 2022 approving the Provincial Urban Development Project for the period of 2021–2025, with orientation to 2030.
5. People's Committee of Dong Xoai city (2022). Decision No. 2125/QD-UBND dated October 6, 2022 on approving the urban development project of Dong Xoai city in the period of 2021–2025, orientations to 2030.
6. Le Nguyen Thi Ngoc Lan. Solutions to promote the process of building smart city government in Vietnam, Journal of State Management,– No. 310 (11/2021), 2021.– P. 38–43.

https://doi.org/10.29013/EJLPS-22-2.3-9-14

Panfongpheth Bounchanh M. A.,
PhD student in Public Management,
National Academy of Public Administration, Hanoi, Vietnam

THE STATE MANAGEMENT ROLE IN AGRICULTURAL AND RURAL DEVELOPMENT IN LOUANGPHABANG PROVINCE, THE LAO PEOPLE'S DEMOCRATIC REPUBLIC

Abstract. The article mentions a series of important issues to promote agricultural and rural development towards industrialization and modernization from the perspective of state management in Louangphabang province, the Lao People's Democratic Republic. In particular, it focuses on analysis and interpretation to contribute to answering two basic questions. The first question is how should the State impact, in what ways to promote agricultural and rural development in the direction of industrialization and modernization? The second question is how to improve the effectiveness of state management over agricultural and rural development in Louangphabang province, Lao PDR in the current stage of industrialization and modernization?

Keywords: state management, development, agricultural, rural, Louangphabang province.

1. Introduction

According to theories, the state has an indispensable role in agricultural and rural development, as shown through interventions in different fields: Rural development policies are carried out by the state in order to maximize the welfare of society and aim to stimulate rapid economic growth in parallel with poverty reduction in a positive way for rural areas. However, these policies are often dualistic, without reaching full unification.

The economy must be run efficiently, which means that policies must achieve the efficiency by allocating scarce resources to individuals, households and businesses to maximize socio-economic welfare. In addition, the State also aspires to achieve equity, which means a fair distribution of utilities and profits for all individuals, families and businesses.

The two goals of rapid economic growth and poverty reduction are representative of the efficiency and fairness that the State wishes to achieve through its policy instruments.

The question is that "is there any conflict between efficiency and fairness? In other words, is there any conflict between rapid growth and poverty reduction?"

In fact, we see that growth effectively reduces poverty, but at the same time, it also deepens the gap between the richness and the poverty. The specific objectives of the State for agricultural and rural development are multi-faceted, including: 1) enhancing livelihoods; 2) increasing employment and income of farmers and rural residents; 3) strengthening grassroots democracy; 4) protecting and conserving natural resources, biodiversity and the environment.

The innovation in Louangphabang province is the implementation of the reform policy of the Lao People's Revolutionary Party. The Resolution of the Second Congress in 1988 of the Party Committee of Louangphabang province marked the renewal of thinking and the economic management mechanism, shifting from the management mechanism and central planning in form of bureaucracy, subsidy to management according to the market mechanism, shifting from the economy with two main components, namely the state-owned economy and the collective economy, to a multi-sector economy,

operating according to the market mechanism; in agricultural and rural areas, shifting the production economy in the form of formal cooperatives to allocation of land to households of farmers who are self-sufficient in production and business.

Efforts to renovate the state management mechanism in Louangphabang province during the transition to a socialist-oriented market economy have achieved initial encouraging results. The province's political economy has prospered and changed positively; The living standards of the people of the tribes are improved, the economic structure of the province is shifting towards the development of a multi-sector market economy under the management of the State; creating a ground for the development of the province in the coming time.

2. Study Methods

To conduct this study, on theoretical basis, the author has based on the point of view of Marxism – Leninism, Kaysone Phomvihane's thought, the viewpoint of the Lao People's Revolutionary Party on agricultural and rural development, agricultural and economic development in Lao PDR. Regarding the scientific research method, the author uses the method of scientific inheritance from the authors who have studied before; method of summarizing and analyzing information and data to give an objective view of the role of the state in rural development in Louangphabang province.

3. Study results

The state's management role in agricultural and rural development is to provide public goods and services, which the free market cannot assume. In addition, some other reasons justifying state intervention in the agricultural and rural areas are that the state must stimulate the development process from the beginning, and then, facilitate private and market participation. Moreover, the process of transforming agricultural and rural areas towards development and poverty reduction requires many policy instruments, for example, price policy, trade, job creation, agricultural and rural development and food support.

Policies to provide services and public goods contribute to promoting the development of agricultural and rural areas, creating dynamism and efficiency, and at the same time implementing poverty reduction and ensuring equity in parallel with enhanced efficiency.

Agricultural and rural development also requires infrastructure and supportive public goods and services and good markets. State intervention in the process of agricultural and rural transformation also reflects the purpose of the state, including many different aspects. Through investment and taxation, and improving labor skills and productivity, the state can extract resources from agriculture to serve other economic sectors.

The State also wishes to encourage economic development in the agricultural and rural areas in order to close the development gap between rural and urban areas, improve the welfare of the poor, which are mainly concentrated in the agricultural and rural areas.

Rural development also creates opportunities for the growth of agricultural production, especially food crops, leading to an increased ability to ensure food security for both rural and urban areas.

Through the intervention in the process of management, control, exploitation and use of resources for agricultural production in rural areas, the State can protect the environment and agriculture as a public resource.

State interventions on political aspects also help to expand the power of the State and government and stabilize politics in rural areas.

The important issue is that the depth and breadth of State interventions in rural transition may be overdone, leading to market destruction or the loss of important regulatory roles.

Too deep and unwise interventions can produce worse failures than market failures. Scientists from different economic fields still argue about the role and extent of State intervention in the rural development process. Overall, there are two distinct trends

in some types of interventions commonly undertaken by governments.

Some intervention measures of the state in agricultural and rural areas can be mentioned such as: 1) intervention on agricultural scientific research activities; 2) agricultural extension; 3) investment in agricultural and rural infrastructure, especially irrigation; 4) investment in marketing infrastructure; 5) land policy; 6) organizing farmers to produce in the form of collectives; 7) intervention on agricultural product prices…

For socio-economic development in general and agricultural and rural development in particular, the Party Committee and government of Louangphabang province has set out nine priority program contents including: 1) food production program; 2) commodity production program; 3) program to stop deforestation for cultivation, organize sedentary cultivation; 4) comprehensive rural development program; 5) human revival program; 6) service program; 7) program of cooperation and economic relations with foreign countries; 8) social order security program; 9) investment capital mobilization program. To implement the above programs, the Party Committee, authorities and people of the tribes in the province have united to promote economic restructuring, develop agro-forestry associated with industry and service, change from a natural, self-sufficient economy to a multi-sector commodity economy, encourage all economic sectors to freely conduct production and business activities according to the market mechanism, under the leadership of the Party and management of the state.

In stage 2016–2021, the average growth rate of Louangphabang reached 7%/year, the total GDP reached 1.643 billion kip; per capita income reached 430 USD/person. In which, the value of agro-forestry reached 789 billion kip, accounting for 48% of GDP, up 4.8%; industrial value reached 279 billion kip, accounting for 17% of GDP, up 7%; service value reached 575 billion kip, accounting for 35% of GDP, up 10%. Total social investment capital reached 1.047 billion kip, of which state capital was 158 billion kip, private capital was 323 billion kip, loan capital was 42 billion kip, and non-refundable aid was 524 billion kip [1, p. 20].

Up to now, the province has stopped growing opium poppies, achieving the target set by the Provincial Party Congress; poverty reduction has achieved 11.300 households, currently only 18.200 households remain; reducing the area of deforestation for cultivation from 33.900 ha to 23.600 ha. The occupational structure of the people has changed markedly: wet rice farming with 10.100 households; wet rice and dry rice farming with 4.300 households; upland rice with 38.300 households; changing to service field with 4.700 households and other occupations with 7.700 households [1, p. 21].

In the past 5 years, there have been 27 study projects in the fields of agriculture, forestry, application of science – technology at provincial level approved and implemented. The results of implementing scientific and technological tasks in the agricultural sector are relatively good, many study results have been replicated in production, contributing to promoting agricultural economic development [1, p. 27].

The province's agricultural labor force is quite abundant, according to statistics in 2021, the province's labor force was 186.659 people, of which agricultural labor was 147.000 people (accounting for 79.1%) of the province's labor fsorce [1, p. 10]. The provincial government determines that vocational training for agricultural laborers is an important content in the development of professions, gradually restructuring agricultural laborers to shift production to handicraft and service laborers. The province has focused on training, improving the quality and qualifications of laborers, expanding the system of joint-venture vocational schools, linking with neighboring provinces to open vocational training classes, specifically in 2019, 60 vocational training classes for rural laborers were organized. By 2021, it has increased to 150 classes, bringing the province's trained laborer rate to 21% [1, p. 15]. This result shows the interest of the Party Committee and the provincial government in improving the skills of rural laborers.

The provincial government has attracted investment capital sources in the area for agricultural and rural development. Over the past years, the province has mobilized and effectively used capital sources, along with support capital from the central budget, provincial budget capital for development investment, concessional loans to solidify canals and roads in remote areas, government bond capital, investment capital of the residential and business sectors, contributions from economic organizations, un-refunded grants from organizations and individuals at home and abroad, investment credit capital, mobilization of capital contributions from the people. Although the State has paid much attention and made great efforts to create investment capital for agricultural and rural development, it has not yet met the actual demand. The policy of reducing agricultural land tax for farmers is a policy that is unanimously supported by the people, creating favorable conditions for farmers to accumulate investment capital and expand agricultural production. The tax reduction policy for foreign enterprises creates attraction and investment in agricultural and rural areas in the province, creating jobs, improving incomes and people's lives.

Although some achievements have been achieved in recent years, the process of agricultural and rural development in Louangphabang also has difficulties, shortcomings and limitations such as:

Firstly, in Lao PDR, there is the Constitution and a legal system, but the legal system is not complete and it still lacks many laws; especially, the awareness of law compliance and law enforcement capacity is still limited and inadequate not only among the people, but also in state agencies, in the contingent of state officials and civil servants. This causes great difficulties for governments at all levels when performing state management functions according to the method of management by law.

Secondly, the state management of agricultural and rural development is mainly based on economic stimulus tools and economic leverage, especially the financial system, banks and state-owned enterprises are still weak, so limited the effect and effectiveness of the government's state management on agricultural and rural development. That requires the government, with the support of the Central Government, to soon develop the financial system, banks and state-owned enterprises in the province to have a material force as a leverage tool to stimulate regulation of production and business activities according to the market mechanism.

Thirdly, due to the unclear perception of ownership, the authorities in Louangphabang are still confused in policies to encourage the development of all economic sectors in general and the development of agricultural and rural areas in particular, diversify organizational forms of business and production. Especially the issue of land ownership – a very sensitive issue because the ownership right, use right and transfer right have not been clearly defined; As a result, unmanageable trading and exchange occurred, which both made it difficult for investment attraction and production development, and contributed to social injustices and frustrations in society.

Fourthly, in Louangphabang now, while the new management mechanism has not been fully established, the management capacity of the government, the contingent of cadres and civil servants has limitations, weaknesses and inadequacies. In which, the emerging thing is the low level of awareness about the market economy, agricultural and rural areas and the ability to organize and operate activities to adapt to agricultural and rural development. That has caused difficulties, troubles, reduced confidence, limited the attraction of investment by investors from outside the province and people in the province.

Fifthly, coming from a self-sufficient economy and living under the subsidy mechanism for many years, many people in Louangphabang have a heavy mentality, small production habits, and do not adapt to the market mechanism, simple living habits, low consumption demand, so it is difficult to adapt to market fluctuations, lacks dynamism and sensitivity. The psychology of "equalism", "equality" has limited

the courage to invest in production and business, limit the promotion of all capacities and potentials to enrich themselves, their families and contribute to the society, … It is a great difficulty, creating a hindrance in the process of agricultural and rural development and the transition to a socialist-oriented market economy in Louangphabang that cannot be overcome immediately.

4. Discussion and conclusion

In order to overcome the existing limitations and continue to promote the achieved achievements, clearly demonstrating the state's management role in agricultural and rural development, in the coming time, the Louangphabang province's government needs to focus on synchronously implementing some of the following solutions:

Firstly, strengthen the government apparatus in the direction of building a socialist law-governed state. Properly identify the functions and tasks of each level of local government, rearrange the organization of each level. Uphold the initiative and responsibility of district and village governments, and maintain the centralized and unified direction of the provincial government. Renovate cadre work, pay special attention to the training and retraining of cadres of the government apparatus; build a contingent of cadres and civil servants with political qualities, a high sense of responsibility and professional expertise, and a sense of observance of the laws of the State.

Secondly, accelerate the restructuring of the agricultural economy in the direction of socialism, which is a great task to concentrate resources with appropriate policies, and bring into play the internal resources of the people for investment in a comprehensively sustainable socio-economic development, industrialization and modernization of agricultural and rural areas; promote the agricultural economy to develop quickly, effectively and sustainably; associate economic growth with progress, social justice and environmental protection, ensuring that the village and the province soon get rid of poverty and backwardness, step by step towards wealth.

Thirdly, innovate and build effective forms of production and service organization. Implement a reasonable and legal distribution policy to create favorable conditions for household economy to develop commodity production. Farmers are assured of long-term production, investing in production in depth is the state's right policy on land for farmers. Create a favorable environment for the formation and development of efficient production and business forms, especially agro-forestry-fishery processing enterprises using raw materials and attracting a lot of local workers, enterprises providing supplying materials and selling products to farmers.

Fourthly, promote research and transfer of science and technology, train human resources, create breakthroughs to modernize agriculture and rural areas. It is necessary to increase investment and strongly shift the application of science and technology to focus on the following fields: crop structure, structure of plants and animals, hybrid varieties, plant protection measures, etc. training knowledge of advanced and modern agricultural production science and technology for farmers, vocational training for farmers' children and ethnic minorities. Implement the national target program on vocational training, human resource development, and well implement the socialization of vocational training.

Fifthly, renovate mechanisms and policies for all economic sectors, policies on land, policies on tax and investment, policies on agricultural extension to mobilize resources and accelerate agricultural economic development, improve the material and spiritual life of farmers.

In order for the agricultural and rural development in Louangphabang province to achieve the set objectives, it is necessary to synchronously implement the appropriate management methods and tools of the state through regulation and orientation by laws, plans, policies, economic levers, stimulus measures to develop the agricultural economy, build rich rural areas, contribute to the development of Louangphabang province.

References:

1. Louangphabang Province Party Committee (2021). Louangphabang province's socio-economic development report for the period 2016–2021.
2. Louangphabang Province Party Committee (2016). Socio-economic Development Plan 2016–2021.
3. Louangphabang Province Party Committee (2016). Agricultural Development Strategy Plan.
4. Department of Agriculture of Louangphabang Province (2015). Summary report on the implementation of the 5-year agricultural and forestry development plan (2010–2015) and the direction of the development plan for the period 2016–2021.

https://doi.org/10.29013/EJLPS-22-2.3-15-21

Tran Toan Trung M. A.,
National Academy of Public Administration,
Hanoi, Vietnam

ENHANCEING THE ROLE OF THE DEPARTMENT OF CULTURE, SPORTS AND TOURISM IN PROVINCES AND CENTRALLY-RUN CITIES IN THE STATE MANAGEMENT OF ETHNIC GROUP CULTURE IN VIETNAM

Abstract. 54 ethnic groups (including 53 ethnic groups) living together in the territory during the long history of national construction and defense have created a unified, rich and diverse Vietnamese culture. This feature requires the state management of ethnic group culture to be carried out synchronously and smoothly from the central to local levels. At the level of provinces and centrally-run cities (the 2nd administrative level out of 4 administrative levels in Vietnam), the Department of Culture, Sports and Tourism is a specialized agency with the function of advising and assisting the People's Committee of the province in performing the state management of ethnic group culture. The article focuses on clarifying the role of the Departments of Culture, Sports and Tourism of the provinces and cities in the state management of ethnic group culture in Vietnam today.

Keywords: role, Department of Culture, Sports and Tourism, state management, ethnic group culture.

1. Introduction

In Vietnam, local government is detailed in the Law on Organization of Local Government promulgated by the National Assembly in 2015, local government includes the People's Council and the People's Committee, organized in both 3 levels: province and centrally-run city, district and equivalent, commune and equivalent (for some urban ward and district-level localities, implementing the pilot model of urban government construction, the People's Council at that level is not organized). At the level of provinces and centrally-run cities, to help the People's Committees of provinces perform the function of state management in their localities, specialized agencies have been established (Departments and Department-level agencies). Agencies are established as advisory agencies of the People's Committee in each field, and at the same time are assigned to perform some tasks and powers as authorized by the People's Committee of the same level and in accordance with regulations of the law. On the other hand, the activities of specialized agencies contribute to ensuring the unification of management of the sector or field of work from the central government to the local government.

The establishment of specialized agencies under the People's Committees of provinces shall be decided by the People's Committees themselves and submitted to the People's Councils for decision, based on general regulations promulgated by the Government, and based on specific characteristics of each province or centrally-run city. Therefore, the provinces and centrally-run cities do not have uniformity with the specified number of specialized agencies.

The specialized agencies under the People's Committee are subject to the direction and management of the organization, staffing and work of the People's Committee of their respective level, and are subject to the professional direction and inspection of the specialized ministries, heads of these agencies must

take responsibility for and report on their work to the People's Committees, to specialized ministries and to the provincial People's Councils upon request.

Specialized agencies under the People's Committees of provinces and centrally-run cities (Departments and Department-level agencies) shall be established and organized to operate in accordance with the provisions of Decree No. 24/2014/ND-CP dated April 04, 2014 of the Government and Decree No. 107/2020/ND-CP dated September 14, 2020 of the Government amending and supplementing some articles of Decree No. 24/2014/ND-CP dated April 4/ 2014, whereby the Department is an agency under the provincial People's Committee, performing the function of advising and assisting the provincial People's Committee in state management of local industries and fields in accordance with the law and according to the provisions of law approved or authorized by the People's Committee of the province, the Chairman of the People's Committee of the province. The Department is organized according to the following principles: 1) ensuring the full implementation of the State management functions and tasks of the Provincial People's Committee and the consistency, smoothness and management of branches and fields of work from the central to grassroots; 2) streamlined, reasonable, effective, efficient organization of the Department is multi-sectoral and multi-field management, it is not necessary that the central government has a ministry or a ministerial-level agency, the provincial level has a corresponding organization; 3) being suitable to natural conditions, population, socio-economic development situation of each locality and requirements of state administrative reform; 4) not overlapping functions, tasks and powers with organizations under the Ministry, ministerial-level agencies located in the locality.

According to the provisions of Decree No. 24/2014/ND-CP dated April 4, 2014 of the Government and Decree No. 107/2020/ND-CP dated September 14, 2020 of the Government: Department of Culture and Sports and Tourism has the function of advising and assisting the Provincial People's Committee in state management of: culture; family; fitness, sports, tourism and advertising (excluding advertising content in newspapers, on the network environment, on publications and integrated advertising on postal and telecommunications products and services, information technology); the use of the National Flag, the National Emblem, the National Anthem and the portrait of President Ho Chi Minh. For localities with Department of Tourism, the function of advising and assisting the Provincial People's Committee in state management of tourism is performed by the Department of Tourism.

On the basis of the Government's Decree, the Ministry of Culture, Sports and Tourism issued Circular No. 08/2021/TT-BVHTTDL dated September 8, 2021 guiding the functions, tasks and powers of the Department of Culture, Sports and Tourism, Department of Culture and Sports, Department of Tourism under the Provincial People's Committee; Department of Culture and Information under the People's Committee of the district. Accordingly, for the content of performing the function of state management of ethnic group culture, the Departments of Culture, Sports and Tourism of the provinces and centrally-run cities have the following tasks: "organize the implementation and examine the national cultural policy, preserve, promote and develop the tangible and intangible cultural values of the local ethnic communities". This task is also specified in previous legal documents related to the organization of the Department of Culture, Sports and Tourism at the provincial and city levels, such as: Joint Circular No. 07/2015/TTLT-BVHTTDL-BNV dated September 14, 2015 of the Ministry of Culture, Sports and Tourism and the Ministry of Home Affairs guiding the functions, tasks, powers and organizational structure of the Department of Culture and Sports and Tourism under the People's Committees of provinces and centrally-run cities; The Culture and Information Office of the People's Committees of districts, towns, provincial cities; Joint Circular

No. 43/2008/TTLT-BVHTTDL-BNV dated June 6, 2006 of the Ministry of Culture, Sports and Tourism and the Ministry of Home Affairs guiding the functions, tasks, powers and organizational structure of the Department of Culture, Sports and Tourism under the Provincial People's Committee; Department of Culture and Information under the People's Committee of the district; Joint Circular No. 02/2005/TTLT-BVHTT-BNV dated January 21, 2005 of the Ministry of Culture and Information and the Ministry of Home Affairs guiding the functions, tasks, powers and organizational structure of the specialized agencies to assist the People's Committee in state management of culture and information in the locality; Joint Circular No. 28/1998/TTLT-VHTT-TDTT-TCCP dated January 13, 1998 of the Ministry of Culture and Information – Committee for Physical Training and Sports – Government Organization and Personnel Committee guiding the functions and duties, powers and organizational structure on culture – information, etc.

2. Study Methods

In order to conduct this study, on theoretical basis, the author has based on the point of view of Marxism – Leninism, Ho Chi Minh's thought, the point of view of the Communist Party of Vietnam, the legal regulations of the Socialist Republic of Vietnam on ethnic affairs, cultural work and the organization of the state administrative apparatus. Regarding the scientific research method, the author uses the method of scientific inheritance from the authors who have studied before; method of summarizing and analyzing information and data to give an objective view of the role of the Department of Culture, Sports and Tourism of the provinces and cities in the state management of ethnic group culture in Vietnam today.

3. Study content

Determining the important role of ethnic group culture in socio-economic development in general and in order to introduce and promote the image of the country, Vietnamese cultural people in the integration trend, Department of Culture, Sports and Tourism in the provinces and centrally-run cities have a very important role in performing the function of state management of ethnic group culture in the area, shown in some highlight results as follows:

Firstly, on the management, conservation and promotion of traditional cultural values of ethnic groups.

Pursuant to Decision No. 1270/QD-TTg of the Prime Minister issued on July 27, 2011 approving the Plan "Preservation and development of culture of Vietnam's ethnic groups until 2020", Department of Culture, Sports and Tourism of provinces and cities have actively developed, promulgated and directly directed and organized the implementation of cultural conservation programs, integrated conservation projects, and promoted cultural values of ethnic groups in the area, especially the occasion to celebrate Vietnamese Ethnic Groups' Culture Day (April 19) every year and periodically organize the Culture, Sports and Tourism Festival of the ethnic groups in the Northwest, Northeast, Central, Central Highlands; cultural exchange for each ethnic groups, such as organizing the cultural festival of Chinese, Thai, Cham, Khmer, H'mong, Muong, Dao…; The exchange of "Hát then – Đàn tính" Art Festival of the Tay, Nung, Thai… not only strengthens the great solidarity among ethnic groups and localities throughout the country, but also introduces, propagates and mobilizes ethnic groups to preserve and promote the value of good cultural heritage, contributing to creating a driving force for socio-economic development, ensuring national defense and security.

The cultural development target program for the period 2016–2020 has been effectively implemented by the Ministry of Culture, Sports and Tourism. Up to now, there have been more than 80 typical traditional festivals of ethnic groups that have been restored, preserved and developed by the local Departments of Culture, Sports and Tourism for the right purposes and suitable to each ethnic group; More than 30 traditional villages, hamlets of 25 ethnic groups in the provinces representing regions and

regions across the country are supported to invest in conservation, associate tourism development with exploitation, and promote the value of cultural identity; from there, replicate and develop to build cultural-tourist villages, cultural-tourist spots, create momentum for economic restructuring, accelerate hunger eradication and poverty reduction.

In addition, the local Departments of Culture, Sports and Tourism also periodically organize conferences to meet artisans and people who have contributed to the conservation and promotion of cultural values of ethnic groups in the locality; After 2 rounds of consideration and donation (in 2015 and 2019), localities have introduced and 559 ethnic group artisans have been conferred and posthumously conferred State honorary titles; Localities also regularly send artisans to participate in the restoration and reenactment of traditional festivals of ethnic groups at the Ethnic Culture and Tourism Village in Vietnam, contributing to the preservation of tangible and intangible cultural heritage of ethnic groups.

The local Departments of Culture, Sports and Tourism also conducted surveys and opened classes to teach traditional intangible culture and traditional crafts of ethnic groups, such as Bo Y, Pu Peo, O-du, Brau, Ro-mam, Mang, Cong, Lo Lo, Chut, Si La, etc. that artisans taught younger generation. Through these activities, it contributes to educating patriotic traditions, national pride, honoring the national cultural identity, consolidating and strengthening the strength of the great national unity in the area.

The conservation and promotion of intangible cultural values of ethnic groups is concretized by many practical activities. Up to now, there have been 3 central museums and 65 provincial museums that collect, check and display traditional cultural heritages of Vietnamese ethnic groups. In the period 2016–2018, there are 4 special national relics, 8 historical – cultural relics and scenic spots related to ethnic groups classified as national monuments, more than 150 intangible cultural heritages of ethnic groups are included in the National Intangible Cultural Heritage List (out of a total of nearly 300 national heritage sites)\. ... Ethnic groups are also interested in, making scientific records and ranking at national and special national levels, for example, in Bac Kan, the provincial Department of Culture, Sports and Tourism conducts the survey, inventory of intangible cultural heritage of ethnic groups in the province; develop 18 scientific dossiers of typical intangible cultural heritage of ethnic groups and submit them to the Ministry of Culture, Sports and Tourism for inclusion in the list of national intangible cultural heritage; implementing the project on restoration and preservation of Long Tong Festival in Bang Van commune, Ngan Son district and the project "Protecting and promoting the value of intangible cultural heritage in the list of national intangible cultural heritages in Bac Kan province, period 2018–2020". Currently, the whole province has 291 intangible cultural heritages of ethnic groups which are checked and classified into 7 types of intangible cultural heritages; There are 14 intangible cultural heritages which have been decided to include in the list of national intangible cultural heritages by the Ministry of Culture, Sports and Tourism.

Secondly, on the propaganda and promotion of ethnic group culture.

Identify the important role of the state management of ethnic group culture in promoting and linking socio-economic development, especially tourism development in order to introduce and promote the image of the country, Vietnamese cultural people in general and the land, local cultural people in particular to international friends when visiting, traveling, working, investing, doing business, cultural exchange arts, sports, etc. The Departments of Culture, Sports and Tourism of the provinces and cities have directed their departments and units to implement the programs, plans and tasks of the industry integrated with the dissemination, propagation and education to raise awareness about the meaning and importance of state management of ethnic group culture in the new situation; promptly propagate the Party's guidelines and policies

and the State's laws on ethnic group culture and ethnic group work through meetings, conferences, professional activities of the sector.

The Departments of Culture, Sports and Tourism of the provinces and cities have actively coordinated with central and local radio and television stations to organize the production of many documentaries and thematic films on customs and practices, festivals, characteristic identities of ethnic groups across the country, contribute to propagating and disseminating the unique cultural identities of ethnic groups.

In particular, the local Departments of Culture, Sports and Tourism have edited, published, displayed and introduced books, newspapers and magazines to promote and introduce customs, practices and ceremonies. associations, typical cultural identities of local ethnic groups with libraries of provinces and cities nationwide.

Thirdly, on the inspection, examination and handling of violations.

Determining the inspection, examination and post-inspection is one of the important contents of the state management of ethnic group culture. Currently, the inspection and examination of the cultural field is carried out by the inspection force of the Department of Culture, Sports and Tourism of the provinces and cities, over the years, under the direction of the Provincial People's Committee, Departments of Culture, Sports and Tourism of the localities, strengthened the inspection and handling of violations in the field of culture in general and ethnic group culture in particular, in which focusing on services cultural services, activities of festivals, monuments, advertising activities in the area. In 2021, the local Departments of Culture, Sports and Tourism advised the People's Committees of the provinces and cities and directed the Department Inspectors to set up interdisciplinary and specialized inspection teams of 1,071 turns of organizations, establishments, cultural sites, festivals, and monuments; make reminder minutes for 1,687 turns of violations; make records of administrative violations and advise the People's Committees of provinces and cities to issue sanctioning decisions. In addition, the inspection teams of the Provincial Inspectorate and the Department Inspector also regularly coordinate to organize inspections of business establishments and cultural activities in the area. Through the inspection, contribute to rectifying and preventing law violations in the field of ethnic group culture, especially in the business of cultural services, festivals, and protection and promotion of the value of relics in the provinces and cities.

4. Recommendations and conclusions

Culture of ethnic groups is an integral part of Vietnamese culture. Our Party and State always affirm the viewpoint of respecting cultural diversity and attach importance to preserving and promoting national cultural values, including the culture of ethnic groups, considering it as an asset. precious to the whole society, is an important condition for building a common culture of the nation and nation. The state management of ethnic group culture in the provinces and centrally-run cities implemented by the local Departments of Culture, Sports and Tourism has achieved encouraging results, but still there are still some problems and limitations; In order to further improve the role of the local Departments of Culture, Sports and Tourism in preserving and promoting the cultural values of ethnic groups, the author recommends that the following solutions should be well implemented:

Firstly, consolidating the organizational apparatus, improving the quality of the staff, strengthening the application of technology, scientific research, cooperation and international integration. Completing the organizational arrangement of the units under the Departments of Culture, Sports and Tourism of the localities; implement reasonable decentralization of authority in association with strengthening the inspection and supervision of the provincial People's Committee and the Ministry of Culture, Sports and Tourism. Strongly transform the management model towards serving people and businesses, creating for

development. Strengthening discipline, administrative discipline, creating an innovation environment, training, regularly updating knowledge and skills for staff, developing human resources, building staff, civil servants with deep expertise, focusing on strengthening management capacity for cadres and civil servants. Strengthening administrative discipline and discipline for cadres, civil servants and public employees in the performance of their official duties.

Secondly, speeding up the reform of administrative procedures, reviewing and proposing the decentralization of administrative procedures at the request of the Prime Minister; promoting the application and development of digital resources and digital data, carry out digital transformation of the culture, sports and tourism industries in the localities; developing and operating the database system on national ethnic group culture in service of socio-economic development and the database in service of state management. Directing, operating and handling work records is done entirely in the electronic environment (except for work records under the scope of state secrets).

Thirdly, effectively promoting its role as an advisory body to help the Provincial People's Committee manage the fields of culture, sports and tourism in general and ethnic group culture in particular; formulating, promulgating and effectively implementing programs, plans, schemes, projects, investment pilot models, supporting the conservation and promotion of the fine traditional culture of the local ethnic groups in order to exploit and build products for tourism development in the localities. In which, focusing on effectively implementing the project "Preserving and promoting the fine traditional cultural identity of ethnic groups associated with tourism development" under the National Target Program for socio-economic development in areas of ethnic groups and mountainous areas in the period 2021–2030. Restoring, preserving and developing traditional cultural identities of 16 ethnic groups with a small population, including 16 people Ethnic groups: La Ha, Phu La, La Hu, Lu, Lo Lo, Chut, Mang, Pa Then, Co Lao, Cong, Bo Y, Si La, Pu Peo, Brau, Edu, Romam. Adopting policies and support people's artisans, ethnic group elite artisans in the transmission and dissemination of traditional cultural activities and training and fostering their successors.

Fourthly, promoting propaganda and raising the sense of respect for traditional cultural values of the nation, so that ethnic groups have the responsibility to preserve and preserve traditional cultural values; at the same time, selectively receiving the quintessence of modern culture. Diversifying forms of propaganda and promotion of the preservation and promotion of cultural values of ethnic groups in the locality, aiming at sustainable development and promoting advantages and potentials and the self-help spirit of ethnic groups to serve socio-economic development in the province.

Fifthly, improving the effectiveness and efficiency of enforcement, respect the law; focus on inspection, supervision, control of power, strictly handle cases of law violation, loss, waste, and acts of harassment in the performance of official duties. Strengthening the coordination mechanism between central and local agencies in implementing and perfecting policies and laws. Changing inspection and examination activities from pre-inspection to post-audit, strictly handle cases of law violation, loss and waste in the management of culture, sports and tourism in ethnic group areas. … monitor, evaluate, listen to the voice and feedback of people and businesses on the state management of culture, sports and tourism in general, and state management of people's culture ethnic groups in particular in each locality and the quality of public services in the sector. Coordinating well in the development and implementation of annual inspection plans, establishing information exchange mechanisms to overcome the overlapping situation between ministries, branches and localities in the field of culture, sports and tourism.

From the position, functions, duties and powers prescribed by law and allocated resources, from the

development practice of social life, the Departments of Culture, Sports and Tourism of the provinces and cities under the Central Government always closely follow the guidelines and guidelines of the Party, policies and laws of the State, perform well the role of state management of ethnic group culture in the locality, contribute to the preservation and upholding the traditional values of the Vietnamese ethnic community, building a Vietnam with its own identity, independence and self-reliance.

References:

1. Ministry of Home Affairs (2014). Decision No. 746/QD-BNV dated July 21, 2014 of the Minister of Home Affairs promulgating training materials for leaders at departmental and equivalent levels.
2. Government (2014). Decree No. 24/2014/ND-CP dated April 4, 2014 stipulating the organization of specialized agencies under the People's Committees of provinces and centrally-run cities.
3. Government (2020). Decree No. 107/2020/ND-CP dated September 14, 2020 amending and supplementing some articles of Decree No. 24/2014/ND-CP dated April 4, 2014 stipulating the organization of specialized agencies under the People's Committees of provinces and centrally-run cities.
4. Ministry of Culture, Sports and Tourism (2021). Circular No. 08/2021/TT-BVHTTDL dated September 8, 2021 guiding the functions, tasks and powers of the Department of Culture, Sports and Tourism, the Department of Culture and Sports, the Department of Tourism under the People's Committee of the province; Department of Culture and Information under the People's Committee of the district.
5. Ministry of Culture, Sports and Tourism – Ministry of Home Affairs (2015). Joint Circular, No. 07/2015/TTLT-BVHTTDL-BNV dated September 14, 2015 guiding the functions, tasks, powers and organizational structure of the Department of Culture, Sports and Tourism under the People's Committee of the provinces or centrally-run cities; The Culture and Information Office of the People's Committees of districts, towns, provincial cities.
6. Ministry of Culture, Sports and Tourism – Ministry of Home Affairs (2006). Joint Circular No. 43/2008/TTLT-BVHTTDL-BNV dated June 6, 2006 guiding the functions, tasks, powers and organizational structure of the Department of Culture, Sports and Tourism under the Provincial People's Committee; Department of Culture and Information under the People's Committee of the district.
7. Ministry of Culture and Information – Sports Committee – Government Organization and Personnel Committee (1998). Joint Circular No. 28/1998/TTLT-VHTT-TDTT-TCCP dated January 13, 1998 guiding functions, tasks, powers and organizational structure on culture–information.
8. Dien Bien Province People's Committee (2022). Decision No. 06/2022/QD-UBND dated March 25, 2022 defining the functions, tasks and powers of the Department of Culture, Sports and Tourism of Dien Bien Province.
9. Department of Culture, Sports and Tourism of Tuyen Quang province (2020). Report No. 274/BC-SVHTTDL dated September 4, 2020 reporting on monitoring the situation of law enforcement on conservation and promotion intangible cultural heritage of ethnic groups and mountainous areas.
10. Propaganda Department of the Central Committee of the Communist Party of Vietnam (2021). Report on inheritance and promotion of national cultural traditions; building and developing culture after 35 years of conducting the national renovation; the main orientations and solutions to develop Vietnamese culture and people in the spirit of the Resolution of the 13th Party Congress.

Section 2. Constitutional law

https://doi.org/10.29013/EJLPS-22-2.3-22-27

Dylavong Noukeo,
PhD student in Public Management,
National Academy of Public Administration, Hanoi, Vietnam

STRENGTHENING THE NATIONAL ASSEMBLY'S ROLES IN BUILDING THE RULE OF LAW STATE IN THE LAO PEOPLE'S DEMOCRATIC REPUBLIC

Abstract. The first Constitution of the Lao PDR promulgated in 1991 affirmed that: "All state power belongs to the entire working labor", ensuring the political power of the working labor is a requirement of the process of national renewal in Laos. The State in general and the National Assembly in particular play an important role in ensuring the political power of the working labor and building a rule of law state in Lao PDR. The article focuses on clarifying the current situation and proposing some solutions to strengthen the role of the National Assembly of Lao PDR in building a socialist-oriented rule of law state in the new period.

Keywords: role, National Assembly, state, rule of law, Laos.

1. Introduction

The vision of the rule of law state was formed very early, more than two thousand years ago. At first, these were just ideas and conceptions of thinkers about the special elements and aspects of the organization of state power, promoting the role of law and resolving the relationship between the state and the law, etc. then these ideas and concepts were gradually supplemented and developed into a popular theory of humanity and applied in many countries with different ways. The main content of the ideology of the rule of law state is to uphold the role of law in state life, social life, the state manages society by law and must respect and implement the law; The law must reflect and protect great social values: security, safety, freedom, democracy, fairness, equality, progress and development. The history of development of the idea of the rule of law has gone through many stages with the contributions of ideas and wisdom from many thinkers around the world with very rich and complex contents such as: Solon (638–559 BC), Heraclitus (535–475 BC), Socrates (470–399 BC), Plato (427–347 BC), Aristoteles (384–322 BC), Cicero (106–43 BC), Guan Zhong (725–645 BC), Shang Yang (390–338 BC), Han Fei (280–233 BC), John Locke (1632–1704), Montesquieu S.D (1689–1775), J. J. Rousseau (1712–1788), Immanuel Kant (1724–1804), Georg Wilhelm Friedrich Hegel (1770–1831), etc.

In the Lao PDR, in recent years, the issue of the concept of the rule of law state has also been discussed with many different points of view, especially that: "The rule of law state is the state that manages society by law; every citizen must live and operate according to the law; means taking the law as a tool to ensure one's rights and interests and prevent the abuse of power by the state, making the state obey the law, while citizens can do everything the law can-

not prohibit. Therefore, in a rule of law state citizens fully exercise their rights and obligations, in a rule of law state the people are the supreme power" [10]. The nature of the rule of law state of Lao PDR is reflected in three contents: political, social and rule of law state, in which the rule of law state is expressed in the main aspects that the state is organized and operated according to the constitution and the law; social management by law; democracy, human rights and citizenship are recognized and guaranteed by law. Based on the nature of the Lao PDR state and compared with the general characteristics of the modern rule of law state, it is possible to describe the basic features of the Lao PDR's rule of law state including: 1) The people is the subject of state power, all state power belongs to the people; 2) human rights, fundamental rights and obligations of citizens are recognized and guaranteed by the constitution and laws; 3) the rule of law Lao PDR is a state that recognizes the supreme position of the constitution and laws, and the organization and operations of the state are carried out on the basis of the constitution and laws; 4) state power in the rule of law is organized and exercised according to democratic principles; assignment of power and control of power; 5) the rule of law Lao PDR associated with an appropriate constitutional and legal protection mechanism; 6) the rule of law Lao PDR is a state that respects and commits to the implementation of international conventions and treaties it has acceded to, signed and ratified; Thoroughly mastering the ideas of the classics of Marxism-Leninism and Chairman Kaysone Phomvihane, the Lao People's Revolutionary Party always considers the state issue and state construction an important task for the Lao PDR. really is the pillar of the political system, the main tool of the people in the cause of national construction and defense, in the construction of a socialist-oriented society. In the process of leading the people to carry out the renovation, the Lao People's Revolutionary Party paid more and more attention to state building. The construction of the Lao PDR's rule-of-law state of the people, by the people and for the people in the renovation period was carried out on the basis of consolidating and renovating the legislative, executive and judicial organs to ensure the worker class and the state's democracy, in which the role of the National Assembly (legislature) is given special importance, the Constitution of the Lao PDR amended and supplemented in 2015 clearly states that the National Assembly has a number of the following powers: 1) is the highest representative body, the highest organ of state power; 2) is the only body with constitutional and legislative powers, the body that decides on basic domestic and foreign affairs; 3) is the agency that decides the biggest organizational issues, the agency that exercises the supreme supervisory power over the entire state's activities. That shows the role of the National Assembly in building the legal state. Lao PDR's rights are very important.

2. Research Methods

On theoretical basis, to conduct this research, the author has based on the point of view of Marxism – Leninism, thought of Kaysone Phomvihane, the point of view of the Lao People's Revolutionary Party and theories of the rule of law and functions and duties of the National Assembly. Regarding the scientific research method, the author uses the method of scientific inheritance from the authors who have studied before; method of synthesizing and analyzing information and data to give an objective view of the role of the National Assembly in the condition of building a rule of law state in Lao PDR.

3. Research results

In the context of the socialism transition, ignoring the capitalist regime and having to go through a long war, the renovation work and continuing to build the Lao PDR were carried out according to the basic motto. Economic innovation is the focus and basis for step-by-step renovation in the political system, including the state. Fundamental innovations in the infrastructure will inevitably lead to innovations in the social superstructure. Therefore, in terms of the state, it also began to shift from a highly

centralized, administrative-command model to a rule-of-law state. The formation of the concept of "a socialist rule of law state" is an important contribution to the process of renewing thinking and theory on socialism in Lao PDR, contributing to guiding the practice of state building. Laos is moving towards the rule of law state of Lao PDR.

The legislative role of the National Assembly is increasingly promoting democracy and overcoming formal diseases. The quality of the sessions of the National Assembly has been increasingly improved to address very specific goals, pressing issues of life and many other issues. Regarding the role, activities and position of the National Assembly, Article 52 of the 2015 Amended and Supplemented Constitution clearly states: "The National Assembly is the body representing the rights and interests of the people of the Laotian tribes, is the body The highest organ of state power is also the legislative body that performs the role of passing the Constitution and laws, has the power to decide on the basic issues of the country and exercises the supreme power to supervise the observance of the Constitution. and laws of state agencies". Many studies on the theory as well as in the understanding of the majority of the population in the past have not clearly and correctly identified those major features of the National Assembly. There is a tendency to only refer to the National Assembly as the legislative body, exercising legislative power, even placing the issue of equating three legislative, executive and judicial powers; even a number of legal documents such as the Law on Organization of the National Assembly, the Law on Election of National Assembly deputies issued before, there are no specific, detailed and complete regulations on each feature and function of the National Assembly. In order to build the rule of law state of Lao PDR, the National Assembly has promoted its role in promulgating and amending and supplementing necessary laws to run the country such as: Law on Organization of the National Assembly, Law on Operation supervision by the National Assembly, etc. This can be considered as a major development in the process of perfecting the law of the Lao PDR, gradually overcoming the inadequacies in the administration of the country by state agencies. The provisions of the current law have basically defined the main features of the hierarchical relationship between the highest state power agencies, thereby giving rise to and defining concepts such as constitutional rights and legislation, principles of organization of the state apparatus, relations between the state and citizens, the supreme supervision of the National Assembly. Activities of the National Assembly have undergone a great change from the main form of show of hands to substantive activities – debate, discussion and decision. The election system for National Assembly deputies has been renewed according to many requirements of democracy and the rule of law, with many new regulations and new ways of doing things such as having free candidates, or going from the place where there are no full-time delegates. to the place where there are full-time delegates and more and more full-time delegates. The constitutional and legislative processes are democratized and scientific. The National Assembly performs its functions according to the law and places itself under the law.

An important transition in the building process of the Lao PDR rule of law state is the renewal of the leadership method of the Lao People's Revolutionary Party for state agencies. Because of clear identification that the Lao PDR is a state of the people, by the people and for the people and the nature of the working class is shown first of all in the leadership of the Party over the state, in the process of state building The rule of law cannot fail to strengthen and enhance the Party's leadership role over the state. That is an important, immutable principle. Therefore, the construction of the Lao PDR's rule of law state of the people, by the people, for the people was carried out according to the following principles:

Firstly, it must ensure the absolute leadership of the Party over the entire political system. The Party attaches special importance to setting out the line of building and perfecting the state in new condi-

tions, especially the construction of a rule-of-law state of Lao PDR of the people, by the people, for the people.

Secondly, the Party always attaches importance to promoting the initiative and creativity, clear responsibility regime of state agencies, gradually renewing the Party's leadership method towards the State under the motto: The Party leads the state but not working instead of the state.

Thirdly, the renewal of the Party's leadership mechanism for the state and state agencies is clear and specific in three areas: legislative, executive and judicial. The absolute leadership of the Party is reflected first of all in the Party's formulation of strategic lines to build and perfect the state in new conditions. That line is considered a guideline for the activities of the entire state system. Moreover, the Party's leadership over the state is specific leadership in each of the legislative, executive and judicial fields.

The Party's leadership towards the National Assembly is reflected in the following contents: (1) leading the formulation of guidelines, methods and direction of legislative activities; (2) leading the organization and staff building for legislative work; (3) leading the promulgation of specific laws and ordinances.

In addition to the great and important achievements, the renovation of the organization and operation of the Lao PDR in the direction of building a rule of law state of the people, by the people, for the people also has many limitations and shortcomings that need to be corrected:

Firstly, the legal system developed by the National Assembly is still incomplete, synchronous and consistent.

Secondly, full-time professional members of National Assembly are less, most of them are part-time officials.

Thirdly, the operation mode of state power agencies according to the principle of unity with division of coordination has not been fully understood or is only a formality, and the application has not been effective, it cause less independence of each agency. The coordination is not close and therefore has not yet created breakthrough changes for society.

4. Discussion and conclusion

The nature of the rule of law state in the Lao PDR is democratic, all state power belongs to the people, so in the process of organization and operation of the state apparatus, the people have great rights from the process of organizing the apparatus, inspecting and supervising the activities of the state apparatus, and recalling its representatives in the state apparatus. Therefore, the expansion of democracy allows the people to actively participate and the above processes are a matter of principle.

This principle is institutionalized in the constitution and legal system of the Lao PDR, Article 4 of the 2015 Constitution of the Lao PDR stipulates: "The people elect a representative, the National Assembly and the People's Council to ensure that its rights and interests. The election of deputies to the National Assembly and People's Councils is conducted on the basis of universal, equal, direct and secret suffrage. Voters have the right to propose removal of their representatives if they find that these people have behaved unworthy of their positions and lost the trust of the people.

Article 5 of the Constitution also continues to stipulate: "The National Assembly, the People's Council and other state agencies shall be established and operate on the principle of democratic centralism".

The National Assembly is the highest organization of state power, representing the will and power of the people, performing the legislative function, deciding the basic issues of the country, and exercising supreme supervision over the state apparatus. The renovation of the organization and operation of the National Assembly is an important solution to improve the position and quality of the National Assembly's activities, having an impact and influence on the entire state apparatus. The document of the VIII National Congress of the Lao People's Revolutionary Party clearly states: "In order for the National Assembly to further enhance its role, we

must improve and enhance the quality of its organization and operation. of the Standing Committee of the National Assembly as well as the apparatuses of the National Assembly and its deputies, especially improving the quality and efficiency in conducting National Assembly sessions to create conditions for the people to exercise their rights to observe their elected person and allow the National Assembly deputies to have regular contact with voters, and at the same time allow the National Assembly's Committees to participate from the beginning in the process of elaborating socio-economic development plans and budget plans. state books as well as law projects … [9, p. 60–61].

To implement the above policy, it is necessary to perform the following solutions in a synchronous manner:

Firstly, further improving the quality and efficiency of performing the functions of the National Assembly, namely:

– Improve the quality and efficiency of legislative activities. In recent years, the quality of law-making of the National Assembly has made significant progress but still has not met the requirements, many documents have not been effective and efficient; there are many newly promulgated laws that have to be supplemented; many provisions of the law are still very general, if they want to be implemented, they must wait for the guiding documents, etc. To overcome this situation, it is necessary to focus on completing the law-making process of the National Assembly; improve the quality of National Assembly deputies and assisting agencies of the National Assembly; democratize the law-making process, attract a large number of legal experts and people to participate in the law-making process; and at the same time improve the quality and efficiency of law enforcement.

– Expand and improve the efficiency of the function of deciding important issues of the country, fight towards the National Assembly to fully exercise the right to decide the budget as stipulated in the Constitution, to ensure that the National Assembly consider and decide substantively socio-economic development plans, national programs, large investment projects and important issues of state apparatus organization and personnel.

– Improve the quality and effectiveness of the National Assembly's supervisory function, develop an effective and efficient supervisory mechanism, focusing on pressing issues such as anti-corruption, waste, and capital management. and state property… It is necessary to clearly define the scope, content, and mechanism for exercising the supreme supervisory power of the National Assembly, the National Assembly Standing Committee and the National Assembly's Committees.

Secondly, promoting the roles and responsibilities, and improve the capacity and bravery of National Assembly deputies. It is necessary to renovate the mechanism for electing deputies to the National Assembly, improve the quality of National Assembly deputies, and focus on fostering and training skills and professionalism for National Assembly deputies. At the same time, it is necessary to fully determine the legal status and role of National Assembly deputies, creating favorable conditions for National Assembly deputies to fulfill their assigned responsibilities.

Thirdly, continue to consolidate the National Assembly's organization, enhance the role of committees and assisting agencies of the National Assembly, and promote the role of National Assembly deputies; study to increase the number and promote the role of full-time National Assembly deputies in the National Assembly.

Strengthening the relationship between the National Assembly and the people. The National Assembly is the highest representative body of the people, the highest state power agency, so the National Assembly must be close to the people and create favorable conditions for the people to attend or follow the National Assembly's sessions; The National Assembly should pay attention to listen to the people's opinions, thoughts and aspirations, and at the same time have the responsibility to provide nec-

essary information and organize for the people to express their will and aspirations.

Starting from the theoretical basis and the actual situation of the role of the National Assembly in building the rule of law state of Lao PDR, the strengthening of the role of the National Assembly in ensuring the political power of the working labor and building The rule of law in Lao PDR is an objective, urgent and necessary requirement from the point of view of the National Assembly as the highest organ of state power, the body with constitutional, legislative and supervisory powers. supreme supervisor of all activities in the state apparatus, the agency that has the power to decide on important issues of the country, and is the highest representative body of the people. Requiring the National Assembly to give full play, operate effectively and efficiently, and properly perform its functions and tasks to build a socialist-oriented state ruled by law in the Lao PDR in the new period.

References:

1. National Assembly of Lao PDR (1991). Constitution of Lao PDR1991, National Assembly Publisher, Vientiane.
2. National Assembly of Lao PDR (2003). Constitution of Lao PDR2003, National Assembly Publisher, Vientiane.
3. National Assembly of Lao PDR (2003). Constitution of Lao PDR as amended and supplemented in 2015, Vientiane.
4. National Assembly of Lao PDR (1993). Law on National Assembly, National Assembly Publisher, Vientiane.
5. National Assembly of Lao PDR (2003). Law on National Assembly, National Assembly Publisher, Vientiane.
6. National Assembly of Lao PDR (2000). Guidelines on the formation and development of the National Assembly, Vientiane Publisher, Vientiane.
7. Georg Wilhelm Friedrich Hegel (2010). Principles of the philosophy of law, translated by Bui Van Nam Son, Tri Thuc Publisher, Hanoi.
8. Propaganda Department of the Party Central Committee (2011). Propaganda document on the content of the Resolution of the 9th Lao People's Revolutionary Party Congress, Central Propaganda Department Publisher, Vientiane.
9. Kaysone Phomvihane (2005). On building and promoting the people's democracy, Anthology,– Vol. 4. Central Propaganda Department Publisher, Vientiane.
10. Thoongda Suphasith (2008). Exchange of ideas on what is the construction of the rule of law?" Phu Then Pha Xa Xon Magazine (National Assembly).

https://doi.org/10.29013/EJLPS-22-2.3-28-32

Manushaqe Artan,
University College of Business Tirana
PhD in Law, the faculty of law
Saliasi Endri,
Bachelor in Business Administration,
University of Macedonia Thessaloniki, Grecce

THE DECISION OF THE CONSTITUTIONAL COURT NO. 24/2021

The Decision of the Constitutional Court No. 24/2021 on the decriminalization of the criminal offense Article 262/1 of the Criminal Code, organization and participation in illegal gatherings and manifestations, and the consequences of other indirect criminal offenses arising from this provision.

Abstract. The Constitutional Court on May 42021, took a decision announced on June 2, 2021 to abolish the phrase "without prior permission of the competent body under special provisions" of the first paragraph of Article 262 of the Penal Code of the Republic. of Albania, as incompatible with Articles 17, points 1 and 47 of the Constitution of the Republic of Albania, a provision decriminalizing the criminal offenses of organizing gatherings and events of persons in squares and public places of passage, without prior permission from the competent department according to the special provisions or when the organizers violate the conditions set out in the application for a permit, constitute a criminal offense and it is punishable by a fine or imprisonment of up to one year,

However, this decision of the Constitutional Court does not exhaust the whole scope of the interpretation of the decriminalization of criminal offenses that appear during illegal assembly as criminal offenses that are indirectly absorbed by major criminal offenses such as disturbing public order, blocking the road, disobedient to the police, which will guarantee even more freedoms and individual rights, but also by decriminalizing them so as not to leave room for obstructive interpretation by the courts.

The Constitutional Court must make an interpretation and make a complete decision regarding the decriminalization of these indirect criminal offenses which are resulted from a major criminal offense such as the illegal gathering that is now legal and consequently the other criminal offenses covered by this criminal offense should be decriminalized as a criminal fact and should not constitute a criminal offense in cases where these criminal offenses have been raised and found in an illegal gathering / protest.

Keywords: gathering, protest, Constitutional Court, European Convention on Human Rights, criminal offense, absorption, charge, decision, Criminal Code.

Introduction

1. On 4 May 2021, the Constitutional Court of Albania, by its decision [6], abolished the phrase "without first obtaining permission from the body competent under special provisions" in the first paragraph of Article 262 of the Criminal Code of the Republic. Albania, as incompatible with Articles 17, points 1 and 47 of the Constitution of the Republic

of Albania, as well as with Articles 11 and 18 of the European Convention on Human Rights, a provision decriminalizing the criminal offenses of organizing gatherings and demonstrations in squares without the prior permission of the competent body under special provisions or when the organizers violate the conditions set out in the application for authorization, constitute a criminal offense and shall be punished by a fine or imprisonment of up to one year following a request for incidental control. to be submitted by the Shkodra Court of Appeals (reference court), with an intermediate decision, on 15.11.2018 which has decided to suspend the review of the case [7] and on 13.12.2018 addressed to the Constitutional Court (Court) with a request with the object "*Removal of the phrase" without previously receiving permission from the body competent according to special provisions ' in the first paragraph of article 262 of the Criminal Code* [3] *as incompatible with Articles 17, points 1 and 47 of the Constitution.*

The Constitutional Court accepts the legitimacy of the Shkodra Court of Appeals and its arguments (It claimed that the phrase "without first obtaining permission from the competent body according to special provisions", provided in Article 262, first paragraph, of the CC, contradicts some of the constitutional principles and jurisprudence of the Court, submitting a summary of these arguments: The referring court is entitled to address the Court, as there is a direct link between the provision that is considered unconstitutional, namely Article 262, first paragraph, of the CC and the resolution of the concrete case. permits from the competent body according to special provisions" contradicts Articles 47 and 17 of the Constitution, as well as Article 11 of the ECHR. This article was adopted before the entry into force of the 1998 Constitution and has not been subject to scrutiny to verify its compliance with the Constitution. Lack of prior notice cannot serve as a legitimate basis for crowd dispersal. Restriction of freedom of a peaceful demonstration and association must be done in accordance with the criteria set out in Article 17 of the Constitution and in accordance with the jurisprudence of the European Court of Human Rights (ECHR). According to the referring court, prosecuting the participants and organizers of a peaceful protest, regardless of whether it took place without the permission of the authorities or beyond the terms of the permit, would constitute an even more serious violation of the right of a peaceful demonstration. Also, according to it, Article 262 of the CC is not in accordance with law no. 8773/2001. The phrase "without first obtaining permission from the competent body according to special provisions" also contradicts Article 17, point 1, of the Constitution, as the penalty of a fine or one year of imprisonment for organizing gatherings, without first obtaining permission from the competent body, appears in significant disproportion in relation to the situation that has dictated it; The provision as a criminal offense of organizing rallies and manifestations without prior permission and the eventual criminal punishment violate the balance between the limited right and the public interest, as well as contradict Article 11 of the ECHR. Law no. 8773/2001 has an approach closer to international standards than Article 262, first paragraph of the CC, in terms of justifying criminal prosecution with the existence of a public interest violation), and in conclusion considers that the claim of the referring court, that the phrase "without first obtaining permission from the competent body according to special provisions", in the first paragraph of Article 262 CC is incompatible with Article 47 of the Constitution, and should be repealed by the Criminal Code, as it violates legal certainty and constitutional freedoms and rights, such as that for a peaceful demonstration (The European Court of Human Rights has recognized that the right to a peaceful demonstration guaranteed by Article 11 of the ECHR is fundamental in a democratic society and, therefore, should not be construed narrowly (see Kudrevičius and Others against Lithuania, 15 October 2015, § 91) guaranteed by the European Convention on Human Rights. Even though the Shkodra Court of Appeals referred the case to the

Constitutional Court at the end of 2018, at a time when due to the reform of justice in Albania this court did not have the necessary quorum to convene a review and decide on this reason. This court in its request had not submitted any other claims directly related to the criminal offenses or Blanket (criminal offenses that absorb the main criminal offense such as that of illegal demonstration).

Analysis

The Constitutional Court in its decision 24/2021 was referred only on the case requested by the Criminal Court of Appeal Shkodra, regarding the existence of a criminal offense when "protesting" without first obtaining permission from the public order police or the relevant body, but in its decision did not refer the consequences and other criminal facts which emanate indirectly from this criminal offense, such as resistance, disobedience to the order of the public order police officer, when they were asked to leave the protest, while many criminal proceedings in the courts regarding the charges for the criminal offense 262/1 "illegal protests" have been suspended or dismissed by the criminal courts while for other criminal offenses that have come indirectly from this protest have not been dismissed.

What will happen with these criminal offenses which are under investigation or in trial, so it can be built a constitutional precedent with every detail which covers every aspect and does not leave any space for legal interpretations or active criminal proceedings for the ones whose charges existed not only for illegal gathering (protest), but also for not obeying in police's orders (Article 242 of the Criminal Code disobedience to the order of a public order police officer) such as to leave the protest and the street, or to oppose (Article 236 of the Criminal Code objecting to a public order police officer) the police forces that they do not leave the protest?

What will happen if they are accused of disturbing public order, when protesting is essentially a right to those citizens to raise their voice so their requests can be heard and noticed from the responsible ones while at the same time respecting the law and the right?

What will happen when they are accused of interrupting the movement of vehicles on the road, as is the case of the residents of the New Tirana Ring Road in 2018–2020 who protested for more than a year on the road in front of their apartments after being against demolition of their homes and properties without a proper legal process by the government? [11; 12]

These residents were accused [8] not only of illegal [13] protests (illegal gathering), they were also accused for obstructing the circulation of vehicles according to the criminal code (Article 293 of the Criminal Code Obstruction of the circulation of means of transport), in Teodor Keko Street (New Ring Tirana 2019), and they were accused too for: opposing the employees of police [9] and also for other criminal offenses that come indirectly from an "illegal protest". While, the decision of the Constitutional Court is clear on the issue regarding the right and legitimacy of gathering peacefully without permission but only with a notification to the competent body. In the same time this decision should lead to a recall of the other accusations because there is no more criminal fact to commit a criminal offense, such as opposition to a police officer, disobedience to the police order, disturbing public order and peace, obstruction of the movement of vehicles. In conclusion of the previous sentence, as it seems there is not a concrete analyzation with facts for all the other criminal offenses that are a result of the basic one which was considered to be 'illegal protest'. It is not exactly defined when rejecting the main criminal offense in this particular situation, if it is going to lead to a rejection of the other criminal offenses too from the Constitutional Court considering also the ECHR for their actions. (Article 274 of the Criminal Code Disturbance of public order).

If a citizen or a group of citizens has come out in a public place to protest and he has previously notified the competent body, and the protest is within the rules

of the law on protests [5], and they have been asked to stop the protest and leave and they did not obey or oppose the police order not to block the road while they have been charged by the prosecution and the criminal court has accepted the charges, for illegal gathering and other related criminal offenses, what happens when during this process the Constitutional Court abrogates the criminal offense of Article 262/1 of the Criminal Code for "Organizing and participating in illegal gatherings and manifestations" with the argument that there is no need for permission but for notification and does not clearly define what will happen with other criminal charges, even in the conditions when the Parliament has not yet implemented the decision of the Constitutional Court to review the Criminal Code regarding the harmonization of Article 262 (In view of the above, the Court, in order to give the legislator sufficient time to adopt the new legal rules in accordance with its decision, considers that the Assembly should review Article 262, first paragraph, of the CC for its harmonization with Article 47 of the Constitution, according to the reasoning of this decision, within the 6-month period, which starts from the promulgation of this decision and lasts until its entry into force).

Conclusion

The Constitutional Court should have ruled on other criminal offenses that include the main repealed criminal offense of "organizing and participating in illegal manifestations" Article 262, as criminal offenses of disobeying the instructions of a police officer Article 242 of the Criminal Code, opposition to the police officers Article 236 of the Criminal Code, disturbing public order and tranquility Article 274 of the Criminal Code, obstruction of the circulation of means of transport Article 293 of the Criminal Code.

The Constitutional Court does not treat the case only in particular, it looks at and treats it in an even broader dimension by making an interpretation of some criminal norms that are indirectly related to Article 262 of the Criminal Code. The Constitutional Court should treat and take decision also for the decriminalization with every detail of the indirect criminal offenses that came from a direct criminal fact such as the "illegal protest" (Criminal Code of the Republic of Albania Article 262, Organization and participation in illegal gatherings and manifestations). When the main criminal fact that relates to the other criminal fact falls, then the indictment also falls and consequently we have no criminal offense, and so the current criminal charges and trials are terminated as there is no legal basis, fact and criminal offense.

The Constitutional Court should have been decisive and detailed in decision number 24/2021, repealing all derivative criminal offenses that have come due to a "legitimate protest" where there is no need for a permit but only for a notification to the competent body. Derivative criminal offenses are disobedience to police orders which asked to leave the protest, or opposition of police forces and others. According to the Constitutional Court the protest is legal from the moment that the competent body is informed of it and does not need a permit, while the accusations of the prosecution had as a main reason the illegality of the protest claim that they have not received a permit and have produced other secondary indirect criminal offenses.

References:

1. The Constitution of Republic of Albania.
2. Constitutional Court of Albania.
3. The European Convention of Human Right.
4. The Penal Code of Albania.
5. The protest organization law 8773/2001.
6. Constitutional Court Decision nr. 24 date 04.05.2021.
7. Court of Shkodra Decision nr. 485 date 26.03.2018.

8. Criminal proceedings, – No 7767. Dated 14.10.2019 and notification of the accusation 17.04.2020.
9. Notice, RR411294519AA The Criminal Court of the Tirana Judicial District, Gezim. Sadikaj, on 29.07.2020 to appear in court on 23.09.2020 Act 2565 to oppose the police, Judge Kreshnik Omari.
10. Notice, The Criminal Court of the Tirana Judicial District, Skender Doda, on 29.07.2020 to appear in court on 23.09.2020 Act 2565 to oppose the police, Judge Kreshnik Omari
11. Nuk ndalen protestat në Unazë të re: Nuk lëshojmë shtëpitë // 2018. URL: https://www.syri.net/politike/207703/foto-banoret-e-unazes-se-re-bllokojne-rrugen-kryeministri-po-tallet-me-ne-nuk-lejojme-prishjen-e-shtepive
12. Banorët e Unazës së re marshojnë në rrugë // 2018. URL: https://www.syri.net/kronike/210729/video-banoret-e-unazes-se-re-marshojne-ne-rruge
13. Protesta e dhunshme tek Astiri, arrestohen 6 persona (EMRAT) // 2019. URL: https://sot.com.al/aktualitet/protesta-e-dhunshme-tek-astiri-arrestohen-6-persona-emrat

Section 3. Political culture and ideology

https://doi.org/10.29013/EJLPS-22-2.3-33-36

Ta Van Sang,
An Giang University, VNU-HCM

HO CHI MINH'S PHILOSOPHY ON THE WAY TO BEHAVE WITH HUMAN

Abstract. Ho Chi Minh's philosophy on behaving with humans is especially content in Ho Chi Minh's thoughts because Ho Chi Minh's life and career always care for humans. In this article, the author only mentions four main contents in the philosophy of Ho Chi Minh's behavior towards people: Love, trust in people, respect for human life, tolerance of humans, and liberation for humans.

Keywords: Philosophy of life, Ho Chi Minh, the way to behave with the human.

1. Introduction

Ho Chi Minh's philosophical thought is a comprehensive, profound, and logical system expressed in many speeches and articles. Ho Chi Minh's philosophical thought is considered from many different angles. During the study, we find in that a profoundness of Eastern philosophy, first of all, Vietnamese ideas and philosophies, along with the rationality, conciseness, and modernity of Western philosophy. Ho Chi Minh's philosophical thought reflected on many issues in which the philosophy of the way to behave with humans has great value that needs to be studied and applied in the current period.

2. Research content

In Ho Chi Minh's viewpoint about humans, He fully expressed the issues about nature, position, role, the way to behave with humans, and strategy of building and developing people. In particular, the way to behave with the human is considered a philosophy of life that shows the unique features of Ho Chi Minh's views on people. That philosophy has created profound human values in Ho Chi Minh's thought. It is possible to generalize Ho Chi Minh's human philosophy on the way to behave with the human through the following contents:

2.1. Love, trust in humans, and believe in the cause of human liberation

Ho Chi Minh loved all people of all ages, all genders, and the poor, the oppressed, the exploited, the imprisoned, the destitute, the enslaved class, and the nation. Even the soldiers in the army went to invade.

In New Year's greetings to compatriots in the area temporarily occupied by the enemy, Ho Chi Minh wrote: "It is also a good day, South sky Vietnamese land, but compatriots have to suffer the manner cold, the disgrace, the destitution, the sadness under the iron heel of brutal colonial demons… I feel very sorry for my compatriots who are temporarily in that situation" [1, p. 130]. Ho Chi Minh has never been indifferent to human suffering and humiliation, and with Ho Chi Minh, including the personal suffering of each person, each family becomes his suffering. Ho Chi Minh's love for humans is not only in words but also expressed in actions, which is his determination to liberate humans. He always sympathizes with the difficulties and losses of people. Therefore, he used his

savings to send to the air defence – air force soldier to buy drinking water. He distributes children's gifts on the occasion of Tet. Ho Chi Minh reminds children and the elderly against the cold when there is a Northeast monsoon. Ho Chi Minh regularly visits people from all walks of life. On New Year's Eve, Ho Chi Minh came to wish the New Year and encourage the poorest… these actions showed Ho Chi Minh's love for people and always believe in the strength of people in struggle and nation-building. Ho Chi Minh's love for people has been raised to a new height and is deeply humane. Ho Chi Minh searched for the cause of human suffering and unhappiness. Ho Chi Minh said: that the cause of human suffering and unhappiness was the "Vietnamese crooks, selling the country", the "fascists and colonialists"… And Ho Chi Minh called for a fight to the end to bring people out of poverty and misery and gradually develop comprehensively. Ho Chi Minh's whole life is an epic about the struggle against oppression, exploitation, and unjust war so that humanity can live in peace and happiness.

Ho Chi Minh's love for people is not general or abstract, and it builds on the revolutionary stance of the working class. According to Ho Chi Minh, the revolution was the cause of the masses, had people everything, and without relying on the people, we could not do anything. The strength of the Party and the State is based on the strength and support of the people. Ho Chi Minh's faith in people, not only in seeing the decisive role of humans in the revolution but also in seeing the hidden abilities in humans, from the desire to be enlightened, guide, and share with each person to rise to improve themselves. Therefore, the abbot Onishi of "Thanh Thuy Temple" in Kyoto (Japan) explained that Ho Chi Minh's name is written in the Japanese transliteration to coincide with the word Tri Dan Bodhisattva. Show admiration for Ho Chi Minh as Buddha, closeness, understand human's hearts [9, p. 69–70].

2.2. Respect the life of human

For Ho Chi Minh, forcing war and violence was unwilling. Ho Chi Minh always bowed to the sacrifices of soldiers who sacrificed for the fatherland, and when every comrade lost him, he lost a part of his body. Therefore, in carrying out the revolution, he does not risk and jokes with insurrection because he is risky, and joking with insurrection is an act of suicide, irresponsible that drains the blood of the people.

During the resistance wars against the French, and the US, to save the country of the nation, Ho Chi Minh, with all his humanitarian and revolutionary spirit, had by all means "raised a hand of peace" to be able to avoid war because war is barbaric and cruel. However, if it is forced to wage war, he also raised the determination: "die for the fatherland to life", "rather sacrifice everything rather than lose the country and refuse to be slaves", and "no there is nothing more precious than independence and freedom". In an appeal to the French Government and people on January 10, 1947, Ho Chi Minh wrote: "We want peace now so that the blood of the French and Vietnamese stops flowing. Those bloodlines we all value equally. We expect from the Government and people of France that a gesture brings peace. Otherwise, we must fight to the end to completely liberate the country" [4, p. 24]. In reply to President Rishot M. Nixon published in the People's Daily, No. 5684, November 7, 1969, Ho Chi Minh wrote: "I am also very moved to see more and more young Americans die in vain in Vietnam because of the policies of the US government. We, the Vietnamese, love peace very much, peace in true independence and freedom. The Vietnamese are determined to fight to the end, unafraid of sacrifices and hardships, to defend their fatherland and sacred national rights" [7, p. 602]. With the spirit of humanity, Vietnam once paved the way for the US to withdraw its troops, end the war, return all Americans taken prisoner, create conditions to close the past, and pave the way for the future in the relationship between the two countries. This is the humanist thought towards social progress, the integration of nations, development, and mutual benefit.

2.3. Tolerance with humans

In life, many people, due to their limited awareness, make many mistakes or go astray but causing crimes. Tolerance is the way to pave the way for such people to return to the cause with the spirit of Vietnam: "One should not hit a man when he is down". Ho Chi Minh inherited and creatively applied the traditions of the nation, Buddhism, and the Marxist-Leninist humanitarian thought on tolerance in the new era. On that basis, Ho Chi Minh developed tolerantly into an art.

Ho Chi Minh's tolerantly is very noble and comprehensive, and firstly of all, Ho Chi Minh was concerned about those people who were lured, bribed, threatened, or forced by the enemy into the path of harming the country or the people; followed by those who have shortcomings, including cadres members who are not firm in their ideological and ethical stance, they have not studied hard in theory and practice in their work.

Ho Chi Minh always believed in the good direction of people. According to Ho Chi Minh: humans, whether they are wrong, good, civilized, or barbaric, have human love. However, there are times when they are covered by dirt, so it is essential to awaken their conscience. Awakening to conscience and winning humans' hearts to create the unity bloc's invincible strength. That is the noble goal of Ho Chi Minh. He made it clear: "… we must be generous … only then will we become great solidarity. The future will be glorious with great unity" [3, p. 280].

Evaluating Ho Chi Minh's tolerance and generosity, Tran Van Giau quoted a foreign scholar: "Uncle Ho was a builder of conscience, building it when it was lacking, regenerating it when it has gone; He awakened the bewitched, graciously lifted the fallen, and turned millions of ordinary humans into heroes in labor, on the battlefield, in the dungeon, in front of the guillotine" [8, p. 290]. With what Ho Chi Minh has done, Ho Chi Minh deserves the distinction: of "The one who awakens the soul".

2.4. Freedom and human happiness are the highest goals

Ho Chi Minh devoted his life to freedom and human happiness, and it was also because of it that he fought for national independence and socialism. According to Ho Chi Minh, an independent nation is only valuable when it brings freedom and happiness to humans. According to him, if the country is independent, but the people do not enjoy freedom and happiness, independence has no meaning. National independence must move forward to socialism because that is the inevitable development of the Vietnamese revolution. Ho Chi Minh affirmed that "only communism can save humanity and bring people regardless of race and origin freedom, equality, charity, solidarity, prosperity on earth, jobs for all and all, joy, peace, happiness. In short, a true world republic" [1, p. 496].

This perception stems from Ho Chi Minh's contact with V. I. Lenin's thesis on national and colonial issues. Through these, Ho Chi Minh affirmed that the path of the Vietnamese revolution was the path of "proletarian revolution". That path is the link between the cause of national and class liberation and human liberation. That awareness of Ho Chi Minh overcame the limitations of his predecessors and aroused a strong impetus for the Vietnamese revolution. Therefore, he mobilized the maximum strength of the nation for the struggle for national liberation and national construction. At the same time, it is also the basis for solving the relationship between human interests, class interests, and national interests. Therefore, the Vietnamese fought together under the banner of unity of Ho Chi Minh, bringing into play all social strata's material and spiritual potentials to overcome all hardships to win.

Ho Chi Minh also stated that the Party and Government's responsibility to the people is: "To take great care of the people's lives. If the people are hungry, the Party and Government are at fault; if the people are cold, it is the Party and Government's fault; if the people are ignorant, the Party and Government are at fault; If people are sick, the Party and Government

are at fault. Therefore, Party and government cadres from center to local must pay great attention to the people's lives" [6, p. 518]. Before he died, Ho Chi Minh still did not forget to warn our Party to have a good plan for economic and cultural development and to constantly improve the people's life with practical social policies for people. With each object: For those who have bravely sacrificed a part of their blood in the cause of fighting for independence and freedom for the nation, we must find ways to make them a place to live. We needed to open suitable vocational training classes so people can have baggage to work and become self-reliant… The person proposed a one-year agricultural tax exemption for farmers so that the compatriots would have more cheerful in production after years of war. He not only cares about people's lives but also takes care of educating and training them, making them the core force to build socialism in our country successfully. Ho Chi Minh asked us to amend the education system to suit the new circumstances, especially taking care of revolutionary moral education and patriotism education for union members and young people, training them to become heirs to the cause of socialist construction is virtuous and talented enough. The four problems presented above certainly cannot fully generalize Ho Chi Minh's profound human philosophy on the way to behave with humans, but that research also contributed to clarifying his viewpoint so that each of us can appreciate him more appreciatively, learn and follow.

3. Conclusion

Ho Chi Minh's philosophy on the way to behave with the human is a development philosophy because only love, tolerance, generosity, and good treatment of humans can promote multi-human resources well, take advantage of all potentials and opportunities to overcome challenges, and obstacles to achieving the goal of "Rich people, strong countries, democracy, justice, and civilization". Ho Chi Minh's human philosophy on treating people is valuable for the development of the Vietnamese nation and for the progress of humanity when wars and epidemics are hot issues in the world. Only loving and dealing correctly with humans can bring a peaceful and prosperous world.

References:

1. Secretariat of CPV Central Committee. Ho Chi Minh Complete set, National Political Publishing House, Hanoi. Episode 1. 2011.
2. Secretariat of CPV Central Committee. Ho Chi Minh Complete set, National Political Publishing House, Hanoi. Episode 2. 2011.
3. Secretariat of CPV Central Committee. Ho Chi Minh Complete set, National Political Publishing House, Hanoi. Episode 4. 2011.
4. Secretariat of CPV Central Committee. Ho Chi Minh Complete set, National Political Publishing House, Hanoi. Episode 5. 2011.
5. Secretariat of CPV Central Committee. Ho Chi Minh Complete set, National Political Publishing House, Hanoi. Episode 6. 2011.
6. Secretariat of CPV Central Committee. Ho Chi Minh Complete set, National Political Publishing House, Hanoi. Episode 9. 2011.
7. Secretariat of CPV Central Committee. Ho Chi Minh Complete set, National Political Publishing House, Hanoi. Episode 15. 2011.
8. UNESCO and the Viet Nam Committee for Social Sciences. International Conference on President Ho Chi Minh, Social Science Publishing House, Hanoi. 1990.
9. Vo Van Sung. Reflections on Ho Chi Minh's School of Diplomacy, National Political Publishing House, Hanoi, 2010.

Section 4. Political problems of the international relations, global and regional development

https://doi.org/10.29013/EJLPS-22-2.3-37-45

Tie Guan,
Hongliang Gou,
Yuan Qi,
University of Essex, Colchester, CO4 3SQ,
United Kingdom

THE EFFECT OF THE BELT AND ROAD INITIATIVE ON GDP GROWTH: EVIDENCE FROM MALAYSIA, INDONESIA, THAILAND, AND PHILIPPINES

Abstract. How the Belt and Road Initiative (BRI) affects the countries that join in has been investigated persistently. The GDP growth as an important observation that represents the economic performance within a country could be used to explain the effect of the policy. This study investigates the effects of the Belt and Road Initiative on GDP growth in four ASEAN countries (Philippines, Malaysia, Indonesia, and Thailand). By using the expenditure measure of GDP, this study uses non-financial investment and net export from China as two dependent variables that measure the Belt and Road Initiative hence investigating how the Belt and Road Initiative affects these four ASEAN countries' GDP growths. The study finds that the Belt and Road Initiative could result in GDP growth in these four ASEAN countries. This study provides a new vision and implication for the policymakers and future researchers who study the effect of the Belt and Road Initiative on the countries that join in and also enrich the existing literature.

Keywords: Belt and Road Initiative; GDP growth.

1. Introduction

The "Silk Road Economic Belt" was first announced in a speech given by Chinese President Xi Jinping in 2013 at Kazakhstan Nazarbayev University. The "Silk Road Economic Belt" consist of countries in Asia, Europe, Africa, and adjacent seas. (Shahriar and Qian [23]). Academic community consider the Belt and Road Initiative could be the opportunity for the expansion of GDP in ASEAN countries. For instance, the existing literature mainly focuses on the relationship between domestic economic infrastructure, FDI, trade, logistics, and transportation with the Belt and Road Initiatives. However, less has been done on the effect of the Belt and Road initiative on ASEAN nations' foreign direct investment (FDI) and investments made in infrastructure development. Moreover, it has not quantified infrastructure, foreign direct investment (FDI), or commerce through quantitative analysis methodologies to show how the Belt and Road Initiative affects

national or regional gross domestic product (GDP) growth. This study aimed to fill the research gap and to provide a new approach on finding the relationship between the Belt and Road Initiative and GDP growth on ASEAN country. By using the expenditure method, this study splits the four variables that make up the GDP model – household consumption expenditure, investment, government expenditure, and net exports. The independent variables are non-financial investment and net exports.

The results are still robust after a series of robustness check, including using the lead-term of the dependent variables. This study provides new approach and vison for the future researchers who work on the relationship between and the Belt and Road Initiative and GDP growth regional also provide policy implication on the effect of a foreign policy to host country and region.

The paper is organized as follows. The section 2 will review the literature about what are the factors that determine the GDP growth in ASEAN countries and what is the relationship between the Belt and Road Initiative and ASEAN countries. In the process of which shows the background and academic community's limitation on the research about the relationship between the Belt and Road Initiative and GDP growth in the host country and region. Then we focus on the research of how each component that measuring GDP influence the GDP growth in developing countries. We argue that the Belt and Road Initiative could result in the GDP growth in the ASEAN countries and present our theoretical mechanism of our hypothesis. On the next section, we present our research design and discuss our empirical result. We introduce how to use the empirical model to measure foreign direct investment trade in goods and services and non-financial investment from the Belt and Road initiative with GDP growth in ASEAN country and use logistic regression to run the model and our empirical results. In the final section, we give our conclusions and potential policy implications.

2. Literature Review and Hypothesis Development

2.1 Literature Review

2.1.1 The Literature on the Determinants and Consequences of the Belt and Road Initiative

There is limited scholarly literature on the influence of the Belt and Road Initiative on the nations along the route, with the majority of studies focusing on how it affects the provinces and regions of mainland China. One of these researchers in this discipline that stands out among the others is Blanchard [6]. He thoroughly analyzes the relevant literature on China's 21st Century Maritime Silk Road Initiative, elucidating its goals by outlining the economic and political strategy of MSRI and stressing the connections between the two. He also discussed some of the political and economic challenges MSRI now has and how local political unrest may exacerbate those difficulties, which might impact how the financial strategy is carried out. To better clarify the nature of the BRI, Shahriar et al. [23] analyzed the literature between 2015 and 2018. To demonstrate the shape and development trajectory of the Belt and Road Initiative, Lin et al. [15] searched all relevant investment projects in China from 2014 to 2016. The objective, nature, form, trends, and problems of the Belt and Road Initiative are primarily covered in the three literature evaluations above. There is also a segment of literature that delves into specific, more specialized sectors in the Belt and Road Initiative context. To explain the advantages of the Belt and Road Initiative for countries along the route and the win-win situation for China and them, Chen et al. [18] compiled and analyzed the literature on the impact of the Belt and Road Initiative on transportation and logistics in countries along the route from 2013 to 2019. Soyres et al. [12] studied the effect of transport infrastructure projects of the Belt and Road Initiative on shipment times and trade costs. It is also intended to further market integration and create a regional economic cooperation framework of benefit to all (Dunford et al. [17]). The impact of

the Belt and Road Initiative on China's export potential to the nations along the Belt and Road routes is investigated by Yu et al. [27] using difference-in-differences estimate.

2.1.2 Academic Studies on the Determinants of GDP Growth in ASEAN countries:

In the main article of the March 1991 ASEAN Economic Bulletin, Naya et al. [20] proposed the economic policy challenge facing ASEAN: that the most efficient and long-term path for ASEAN's economic development is for all countries can Continue to pursue trade and investment liberalization policies at the national level. Fan et al. [10] examine its contribution to growth and stability in the ASEAN-5 economies. To promote cross-border trade and investment, improve countries' productivity and competitiveness, and raise domestic output, it is essential that ASEAN is connected through improved and integrated roads, railways, airways, ports, and energy and telecommunication networks. The main objective of Gani et al. [2] is to examine the context for development in Southeast Asia, highlighting that investment spending directly supports aggregate demand and growth in the short run. While there is considerable evidence on the link between FDI and Economic Growth, the causality between them has not been investigated in a reasonable procedure. Bhattacharyay [5] also discusses infrastructure development's role in ASEAN economic connectivity and integration and its associated issues and challenges. The subject (Bhatt [5]) is to study Malaysia's foreign trade and investment dimensions in comparison with other ASEAN countries and to study the role of Foreign Direct Investment (FDI) in the growth of exports. Otherwise, the result in Ordinary Least Squares (OLS) implies testing all variables stationary at a 5 percent level of significance (Hussin et al. [1]). In the last five years' literature, Ridzuan et al. [1]

) aim to evaluate the determinants of growth in ASEAN's five countries (Malaysia, Indonesia, Thailand, Philippines, and Singapore), with a particular highlight given to foreign direct investment (FDI). Ilhamdi et al. [14] seek to examine how the ASEAN Free Trade Agreement (AFTA) and foreign direct investment (FDI) have affected sectoral employment in ASEAN. Doytch et al. [17] take a sectoral-level approach to analyzing the effects of foreign direct investment (FDI) inflows.

2.1.3 Academic studies on the relationship between the Belt and Road Initiative and ASEAN Countries

Jetin [14] investigates ways to make AMPC and China's OBOR work together. It is anticipated that a sizeable portion of financing comes from Chinese institutions, particularly policy banks like the China Development Bank and a variety of institutions with ties to the government. Chan 2018 examines China's financial support and investment for boosting regional connectivity as well as the economic effects of China's financial commitments to the Belt and Road Initiative on East Asia. Vasiliki [17] says that the Belt and Road Initiative has played a crucial role in establishing economic links between ASEAN and China. Through investments, the initiative has improved infrastructure and developed industry, with railway construction being particularly successful. To strengthen the integration of the ASEAN Economic Community, it has gradually enhanced infrastructure and established a robust trade system. Furthermore, China's soft power and influence in Southeast Asia have expanded as a result of the Belt and Road Initiative's growing economic significance to the area.

2.2 Hypothesis Development

The objectives of the Belt and Road Initiative include policy coordination, facilities connectivity, unimpeded trade, financial integration, and people-to-people contact (Shahriar et al., [23]). So, the study focuses on the host country's facility, cooperation in trade, and finance which join in the Belt and Road Initiative. According to the figures and data summarized by Shahria et al. [23], China's foreign direct investment in the countries which joined the Belt and Road Initiative increased from 2002 to 2017. These include the increase in investment in infrastructure and contracts. A similar trend also could

be observed in China's exports and imports volume toward these countries. This indicates that the Belt and Road Initiative focuses on the investment and construction of the infrastructure and the bilateral trade between China and these countries. Aiming to increase the level of accessibility of infrastructure for the host country.

According to Sukharev et al. [24], non-financial investment is the investment towards non-financial assets. From the definitions given by Harrison [13], the non-financial assets could be classified as the building and structure, transport and ICT equipment, research and development expenditure, and natural resources. Based on these two definitions, in this study, we use the non-financial investment from China towards ASEAN countries to measure the investment in infrastructure in ASEAN countries. The Belt and Road Initiative also includes an increase in the trade volume with ASEAN countries. Correspondingly, the net exports will be used in the study as another independent variable to measure the Belt and Road Initiative. In this study, we measure the Belt and Road Initiative as the non-financial investment in infrastructure and total volumes of trade on goods and services in between China and four ASEAN countries. These two variables would be the major independent variables in the study hence they will be used to testify to how they influence the GDP growth in these four ASEAN countries.

This paper adopts the expenditure approach to measure the GDP in the four ASEAN countries. According to Xu [26], the expenditure approach calculates GDP in a country as the final consumption expenditure plus gross capital information and net export. Xu [26] proposed the final consumption expenditure includes consumer expenditure and government spending. Gross capital information includes the foreign direct investment that receives from a given country, and net export is the export value minus the import value. Specific to this study the non-financial investment in infrastructure from China toward the ASEAN countries will be categorized as the gross capital and the net export between China and ASEAN countries will be the net export in the formula given by Xu, the final consumption expenditure will not include in the study as the Belt and Road Initiative does not include these components.

Previous literature shows investment in infrastructure could affect economic growth. First, Canning et al. [7] discussed the relationship between infrastructures and long-run economic growth in different countries, and the results show that the construction of roads and telecommunication would result in economic growth. Straub et al. (2008) analyzed the data on infrastructure construction and GDP growth that come from 93 developing countries. The study observes a causal relationship in between infrastructure construction and GDP growth. And the investment in infrastructure in developing countries could be considered the priority approach to promoting GDP growth. Moreover, Canning et al. [8] found that the construction of the transportation infrastructure can result in a high rate of return in industrialized countries compared with developed countries. This means the construction of infrastructure in these countries may create a higher growth rate of economic growth in the long run. A similar result was also justified by other researchers from a worldwide point of view. Queiroz et al. [22] state that on a worldwide base the construction of infrastructure affects economic growth significantly. As a result, based on the previous research we could say there is a causal relationship between infrastructure construction and GDP growth.

The increase in net export could also result in GDP growth. Belicka [4] proposed the Export Led Growth (ELG) hypothesis and some literature justifies this hypothesis. First, Mehera (2014) proposed that net export can boost output growth as the net export is a component of aggregate output in GDP measurement. Second, Tyler (1981) analyzed the data from 55 developing countries and find that better performance in export sectors could lead to an increase in GDP growth. Michaely [18] used the data from 55 developing countries and construct a positive relationship

between economic growth and export expansions. Similar results were also found by Balassa [3] in which the increase in exports of goods and services triggers the economic scale within the developing countries, hence creating economic growth. Hence, based on the previous study, the increase in export volume could result in the GDP growth.

3. Research Design

3.1 Sample and data

This paper constructed a sample of the Philippines, Indonesia, Malaysia, and Thailand, and the sample period is from 2012 to 2018. Our data were obtained from the CSMAR the Belt and Road Initiative database, The World Bank database and database, and annual reports from the Ministry of Commerce of the People's Republic of China database. The final sample consists of 28 observations. To control for the effect of parameter extremes, all continuous variables are winsorized at the 1% and 99% levels.

3.2 Empirical model

$$y = \beta_0 + \beta_1 x_1 + \beta_2 x_2 + Year\ FE + \mu$$

In this model, y represents the GDP of every country, x_1 is the value of net export, and x_2 is the non-financial investment from China. And we include year fixed effects to control for the time factor. In addition, all the data obeys the normal distribution, therefore we assume when $1.65<|t|<1.96$, the value of p is less than 0.10; when $1.96<|t|<2.58$, $p<0.05$; when $|t|>2.58$, $p<0.01$.

3.3 Variables

3.3.1 Independent variable

This article excludes the final consumption expenditure of local nations that are not a part of the Belt and Road Initiative, which is the sum of personal consumption and government expenditure, in order to assess the effect of the initiative on the GDP of the four ASEAN countries. Make the last two elements independent variables.

One of the elements of the Belt and Road Initiative is a continuous variable called net exports. According to its definition, it is the difference between a nation's total export value and total import value over a specific time period. The import and export value table of products and services in the CSMAR database is the data source for the total value of exports and imports, and the statistical version utilised in this paper is BPM6. The import and export marks in the table mean that import is indicated by 1 and export by 2. The import data in the table, however, represents China's imports into the four ASEAN nations, while the export data represents China's exports to the same four ASEAN nations because China is the basis for the data. This article uses the import data less the export data to determine the net export data because the import of country A to country B is equal to the export of country A of country B.

The second index used in this study to describe the Belt and Road Initiative is non-financial investment. The total amount invested in non-financial assets is calculated using non-financial investment (building, transport and ICT equipment, natural resources, etc.). In this study, the infrastructure investment from China to four ASEAN nations following the implementation of the Belt and Road Initiative will be measured using data on non-financial investment. The data for this study were taken from the China-Philippines, China-Malaysia, China-Indonesia, and China-Thailand bilateral economic and trade reports, which were released by the People's Republic of China's Ministry of Commerce from 2012 to 2018.

3.3.2 Dependent variables

The dependent variable in this study is nominal GDP, which is a continuous variable. From 2012 to 2020, it details the economic situation in the four ASEAN nations after they joined the BRI. It is the market worth of all economic output calculated using the prices of recently created commodities and services for the current year. The CSMAR database, which uses the expenditure approach to produce the current dollar version, is the data source for nominal GDP. The calculation formula of the expenditure method is final consumption expenditure, which is the sum of personal consumption expenditure and government expenditure, plus total investment and net exports.

Table 1 Variable Definition

Variables	Definition
Dependent variable: *GDP*	Nominal GDP, the dependent variable in the model, a continuous variable to describe four ASEAN countries' nominal GDP from 2012 to 2020 after join in the Belt and Road Initiative. These data are from the CSMAR database, and the computational formula of nominal GDP is C + I + G + (X–M), where C is Personal Consumption Expenditures, I is investment, G is government spending and (X–M) is net export.
Independent variables: *Ne*	Net export, the first index to describes the Belt and Road Initiative, a continuous variable used to describe the gap between the total value of exports and imports of the four given ASEAN countries to China from 2012 to 2018 after the Belt and Road Initiative Policy has been announced. These data are from the CSMAR database, and the computational formula of net export is X–M, where X is four given ASEAN countries' exports to China and M is four given ASEAN countries' import from China.
Ni	Non-financial investment, the second index to describes the Belt and Road Initiative, a continuous variable to describes to what extent, the ASEAN countries' GDP growth are affected by the non-financial investment from China after the implementation of the Belt and Road Initiative Policy from 2012 to 2018, calculated as the China's total foreign direct investment flow minus financial investment from China for four ASEAN countries from 2012 to 2018. These data are from annual reports from the Ministry of Commerce of the People's Republic of China database

Table 1 shows the definition of the variables which appear in the econometric model used that in this study. The dependent variable is GDP. Independent variables are Ne and ni, represent the value of net export and non-financial investment respectively.

4. Empirical Results

Table 2 presents the descriptive statistics of all variables. Ni (non-financial investment) and Ne (net export) each has 28 observed variables. The means of Ni and Ne are 491.2 and –11027.7 respectively. The medians of Ni and Ne are 435 and –9694 (after rounding up). The standard division of Ni is 409. Ne's standard division is much larger, which is 27348, suggesting the great variation of non-financial investment and net export.

Table 2.– Descriptive Statistics

Variable	N	Mean	SD	Min	Max	Range	p50
Ni	28	491.2	409	8.800	1330	1321	435
Ne	28	– 11027.7	27348	– 65556	39666	105222	–9694

Table 3. – Baseline Results

	GDP
Ni	618.138***
	(8.20)
Ne	2.396**
	(2.21)
Year FE	YES
N	28
Adj R2	0.693

*Note: The numbers in parentheses are t-statistics. *p <.1, **p < .05, ***p < .01.*

Table 3 presents the result of ordinary least squares (OLS). After fixed the year effect, the coefficients of Ni and Ne is 618.138 and 2.396, and their t value is 8.2 and 2.21. According to our assumption in 3.2, the p-values of Ni and Ne are less than 0.01 and 0.05, which means both Ni and Ne have positive

effect on the dependent variable. In another word, the result of OLS has verified our hypothesis.

In this study, there may exist the potential endogeneity issue. Specifically, the effect of independent variables on dependent variables might not be accomplished within a short run, there is always the time lag. Additionally, due to the inertia of economic activity, the transformation trend of an economic indicator, in most cases, will carry over to the current period. Hence, it shapes a circumstance, in which the current transformation of the dependent variable relates to its own short-cut process in the past. Thus, a robustness test is a requisite procedure. Table 4 is the result of robustness test, the two independent variables have been regressed on the next year of dependent variable (GDP_{t+1}). The coefficients of Ni and Ne are 580.396 and 2.564 respectively. The t-values of Ni and Ne are 8.49 and 2.51, which each independent variable has significantly a positive effect on the next year of GDP.

Table 4. – Robustness Tests

	GDP_{t+1}
Ni	580.396***
	(8.49)
Ne	2.564**
	(2.51)
N	28
Adj R2	0.723

*Note: The numbers in parentheses are t-statistics. *p <.1, **p < .05, ***p < .01.*

5. Conclusions

This article investigates a topic of major significance to both parties: whether China's trade and investment deals under the Belt and Road Initiative have increased the GDP of the four ASEAN nations. We have developed a hypothesis that the Belt and Road Initiative's execution has contributed to the growth of the GDP of the four ASEAN nations in answer to this conundrum. We integrate the primary Belt and Road Initiative implementation strategies with the two expenditure method components to better define the independent variables, which are then divided into trade-related net exports and investment-related non-financial investments. Then, using the ordinary least squares method, we perform regression. The t value and p value of the two independent variables, which indicate that both net exports and non-financial investment are significant and have a positive influence on GDP, are in line with the expectations of this research after the annual effect has been fixed. This demonstrates that the OLS results support the paper's central premise. This research additionally performs a robustness test because of the lag in the impact of the independent variable on the dependent variable. The findings indicate that the GDP in the next year is significantly positively impacted by each of the two independent factors.

We make numerous contributions to the study of ASEAN countries' GDP by utilizing quantitative approaches to analyze the effect of the Belt and Road Initiative on the GDP of the four ASEAN nations. First, this paper examines the impact of the Belt and Road Initiative on the GDP of ASEAN countries, a less studied area. In order to support this claim, we use quantitative analysis to show how the Belt and Road Initiative's execution affects the GDP of ASEAN nations. Second, in order to investigate the GDP of ASEAN countries, this paper employs the infrequently applied expenditure method and incorporate the Belt and Road Initiative. This is anticipated to become a reference point for studies on the effects of the Belt and Road Initiative on regional nations. It must be acknowledged that this paper has some constraints. First, because there aren't many studies in this area, it's highly challenging to find pertinent data, and because the Belt and Road Initiative hasn't been in place long enough for many of the statistics to be relevant. Second, because the remaining elements of the spending technique are not set up in this article as control variables, it is hard to conclude whether they have a greater impact on the GDP of ASEAN nations. Third, the number of participating nations' samples is too small to generalize the hypothesis and

experimental findings to all ASEAN nations taking part in the Belt and Road Initiative. Future research can continue to investigate this issue, address each of the three paper's weaknesses, and work to broaden the research's geographic reach to include all nations along the Belt and Road Initiative.

References:

1. Abdul Rauf. Ridzuan, Assoc. Abdul. Rahim. Ridzuan. Abdul, Bin. Ridzuan.: The Impact of Foreign Direct Investment, Domestic Investment, Trade Openness And Population on Economic Growth: Evidence from Asean-5 Countries. International Journal of Academic Research in Business and Social Sciences,– 8(1). 2018.– P. 128–143.
2. Azmat Gani, Michael D. Clemes.: Services and Economic Growth in ASEAN Economies. Journal of Southeast Aslan Economies,– 1(1). 2002.
3. Balassa B. Exports and economic growth: further evidence. Journal of development Economics,– 5(2). 1978.– P. 181–189.
4. Belicka S., & Saleh A. S. Unbalanced International Trade Flows and Their Implication: An Extensive Review. Academy of Taiwan Business Management Review,– 8(1). 2012.– P. 48–66.
5. Biswa Nath. Bhattacharyay.: Infrastructure for ASEAN Connectivity and Integration. ASEAN Economic Bulletin,– 1(1). (2010).
6. Blanchard J. M. F.: Probing China's Twenty-First-Century Maritime Silk Road Initiative (MSRI): An Examination of MSRI Narratives. Geopolitics, – 22(2). 2016. – P. 246–268.
7. Canning D., & Pedroni P. Infrastructure and long run economic growth. Center for Analytical Economics working paper, – 99(9). 1999. – P. 2–30.
8. Canning D., & Fay M. The effects of transportation networks on economic growth. Department of Economics, Columbia University, 1993.
9. Chen D., Yang Z. Systematic Optimization of Port Clusters along the Maritime Silk Road in the Context of Industry Transfer and Production Capacity Constraints. Transportation Research Part E: Logistics and Transportation Review, – 109. 2018. – P. 174–189.
10. Fan Xiaoqin, Paul M. Dickie. The Contribution of Foreign Direct Investment to Growth and Stability: A Post-Crisis ASEAN-5 Review. Journal of Southeast Asian Economics, – 1(1). 2000.
11. Fauzi Hussin, Nooraini Saidin. Economic Growth in ASEAN-4 Countries: A Panel Data Analysis. International Journal of Economics and Finance, – 1(1). 2012.
12. Francois de Soyres. Alen, Mulabdic. Siobhan, Murray. Nadia, Patrizia, Rocha, Gaffurri. Michele Ruta.: How Much Will The Belt and Road Initiative Reduce Trade Costs? International Trade & Freight Distribution E, Journal – 1(1). 2018.
13. Harrison A. Classification and Terminology of Non-Financial Assets. Fourth meeting of the Advisory Expert Group on National Accounts, – Frankfurt. 2006. URL: http://mdgs.un.org/unsd/nationalaccount/aeg/papers/m4AssetTerminology. PDF
14. Jetin B. One Belt-One Road Initiative' and ASEAN Connectivity: Synergy Issues and Potentialities. China's Global Rebalancing and the New Silk Road, 2018. – P. 139–150.
15. Lin Y., G. Li, Liang Y., Tan R., Shao Y. and Chen L. The Pattern and Trend of the Researches on 'The Belt and Road' Based on the Statistics of the Funded Projects. Journal of Zhejiang University (Science Edition), – 45(4). 2018. – P. 509–520.

16. Mehrara M., Haghnejad A., Dehnavi J., and Meybodi F. J. Dynamic Causal Relationships among GDP, Exports, and Foreign Direct Investment (FDI) in the Developing Countries. International Letters of Social and Humanistic Sciences, – 14. 2012. – P. 1–19.
17. Michael Dunford, Weidong Liu. The Belt and Road Initiative. Atlantis Press, 2019. – P. 20–22.
18. Michaely M. Exports and growth: An empirical investigation. Journal of Development Economics, – 4(1). 1977. – P. 49–53.
19. Nadia D., Merih U. Spillovers from foreign direct investment in services: Evidence at sub-sectoral level for the Asia-Pacific. Journal of Asian Economics, – 60. 2019. – P. 33–44.
20. Naya S. F. Plummer, M. G.: Economic Co-operation after 30 Years of ASEAN. ASEAN Economic Bulletin, – 14(2). 1997. – P. 117–126.
21. Papatheologou V. The Impact of the Belt and Road Initiative in South and Southeast Asia. Journal of Social and Political Sciences, – 2(4). 2019.
22. Queiroz C. A., & Gautam S. Road Infrastructure and Economic Development: Some Diagnostic Indicators. World Bank Publications, – 921. 1992. – P. 2–27.
23. Shahriar S., Qian L., Irshad M. S., Kea S., Muhammad Abdullahi N., and Sarkar A. Institutions of the 'Belt & Road' Initiative: A Systematic Literature Review. Journal of Law, Policy and Globalization, – 77. 2018. – P. 1–13.
24. Sukharev O., & Voronchikhina E. Financial and non-Financial Investments: Comparative Econometric Analysis of the Impact on Economic Dynamics. Quantitative Finance and Economics, – 4(3). 2020. – P. 382–411.
25. Tyler W. G. Growth and export expansion in developing countries: Some Empirical Evidence. Journal of Development Economics, – 9(1). 1981. – P. 121–130.
26. Xu X. C. China's Gross Domestic Product Estimation. China Economic Review, – 15(3). 2004. – P. 302–322.
27. Yu L. H., Zhao D., Niu H. X., Lu F.T. Does The Belt and Road Initiative Expand China's Export Potential to Countries Along The Belt and Road?. China Economic Review, 60. 2020.

Section 5. Family law

https://doi.org/10.29013/EJLPS-22-2.3-46-64

Adepoju Adebiyi Anthony,
LLB, LLM, M. Phil, BL and Ph.D (in view)
Emeritus Prof. I. O. Agbede (Ph.D) of Faculty of Law,
Babcock University, Ilishan-Remo, Ogun State

LAW OF SUCCESSION: TOWARDS A SINGLE SYSTEM OF LAW IN WESTERN NIGERIAN

Abstract. The law of succession basically deals with methods of distributing property left behind by the deceased person. When a man dies, the devolution of his self-acquired property depends upon whether he has a will or not. If he has made a will, the property devolves according to the dictate of his mind through the will. If no Will exists, that is, under the condition of intestacy, his property devolves according to the customary law applicable to the deceased. The situation becomes complex where deceased who during his life time was a religious person and practice Islamic religion. Islamic law of succession is not a law made by legislators hence, its operation is not regulated by any human endeavor. Islamic law of succession is a divine law and it has to be applied as contained in Holy Quran and Sunnah of Prophet Muhammad (SAW). Problem about the applicable choice of law is more pronounced and common under intestacy.

Conflict and choice of law thus, exist in the methods of distribution under various customary laws. Uncertainties associated with applicable choice of law allow some to inherit while others do not. These practices in respect of property inheritance under customary law particularly in the six states of the Western Nigeria manifest in different forms and shapes but eliminating these conflicts between succession laws in Western Nigeria shall be the focus of this research work.

Keywords: Law, Succession, Towards, Single system, Western Nigeria.

Introduction

Owing to the diversity of cultures, ethnic values and religious affiliations, people of Western Nigeria are subject to a variety of laws and customs [1]. Customary law in the six states of Western Nigeria, that is, Oyo, Osun, Lagos, Ogun, Ekiti and Ondo, operate side by side with the received English Common Law, local case law and legislation as well as the Islamic law [1]. The existence of different systems of law in respect of succession have posed a threat to the administration of succession matters, especially intestate succession in the region [2]. What is important in respect of this, is that, these rules are not only different in some cases, they are also contradictory in some areas [2].

Inheritance is a cultural practice that cut across the globe. It is usually the mode of property transfer particularly in many sub-Saharan countries where property distributions are culturally done by the family members [3]. The existing research literature

from various sub-Saharan African societies highlights how as a result of existing social conventions, beneficiaries are often confronted with the problem of determining the applicable law governing the distribution of the estate of a person who died intestate [4]. On the other hand, legal pluralism is a system that allows different rules of laws to govern people's activities and status in a particular locality without spatial separation. It is a reflection of the different forms of law co-existing in various geographical territory within a country [5]. In all, it is the existence of multiple legal systems in a country or within a geographical territory [5].

In Nigeria for instance, three laws of succession namely, general law, Islamic law and Customary law govern succession matters [6], Even in Western Nigeria, the region under review for this research work is inclusive and the aforementioned succession laws cumulated in legal pluralism.

Thus, having allowed pluralism of laws in succession matters, it is certain that conflicts in the administration of these laws are inevitable as seen in the cases of *Salubi v Nwariaku* ((2003) All NLR 548) and *Obusez v Obusez* ((2001) 15 NWLR (pt 736) 377 CA) where there were conflicts between the general law (Section 36 of the Marriage Act) and the customary law as regards which law was the appropriate law to govern the intestate of the deceased husbands.

The Concept of Succession in a Plural System

This aspect considered the multiplicity of laws as it affects applicable choice of law in succession matters in Western Nigeria. This work has been able to take account of literature dealing with nature of customary law of succession, the imported law of English intestate succession, and the Sharia or Islamic law of intestate succession, and the conflict of law created by the application of these laws on the issue of succession among the Yoruba people.

However, the co-existence of different laws is what Allots [7] explains to mean 'unity in diversity as enshrined in our legal system. The central issue which this research work has endeavoured to tackle is all about eliminating the conflicts which multiplicity of laws in the area of succession has caused and thereby seek to create one single system of laws of succession therefrom.

Intestate Succession

Intestate succession simply means passage of not only the real and personal estate of the deceased but also his/her obligations while alive [8] to the beneficiaries. In Ibo culture, laws of succession allows male children to inherit while female ones are not allowed to participate in inheritance processes [8]. In Western Nigeria, both male and female children have equal rights to inherit property (real and personal estate) left behind by the deceased father [8]. Yoruba customary law of inheritance though permit female children to inherit yet still discriminate against them in respect of succession to chieftaincy status. That is the reason why it is very rare to see female king/queen in Western Nigeria. Consequently, some authors concluded that Yoruba customary law of inheritance is patrineal in nature. The line of argument here is that men stay within the family unlike women who, after marriage, leave their father's family and join their husband's family.

In the same vein, widows are not permitted under the customary law of succession of Western Nigeria to inherit the property left behind by their deceased husbands. Yoruba customary law of inheritance applicable in all six states of Western Nigeria. In fact, widows are regarded as strangers and part of property subject to inheritance by the male relatives of the deceased husband (*Suberu V Sunmonu,* (1957) SC NLR 45 *Ologunleko v Ikuomelo*). The reason behind this is that under customary law, devolution of property follows "blood relationship" and anyone who is not related to the deceased husband biologically will not be allowed to participate in the inheritance processes (*Suberu V Sunmonu,* (1957) SC NLR 45 *Ologunleko v Ikuomelo)*.

Smith (*Suberu V Sunmonu,* (1957) SC NLR 45 *Ologunleko v Ikuomelo*), while stating what con-

stituted property, went on to clarify property into real and personal property. He similarly explained the concept of family property and cited the cases of *Tapa v Kuka* ((1945) 18 WLR5), *Olowu v Olowu* ((1945) 18 WLR5) and *Zaid v Molisen* ((1957) SC NLR 45) to support of his argument on what constituted laws of succession in the afore-mentioned cases where the courts defined family property to include "unpartitioned real and personal estates of the deceased" which devolved on the children. Intestate succession can however, be further divided into two headings, namely:

1. Intestate Succession (statutory)
2. Intestate Succession (Customary)

Intestate Succession Under Statutory Law

Intestate succession (under statutory law) has to do with intestate succession under the Marriage Act (*Section 36(1) of the Marriage Act* (1958)). It provides thus:

Where a person subject to customary law dies intestate and succeeded by a widow, or husband or children, his estate which would have been disposed of by Will shall devolve in accordance with the law of England.

The reality is that the aforementioned Section 6 of the Marriage Act applies only to a person who ordinarily is subjected to customary law and if the person married under the Marriage Act and died intestate whilst still domiciled in 'the colony', that is, colony of Lagos leaving behind movable property there; or died domiciled elsewhere leaving immovable property there, the property shall be distributed according to the provisions of the English law as declared by the supreme court in the case of *Salubi v Nwariaku* (*(2003) All NLR 548*). Where the deceased, Chief Salubi, died intestate in September 1982 and he was survived by his widow whom he married under the Marriage Act, two children were born by the said widow and two other children were born out of wedlock but whose paternity he acknowledged. The said two other children born out of wedlock were also raised by the deceased wife in the matrimonial home with the consent of his lawful wife who accepted them as children of the family. The estate included real property in various parts of the country. Letter of administration was granted to the deceased wife and the eldest son (first defendant) in 1985 but the widow declined to serve. The first surviving child of the deceased who was the plaintiff in the suit sued the defendants for herself as beneficiary and claimed an order to set aside the letter of administration granted to the first defendant for mismanagement of the estate.

The plaintiff claimed among other thing that the Administration of Estate Law of Bendel State and Section 36 of the Marriage Act governed the distribution of the deceased estate. Defendant in the suit contended and argued that the estate should be governed by Urhobo customary law of succession or the Administration of Estate Law of old Bendel state but not English law of succession. The trial judge held that Section 36(1) of the Marriage Act and not the Administration of Estate law or customary law applied to the estate of the deceased. During the trial, the Court preferred among other evidence Section 36(1) of Marriage Act which was considered to be superior and overrides the Administration of Estate Law of old Bendel state.

The Court further held that the widow was entitled to one-third of the deceased estate while the children take the remaining two-thirds of the deceased estate. On Appeal Court, the decision of the lower court was confirmed and the court of Appeal said the applicable law for the administration of the deceased's estate was English law as contained in Section 36 (1) of the Marriage Act.

At the Supreme Court, the main issue for determination was which law was applicable to the administration of the estate as between section 36(1) of the Marriage Act and the Administration of Estate Law of Bendel state. It was made argued that Section 36(1) was part of the Marriage Ordinance enacted in 1914 and provided that where a person subject to customary law dies intestate succeeded by a widow

or husband or children, his estate which would have been disposed of by Will shall devolve in accordance with the law of England. Also, sub-section 3 of the Act limited the operation of the Section to the colony of Lagos. Despite this limitation, The Supreme held that the English law had been repealed by the enactment of the Administration of Estate Law of Bendel State and that the appropriate applicable law to govern the intestate estate of deceased, Salubi, was the Administration of Estate Law of Bendel State and not Section 36(1) of the Marriage Act. Ayoola J. S.C who delivered the lead judgement in the suit said;

the regional Government through its legislature having enacted a law on the subject matter on which it had full competence, having recourse to the legislation of the previous unitary Government; albeit on the same subject matter or to English Law is misconceived. Where there is conflict between such previous enactment and the later one, the former should be deemed implied repealed and the later one should prevail.

Consequently, Section 49(1) of the old Bendel State Administration of Estates Law was applied and the appeal was upheld.

Similarly, in *Obusez v. Obusez* (*(2001) 15 NWLR (pt 736) 377 CA*) the court of Appeal held that Section 49(5) of the Lagos State Administration of Estate Law governed the intestate estate of the person married under the Marriage Act and not Section 36(1) of the Marriage Act. The conclusion that can be drawn from these decisions is that on death intestate of a person who married under the Marriage Act, the applicable law that would govern the distribution of the deceased estate is the State laws and not the Federal Legislation or English law.

Intestate Succession under Customary Law

Intestate succession under the Customary Law of Western Nigeria on the other hand, is built on decision enunciated by the court in *Lewis v. Bankole* (*(1909) 1 NLR 82; Tijani v. Secretary Southern Nigeria (1921) AC 399; Falomo v. Onakanmi (2005) 11 NWLR (pt 935) 126.*). It was held in this case that on the death of the founder of a family, the eldest surviving son called *'Dawodu'* succeeds to the headship of the family (*Adesanya v. Otuenu&Ors (1993)1NWLR (pt 270) 414, Yissuf v. Dada &Ors (1990)4 NWLR (pt 146) 657*). Also, on the death of the eldest surviving child?, the next eldest surviving child of the founder, whether male or female, succeeds as the head of the family (*Amusan&Ors v. Olawumi (2002) 12 NWLR (pt 78) 31, Ologunleko v. Ikuomelo (1993)2 NWLR (pt 273)16*).

Under the customary law of succession of the people of Western Nigeria, the real and personal property of the deceased devolves on all his children both male and female to the exclusion of other blood relations (*Amodu v. Abayomi (1992) 5 NWLR (pt. 242)503 at p512, Ologunleko v. Ikumelo*). Two modes of distribution of estate exist in these states. The first is *Idi-Igi* (per stirpes) and the second is *Ori-Ojori* (per capita). *Idi-Igi* is referred to as distribution per stirpes. This mode of distribution is generally regarded as the well-established and accepted mode. However, on *Ori-Ojori* (per stirpes) method, the estate of the deceased is distributed according to the number of the children. The case of *Dawodu v. Danmole* ((1962)1All NLR 702) explained and distinguished the two modes. When the Privy Council was called upon to interpret the appropriate mode best suited for the case and in respect of property located in Lagos. There were conflicting claims as to the best suited method between *'Idi-igi'* and *'Ori-Ojori',* the Lords held that *'Idi-Igi'* is an integral part of the Yoruba native law and custom relating to the distribution of the intestate' estate of the deceased father, and is in full force and is observance has not been abrogated ((1962)1All NLR 702).

It was also observed that this mode is not contrary to the principles of natural justice, equity and good conscience ((1962)1All NLR 702). On the other hand, the Lords found Ori-Ojori to be a relatively modern method of distribution adopted as an expedient to avoid litigation ((1962)1All NLR 702). Similarly adoption of this mode of distribution is at

the discretion of the head of family where dispute had arisen or envisaged.

Apart from the above situations, customary law of inheritance discriminates, against women as wives in many jurisdictions in Western Nigeria where customary law permits some daughters to inherit the properties of their late father, but the share given to them or allowed them to inherit are loss compared with the share given to their male counter parts b (*Akinnubi v. Akinnubi*). Also, customary law of succession generally discriminate against widows of customary marriage.

Wives or widows of the deceased husbands are generally regarded as strangers and are considered as part of the properties left behind by the deceased to be inheritance by the male relations of the deceased husband (*Suberu v. Sunmonu*). The cases of *Suberu v. Sunmonu,* and *Ologunleko v. Ikuomehin* have demonstrated and justified the real reasons why widows are not permitted to have a share in the estate of their husbands.

Again, Customary law does not give equal rights to the adopted children as accorded biological children. The reason behind this is that biological children are considered more precious. It is alien to allow adopted child or children to participate in the sharing of family properties because devolution under Yoruba Customary Law is between 'blood' (biological) relations.

Rights of Spouses

As a general rule, spouses do not succeed to each other's estate under customary law of succession of the Yoruba people of Western Nigeria (*Nezianya v. Okagbue (1963) 1 All NLR 358*. In *Johnsonn v. Macauley (1961) 2 All NLR 743, it was held that under Yoruba law, the estate of an intestate mother devolves on her children as joint heirs.*). In the case of *Oloko v Giwa* ((1939) 15 NLR 31; *Dosunmu v. Dosunmu (1954) 14 WACA 527*) the court firmly declared that the land allocated to each of the deceased wives by the intestate still belonged to the family because the allocation conferred no title on the women.

Distribution under Yoruba Customary Rules of Inheritance

The Yoruba customary rules of inheritance stipulates that upon the death intestate of the founder of the family, a family property is thereby created and the eldest son, the Dawodu, becomes the head of the family and he takes over the management of the estate of the deceased for himself and on behalf of other members of the family, as illustrated by the case of *Lewis v Bankole* (See *Lewis v. Bankole* (Supra). See also the case of S.J. Adeseye (supra) S.F. Taiwo). Upon assumption of the position of Dawodu (that is, head of the family), he decides which of the two Yoruba customary systems of distribution will apply to the distribution of the intestate's estate. These rules of distribution are the *'Ori-Ojori'* and *'Idi-Igi'* systems, as decided in the case of *Olowu v Olowu* (See the case of *Olowu v. Olowu (2002) 46 WRN 102*) *Ori-Ojori* is a system of distribution whereby the estate of the intestate is shared equally among all the children of the intestate, both male and female children. On the other hand, *Idi-Igi* system is that which allows the distribution of the intestate's estate equally according to the number of wives for the benefit of the children of each wife. In *Danmole v Dawodu* ((1956) 1 FSC 84):

One Suberu Dawodu, who at one time had four wives, died intestate leaving surviving three wives. Letter of Administration to administer his estate was granted to four members of the family, one representing each wife and, consequently, representing also the branch consisting of the children by each wife. The deceased's personal estate and rents accruing from his real property were divided into four parts one part was given to the children or each wife. All parties originally agreed to this method of distribution and it was observed for ten years. The respondents contended in this action that the deceased's property should be divided into nine parts, one part to go to each child of the deceased or, in the case of a deceased child (whether dying before or after Suberu) to be divided between the issue of that de-

ceased child. This method is known as *'Ori-Ojori.'* The learned trial judge held that the division of the estate into four parts was by mistake, and ordered that future rents be divided into nine parts and each child or children of a deceased child should have a ninth part. On the appeal, the Court laid down the following principles of law relating to Yoruba Customary rule of inheritance:

i. That *Idi-Igi* method of distribution is an integral part of the Yoruba Native Law and Custom and should be adopted in the case.
ii. *Idi-Igi* is still in force, and is the universal method of distribution except where there is a dispute among the descendants of the intestate as to the proportions into which the estate should be divided.
iii. That where there is such a dispute, the head of the family is empowered to, and should decide, whether *Ori-Ojori* ought, in the particular case, to be adopted instead of *Idi-Igi.*
iv. That *Ori-Ojori* is a relatively modern method of distribution adopted as an expedience to avoid litigation,
v. That *Idi-Igi* method of distribution is not repugnant to natural justice, equity and good conscience. Under Yoruba Customary Rule of Inheritance, both male and female children share equally in the distribution of the intestate's estate. This point is illustrated by the case of *Sule v Ajisegiri* ((1937) 13 NLR 146). In that case the Plaintiffs claimed partition and sale in respect of six properties alleged to form the undistributed portion of their grandfather's estate. The Plaintiffs were children of the same mother whom they claimed were entitled to an equal share of the properties with the defendants. The Defendants case was that being a male he was entitled to a larger share than the Plaintiff's mother. The court held that the partition must be equally between those entitled to it regardless of sex. The position of the wives left by the intestate is that they have a right of residence in their husband's house. However, this is subject to their being of good behavior. One defect of the Yoruba customary rule of inheritance is that the wives are not entitled to share in the distribution of the intestate's real and personal property. It has earlier been pointed out that under the provisions of the Administration of Estates Law, the position of the widow is improved since she can share in the distribution of the late husband's estate. It was however also pointed out that this law applies only to estates of persons married under the Marriage Act, not under customary law. The provisions of the Administration of Estates Law with regard to the right of succession of widows to their husbands' estate is another advantage of statutory marriage over customary law marriages.

Upon the death of the eldest surviving son, the Dawodu, the next eldest surviving son of the founder of the family, succeeds to the family headship. It has been held that a woman connot succeed as the head of the family. In *Adeniji v Adeniji:*

One Abudu Karimu Adeniji, a Yoruba man, died intestate and was survived by wives and children. The eldest surviving child was a daughter. There arose a dispute among the family members as to whether the distribution of the deceased's estate under Yoruba customary law should be according to the *Ori-Ojori* method rather than the *Idi-Igi* method. The issues before the trial court for determination were:

i. Who was the head of the family of the deceased?
ii. What was the proper method of distribution of the estate of the deceased in accordance with native law and custom in view of the dispute among the members of the family over the sharing of the estate?

The trial court held that since the eldest surviving child was a daughter, she could not assume the position of the head of the family, and declared the next

eldest surviving child, a son, as the head of the family, although the dispute as to the headship of the family was between the eldest surviving daughter and the overall head of the family. On appeal, however, it was held that the issue of headship of the family of the deceased was not at large since the contest was solely between two of the parties to the proceedings as to which of the two of them was the head of the family, nor was the court required to make a general declaration as to who of all the members of the family is the family head, and it was competent for the trial judge to make a case of his own or to formulate his own case from the evidence, and then proceed to give a decision based thereon, quite contrary to the case of the parties before him by declaring that one of the other parties to the proceedings was the head of the family. Secondly, that the trial judge having found that there was an existing family dispute as to whether the distribution of the deceased's estate under Yoruba Customary Law should be according to the *Ori-Ojori* method rather than the usual *Idi-Igi* method, it is an error on his part to order a distribution according to the *Ori-Ojori* method when there was no evidence that the head of the family as such had decided in favour of that method, thereby depriving the head of the family of his right to resolve such a dispute.

Fusion of Courts and the Law in Nigeria

It must be stated that our knowledge of the distribution of working among the various system of court would be incomplete if we were not to know some significant exceptions to the general propositions stated in the proceeding pages. It is no easy task to treat problems of choice of court in Nigeria on basis of "Systems" of Court where the legislature has been mostly concerned with conferring jurisdiction on individual courts within the tripartite system. The jurisdiction of the individual customary courts is generally specified in the warrant of each of these courts.

In the Western State, for example, customary courts Grades A and B presided over by lawyers have nearly as little in common with the customary courts Grade C as the Magistrates Courts have in common with such Grade C Courts. Yet the Grades A, B and C belong to one system whilst the Magistrates Courts belong to another. The fact, however, is that the ultimate aim is to fuse the various systems of courts. This is the declared policy of the Government of Western Nigeria. The practical consequence of pursuing such policy has made the problem of choice of court increasingly complicated but correspondingly insignificant. But this fact is by no means, a sufficient why attempts should not be made to point out the defects of the present arrangement.

It is submitted that the rules of choice of court, is the context of pluralism of system of courts, with different rules of procedure, must have as their primary purpose the efforts to prevent overlap of jurisdiction so that, a suit properly cognizable by one system, should not be actionable in another purposely to take advantage of a more favorable rule of procedure. To that end, the rules determining the jurisdiction of each system of court should be clear and obligatory as opposed to the present arrangement whereby the application of some rules are left to the absolute discretion of the judges in certain cases and to the whims of administrative officers in some others.

By far, the major defect of the present statutory rules is that some of these rules are so vague as to permit of different interpretations. Such a situation is neither conducive to certainty or predictability nor likely to promote the course of justice. The fact that there has been, on the part of legislature, a preoccupation with delimiting the jurisdiction of the native courts rather with improving upon the law they apply. This policy has resulted in the development, until lately, of a multiplicity of un-coordinated rules of judicial jurisdiction. (Particularly in the Northern States). This preoccupation with customary court's jurisdiction has produced, under the recent Area Court Edits of the Northern States, the absurd situation whereby a Syrian sue any Nigerian in the Area Court while a Syrian can only be sued in this Court

when he so desires. If attempt will be made to and modernize the law applicable in these courts, there can be no acceptable objection against making anybody, of whatever race or creed, amenable to their jurisdiction deserving in cases.

Another conspicuous defect of the present arrangement is its absorbed consequences. It has been previously mentioned that the judges of customary court of Grade A and B (at least in the Western State) possess basically the same legal qualification and experience as most of the magistrates have. We have stated too that the legal representation is allowed in these grades of customary courts and that they administer non-customary criminal law. Yet as the law now stands, the jurisdiction of these customary courts is not only limited to certain laws but also to specific classes of persons. The distinctions thus drawn between magistrates and those judges is, to all intents and purposes, artificial and inconvenient. Perhaps we do not have to repeat here that some of the current rules are patently unconstitutional in certain respects.

Furthermore, while we do not wish to indulge in value judgments as to whether it is right or wrong to have a separate system of customary courts, (For arguments in favour of preserving the present system of native courts [9].) we wish however, to state that it is mistake to work on the assumption that rules of procedures suitable to natives of Nigeria as well as to resident foreigners cannot be devised for the customary courts so as to make everybody subject to their jurisdiction. The problem of getting personnel capable of administering such rules is one which only the Government can solve.

It is important to note at this juncture that, we wish to state the present arrangement neither prevents "forum shopping" nor ensures uniformity of decision. It is no exaggeration to say that the present rules are in practice, often misunderstood or ignored. (Five out of seven judges of the customary courts (with legal education) questioned on whether they would dissolve a customary marriage contracted in another Region stated that they would decline jurisdiction. Clearly there is no support for this view in the law of the western state which judges apply.) It is therefor, proposed that (pending the time a total integration of the courts can be effected, the following measures should be taken.

Firstly, the customary court would not on any account, have concurrent jurisdiction with the general courts for as long as the two systems operate different rules of procedure. The power of transfer should only be used to check or prevent undesirable tendency in trial before the customary courts and as a basis for the division of jurisdiction between the customary courts and the general courts.

Secondly, all customary courts presided over by trained lawyers should be absorbed to the body of general courts.

Thirdly, the division of jurisdiction between whatever remains as customary courts and the general courts should be based on the principle of convenience. So that matter that can be more conveniently determined by the kind of adjudication available in such courts must be litigated, in the first instance, in them. There shall be a right of appeal to the general courts.

Finally, it must be stated that the necessity for creating courts to "prop up" the authority of native rulers which arose under Lugard's administration is non- existent today. The mobility of modern society and the scale interpretation of communities have rendered somewhat anachronistic the existence of separate courts for certain persons. The Korah Commission [10] has rightly pointed out that as modern secular states develop, there comes a time when special courts for particular clauses of inhabitants must give way to general courts for all manner of men. We think the time has come in Nigeria, when the Customary Courts should have authority over all persons (of whatever race or creed) to any cause or matter properly cognizable by these courts.

Problems arising from the Legal Pluralism

Pluralism occurs in a situation where different legal systems apply to just only one issue. The prob-

lems associated with this system of pluralism of laws are the conflicts it created, with its attendant multiple courts. As will be expected. There are separate courts administering these separate laws. That is, customary courts are the court established to apply customary laws while the general courts are those courts established to apply and administer those statutory law classified as general laws [10] Interaction between the general law and customary law does not permit the assumed 'straight jacket' between the customary law and the general law. Presently, the rule under the customary law of succession in Western Nigeria or even in any other part of Nigeria is that anybody who is married under customary law whether to a wife or to many wives is governed by customary law in the area of intestate succession. (Lewis v Bankole (1909) INLR 82: see also the cases of Tijani V Secretary, Southern Nigeria (1921) AC 399, *Falomo v Onakanmi* (2005) II NWLR (Pt. 935) 126.) Whereas, someone married under the statute and died intestate will have his or her estate governed by the statutory law. (Salubi v Nwariaku (2003) AII NLR 548.) The question that needs urgent answer is what becomes of a man who has not married under either the customary law or Islamic law who died intestate. The concern is how do we know the appropriate and applicable law that should govern his intestate estate?

As should be expected, when the matter like this is litigated in the general court, the general law becomes the applicable law. (Adesubokan v Yinusa (1971) NWLR 77; (1971) 1 AIINLR 225). When such case is litigated in the customary court, the rule of customary law will apply as decided by the court in the case of *Lewis v Bankole* ((1962) 1 AII NLR 702).

Dawodu v Dammole where the customary rules of succession were applied. This practice is however unsatisfactory, what happen, presently, is that those who are wealthy enough to institute action at the general court will do so while the defendant who could not afford the services of a legal practitioner will lose out.

Indeed, the real problem is the rule of choice of law applicable in the general court and in the customary court where these different laws contradicts each other.

Fusion by Unification

The issue here is whether the entire system of customary courts should be abolished to be replaced by subordinate courts to the High Court that will be empowered to apply the general law, the customary law and the Islamic law as they become applicable ((1962) 1 AII NLR 702). After all the high court handle customary law issues on appeal until lately when customary Court of Appeal were being established which appears to have turned out a white elephant that is now being abolished in some states. Only the Ondo State customary court of Appeal is functioning in the whole region, and there is indication that it will be abolished. (Ondo State Ministry of Justice, structure of Courts vis a vis Administration of Customary Court in the State 2017).

On the other hand, is it not feasible only to fuses the courts but also to fuse the law? This leads us to the consideration of the draw-backs in maintaining separate system of courts to administer these different system of laws. (Ondo State Ministry of Justice, structure of Courts vis a vis Administration of Customary Court in the State 2017).

Unification of Legal System

Unification is an approach in which different laws are subsumed into only one acceptable law. The question is how can this bring an end to discrimination which is the basis of our discussion in this research work? Before now, litigants or beneficiaries, most especially in an intestate situation have an options either to bring his or her claims(s) under the General law or customary and Islamic laws where it involves Muslim personality, closer look at these various types of inheritance laws it revealed that adequate provisions were not given to widows, most especially widows whose husband died intestate and contracted customary marriage (The customary law of inheritance of south-western Nigeria regards wid-

ows of customary law marriage as property to be inherited by male relative of the deceased husband see the cases of *Suburu v Sunmanu* (1957) 12, F.S.C. 33, *Akinnubi v Akinnubi* (1977) 2 N.W.L.R, 144, *Ologunleko v Ikuomelo* (1993) NWLR (PT 273). Also, unless otherwise stated in Administration of Estate laws of states in administration of estate laws of states in south-western Region in recent times, where Western Region in recent times, where a man deed intestate leaving behind a man deed intestate leaving behind his wife or wives, customary law of the his wife or wives, customary law of the deceased which contained no provision as regard widows inheritance will be resorted to address the plight of such widows. See also section 36(1) of marriage act and Islamic law also contained 1/8 of the deceased properties to be given to the wider or widow of the deceased husband while relatives and distant cousins who does not know how such properties were acquired would be allowed to participate in the sharing of the deceased husband's properties. (As contained in Qur'an 33:6; Dasuki, M, Hastiy): — at Dasuki, Vol. 4, p. 267–268, Qur'an 2:18, 4:11, 12 and 174, 2: 240 … The instructions provided in this Holy Book is a divine instructions since its exercise is regulated by the Holy Qu'ran and the Sunnah of prophet (S.A.W): It is prescribed when death approaches any of you, if he leaves any goods that he makes a bequest to parents, and next of kin according to reasonable usage; this is due from the God-fearing)). The existing inheritance laws in South Western Nigeria are inefficient and inadequate towards inheritance rights of widows whose husbands died intestate (The customary law of inheritance of south-western Nigeria regards widows of customary law marriage as property to be inherited by male relative of the deceased husband see the cases of *Suburu v Sunmanu* (1957) 12, F.S.C. 33, *Akinnubi v Akinnubi* (1977) 2 N.W.L.R, 144, *Ologunleko v Ikuomelo* (1993) NWLR (PT 273). Also, unless otherwise stated in Administration of Estate laws of states in administration of estate laws of states in south-western Region in recent times, where Western Region in recent times, where a man deed intestate leaving behind a man deed intestate leaving behind his wife or wives, customary law of the his wife or wives, customary law of the deceased which contained no provision as regard widows inheritance will be resorted to address the plight of such widows. See also section 36(1) of marriage act and Islamic law also contained 1/8 of the deceased properties to be given to the wider or widow of the deceased husband while relatives and distant cousins who does not know how such properties were acquired would be allowed to participate in the sharing of the deceased husband's properties. (As contained in Qur'an 33:6; Dasuki, M, Hastiy): — at Dasuki, Vol. 4, p. 267–268, Qur'an 2:18, 4:11, 12 and 174, 2: 240 … The instructions provided in this Holy Book is a divine instructions since its exercise is regulated by the Holy Qu'ran and the Sunnah of prophet (S.A.W): It is prescribed when death approaches any of you, if he leaves any goods that he makes a bequest to parents, and next of kin according to reasonable usage; this is due from the God-fearing)).

From the forgoing, it is important to note therefore, that unification being the only desired reform shall be discussed in detail under the following headings:

a). Whether fusion of laws is itself desirable
b). To what extent has fusion been or should be achieved
c). What is the methodology or mechanism of fusion.

In the field of administration of law, it should be recalled that the Korsah Commission has rightly pointed out that as modern secular societies develop there comes a time when special courts for particular classes of inhabitants must give way to general courts for all manner of men. (See Native Courts Commission of Inquiry (Gold Coast) 1951, p.3.). It is suggested therefore that the time has come in Nigeria when customary courts should be replaced

by a court that will have jurisdiction over all persons (of whatever race or creed) who are parties to any cause or matter properly cognizable by courts.

If by fusion of law we mean the creation of a new single system to replace the existing dual or tripartite ones such a unification is desirable in the field of substantial law for the following reason in line with the option of Professor Agbede.

a). **Legal simplification**: An integrated system of law will not only simplify the teaching of law but also its administration. The courts will be spared the perplexing task (of which the law reports show more than ample evidence) of having to decide in any given case whether the general or customary or Islamic law applies and to ascertain the particular customary to be applied.

b). **Administrative convenience:** if fusion is embraced, an established court under the law will have jurisdiction to administer both common law and customary law. Polarization of courts alongside diversity of laws have no tangible advantages than to create unnecessary duplication of courts like what we are experiencing presently in Nigeria (O. Agbede, *Legal Pluralism* (Ibadan, Shanneson Ltd, 1991) pp. 272, 273.). Unified system will automatically resolve any controversy relating to application and interpretation of law at a given time. For instance, in northern Nigeria, there is what is called British type of courts with unlimited jurisdiction, Area court with limited jurisdiction and Sharia court with a specialized jurisdiction with a line of appeal to a Sharia court of Appeal before finally coming to Court of Appeal (The Sharia Court of Appeal could only be described as being at the apex of the Area courts only in relation to Muslim personal law. Particularly in Norther Nigeria, see for example section 20 (3) of Old Area Court Edict (Kwara State) No 2 of 1967). While in the southern part of Nigeria, British type of court have unlimited jurisdiction in respect of all matters, Magistrate court also have limited jurisdiction and Customary court were established to administer customary law. (What is applicable south-western in Nigeria as indicated by I.O. Agbede, 273).

c). **Legal certainty**: — The fused system of law will automatically bring certainty into the judicial administrative system in the region. The decisions of our judges, left much to be desired in matters concerning internal conflict of laws where it is almost impossible to predict in advance, which particular laws a court will or must apply to a given situations. (*Adeniji v Adeniji* (1972) 1ALL NLR (Pt 1) 298 where the lower court accepted the application of Idi-Igi as appropriate formula for distribution of property under the customary law of the deceased person, but on appeal to the Supreme Court, the court found ori-ojori as most appropriate formula. Since there have been a conflicting decision on the issue of succession).

d). **Social convenience**: if embraced, a unified system of law will definitely take proper account of contemporary issues (like widows inheritance separately and social conditions suitable to the needs of the time (Currently, private ownership and outright alienation of land through sales and gifts in a will, formerly unknown to customary law and custom is now receiving the benefit of the general law) than outdated, controversial and inchoate rules of customary law, the exotic laws and principles of the received English laws or the worse still, the somewhat rigid and immutable rules of Islamic law,

e). **Matter of policy**: — It is important to ask ourselves this question, whether it is right or proper that a citizen of a sovereign Independent states in this present world should

perpetually be governed by foreign laws that is different from their own culture both in content and inform and that the particular foreign legal system should claim.

Overriding effect on their own indigenous laws. (South Africa Government enacted customary law Act to be part of her constitution in 1996 in the same way, customary laws in Nigeria should be enacted to be part of our national constitution as stipulated in our sister (South Africa) 1996 constitution as constituted in its section 30, 31 and 185. Section 211 (3) of south Africa, further stipulated that the court must apply customary law when that law is applicable, subject to constitution and legislation). It is also important to add in all sincerity that the adoption of a uniform system of law may have the underlisted merits in this part of this country.

i. There will be no need to create various courts systems for different forms of cases, like applicable customary law in succession matters, marriage, adoption, inheritance right, land and other related matters within the system.
ii. Removal of stigma of inferiority attached to various customary laws, even Islamic law will definitely restore hope of many litigants.
iii. The confusion that is always confronting those people who have contracted two or more different forms of marriage will no longer exist. (Decision of court in *Omolade Adelae v Sunday Adelae* (2015) where the deceased who married three wives underwent marriage restitution and settled with the second wife after he had become a Jehovah witness Christian, died in 1988 without a will, his estate was distributed according to his personal law; (customary law of the deceased husband)).
iv. The current problem facing the court at all levels in determining appropriate choice of law to a particular case in the area of succession and inheritance would be removed.
v. Interest of the litigants: the parties to a particular customary law matters will know ahead of time which specific remedy is available to him or her (See *Panseca v Passman* (1958) WNLR 41, also*, Savage v Macfoy* (1909) Rem. 504) as against the current system whereby the courts prefer to apply "English law" in most cases as if our own indigenous law has been abolished.

It is not the case that our generation can eliminate the ills of our society in a full swoop but that is not an excuse for not embarking on a sustained effort to make our social situations better than we met it. It is high time we moved away from different courts and different law for different people and attain unity in our diversity by establishing single system of court to be administering an integrated or harmonized system of law. We are to make real progress, we need the speed of the Greek messenger coupled with the wisdom of the old shepherd, who gave the right answer only after weighing all the elements of the problem [11]. While the need for caution against revolutionary legislation in this regard is welcome, the apparent inaction of the Nigerian legislature is patently inexcusable.

To achieve the desired uniform system of law that will not discriminate and at the same time bring easy administration of judicial process, our judicial system must be unified. This can come into manifestation through reformation of our judicial system process at both regional and federal levels. Integration by fusion approach can be achieved through an outright abolition of all the systems of law but one or the replacement of the existing conflictual systems by a new single (acceptable) system. This type of approach to unification of law has been experimented with success in the field of criminal law and punishment by outright abolition of the rules of customary law and Islamic law. The aspect of Islamic law infused are however contained in the Northern penal code such as the prohibition of consumption of intoxicating liquor and criminal punishment for adultery,

(Cap 89 Penal Code with Sharia Penal Code) unless fine-tuned, customary law rule is not suitable to modem situations in this area of the law (Formerly punishment by maiming, stoning and mutilation of all kinds were rampant under customary and Islamic laws respectively).

Also, the customary and Islamic laws are vigorous, fully developed and will dominant among the people particularly in Yorubaland. From the Northern part of Nigeria, Muslims patronize the indigenous Sharia court, much more than any other courts. It will be unrealistic, if we are to replace the existing rules of customary /Islamic laws with the rules of the received English law. For instance, the rules of English law of succession inclusively based on monogamous marriage can hardly found acceptance with Nigerians particularly, the Yorubas, majority of who do not appreciate any other law than customary aw, in this regard regardless of some of its weaknesses. As to the contemplation of replacing the general law in-to-to with the existing rules of customary law, one may begin with the view expressed by the London Conference on the 'Future of Law in Africa" that; "Question of family relation, marriage, adoption, divorce, wills and succession are so essentially personal that they must in large part continue to be governed by the customary law of the community to which the person belongs" (See Marriage Act, Law of Federation of Nigeria 2004). The issue of replacing customary law by foreign law in this area is bound to produce absurdity and injustice (See Future of Law in Africa (1960) Supra p 45–60, unlike Ethiopia that adopted two foreign laws, English and Swish (South Africa also followed suit)).

However, the most criticized aspect of customary law of succession is the way and manner the law treats the women folk particularly the inferior status and inadequate protection of the widows and daughters of the deceased which has rendered the customary law of succession inconvenient to most educated females in Yorubaland. On the other hand, Islamic law cannot be applied universally because the law is addressed only to Muslims and the Muslim community. It is regarded as a law of religion and an integral part of Islam. Islam is the totality of human life. Therefore, it cannot be a viable alternative or a universal option to other non-Muslims.

Fusion by 'Cut and Paste' Approach

This approach of fusion of laws will be achieved by taking whichever aspect of the existing laws is considered desirable and embody the same in the unified scheme. Since the integrated scheme will be built up from the existing laws of the Yorubaland, this approach has the merit of being geared towards the reality of social conditions of the society. It is society-driven and as such it will be necessary to briefly review the state of the existing laws on which the integrated programme will be based. It must be noted that the courts are not helping the situation in Nigeria because the judges have not involved any reliable formula for determining whether or not a particular English statute is of general application. As a result, it is undoubtedly unsatisfactory that it will require the accident of litigation to know whether a given English statute is part of the law in Nigeria.

The situation therefore is unfortunate that we are saddled with outdated English statutory which are largely irrelevant to the social reality of the present age and indeed the arrangement militates against legal certainty. Most of the English statutes of "general application" have radically amended or repealed outrightly in response to changing reality of their country of origin.

However, in order to eliminate uncertainty in the law, the states of former "Western Region" have done admirably well in picking such English statutes as they deem suitable and re-enacting them as local statutes with suitable modification. Nevertheless, the adoption is far from being adequate as it covered only a few areas of the law.

Fusion by Harmonisation

The diverse laws operating in Yorubaland, particularly, need to be looked into and the shafts removed from the grains, so that the relevant ones can be har-

monized together. The essence of the adoption of harmonization can therefore be realized. As Agbede has suggested "admittedly, the primary purpose of unification of laws is to avoid the current conflict and congestion arising from the interaction of diverse local laws. This objective can be achieved to some extent, by a process of harmonization (See decisions of the courts in *Cole v Cole, Adegbola's* case, See also I.O. Agbede, Legal Pluralism, pp. 145.) by removing the rough edges of the diverse local laws in order to reduce them to a harmonious whole. A harmonization scheme of customary and general laws will no doubt permit some features of existing customary laws to apply in parallel form.

However, it was regrettable that customary law still remains, to this day, unwritten, uncertain and basically inadequate to cope with the social and economic conditions of a rapidly changing society. It is also disappointing that, Islamic (Sharia law), though, written with its rules spelt out in detail thoroughness and meticulous precision, is by and large, inflexible and therefore not responsive to changes in social conditions and circumstances. On the contrary, the received English law is to some extent alien and remote to the culture and expectations of the majority of the people of Yorubaland and Nigeria at large. On the other side of the coin, we have our own system of Customary or Islamic law which is unsuitable to the needs and aspiration of a modern society (See decisions of the courts in *Cole v Cole, Adegbola's* case, See also I.O. Agbede, Legal Pluralism, pp. 145.).

The Theory of Equity of Apportionment

This theory is proposed on the basis that an integrated scheme will be predicated on itself. An integrated scheme is a process of having a unified system of law to govern all persons, natives and non-natives and of whatever religious persuasion. The purpose is to design a single legislation which will fulfils the reasonable expectation as far as practicable of all persons concerned unlike the existing Administration of Estate law in force in each of the Yoruba six states which exclude succession governed by customary law. The law should have taken account of all persons of whatever cultural background, level of advancement and whatever degree of diversity between different levels of educational attainment by the people of these states. It should be possible for a single legislation or a code to govern the devolution of intestate estate of every person domiciled in these states. The existing controversy is the narrow confine known to English concept of "family" and somewhat larger notion of "family" known to our customary law. All that is necessary is to widen the scope larger than the existing beneficiary of intestate estate under the general (English) law to take account of the cultural value of the people of these states.

It is on this account, that the researcher is proposing the theory of "equity of apportionment". By this theory, those who ought to have a share in particular intestate estate shall not be disappointed. The way this theory will work is to reserve definite percentage such as 60% to the children of the deceased person, 25% to the widow or widows of the deceased husband 15% to the extended family members. By this, where particular individuals have been brought and trained by their uncles and aunties, it is natural that the children of such uncles and aunties should benefit from the investment their parents have made on their sisters and brothers. If alive otherwise it goes to brothers and sisters of the deceased alive or their children. That is, extended family should be confined to father, mother, brothers and sisters or the successors of brothers and sisters if not alive.

So, the ongoing practice of denying the wife and children of share from their husbands and fathers' real estate will pale into oblivion. That is the essence of "theory of equity of apportionment". If this theory is adhered to in legislation governing intestate succession, the present hardship being suffered by children and wives of the deceased persons in the hands of the members of the extended family particularly when the deceased is married monogamously, will ceased to plague us. The better approach is to achieve integration of law that will take account of the pres-

ent realities geared towards achieving harmony within the extended family. (The extended family should approximate the concept of 'dependents" elections as contained in Fatal Accident Law of the continent states with some medications; for instance, under the right of the beneficiary; fatal Accident Act allows for claims to be made by the defendants of the deceased in their own right. This will include losses arising after the date of death. The beneficiary of the estate are often dependents. When a person is killed a claim can be brought on behalf of his or on behalf of their dependants. The person suing as of right are called the "claimant" who are the beneficiaries according the act particularly Section 2 states that: Every such action shall be for the benefit of the dependants of the person (die deceased) whose has been so caused; the "dependant means:

The wife or husband of the deceased,

Any person who is a parent or grandparent of the deceased

Any person who is a child or grandchild of the deceased and

Any person who is, or is the issue of, a brother, sister, uncle or aunt of the deceased.

In addition, section 4 provides:

Any relationship by affinity shall be treated as a relationship by consanguinity, any relationship of the half blood as a relationship of the whole blood and the step child of any person as his child, and illegitimate person shall be treated as the legitimate child of his mother and reputed father, see, Gordon Exhale "the law relating to fatal Accidents", An Introduction https://fataaccidentlaw.wordpress.com/2013/07/22/the-law-relating-to-fatal-accidents-an-introduction. Accessed 30th November, 2016. See, fatal Accidents Act (1976) 1976 CAP 30.

Definition of wife should include childless wife which customary law excludes.

A child or children should include illegitimate children as prescribed by the 1999 constitution of FRN sections 42(2). Also as contained in the Northern state Fatal Accident law, laws of Federation.)

Ways and Means of Fusion of Laws by Legislation

It is important to note that approaches to fusion of law by legislation are as varied as underlying policies behind every integration scheme. These approaches are discussed as follows:

Integration by Unification

Integration by unification approach can be achieved through an outright abolition of all the systems of law but one or the replacement of the existing conflictual systems by a new single (acceptable) system. This type of approach integration of law has been experimented with success in the field of criminal law and punishment by outright abolition of the rules of customary law and Islamic law. The aspect of Islamic law infused are however contained in the Northern penal code which include the prohibition of consumption of intoxicating liquor and criminal punishment for adultery, (Cap 89 Penal Code with Sharia Penal Code) unless fine-tuned, customary law rule is not suitable to modem situations in the area of criminal law and punishment. (Formerly punishment by maiming, stoning and mutilation of all kinds were rampant under customary a Islamic laws respectively).

However, in the area of succession, the customary and Islamic laws are vigorous, fully developed and will remove dominant among the people particularly in Yorubaland. From the Northern part of Nigeria, Muslims patronize the indigenous Sharia court, much more than any other courts. It will be unrealistic, if we are to replace the existing rules of customary /Islamic laws with the rules of the received English law. For instance, the rules of English law of succession inclusively based on monogamous marriage can hardly found acceptance "with Nigerians especially the Yorubas, majority of whom do not appreciate any other law than customary aw, in this regard regardless of some of its weaknesses. As to the contemplation of replacing the general law in-to-to with the existing rules of customary law, one may begin with the view expressed by the London Confer-

ence on the 'Future of Law in Africa" that; "Question of family relation, marriage, adoption, divorce, wills and succession are so essentially personal that they must in large part continue to be governed by the customary law of the community to which the person belongs" (See Marriage Act, Law of Federation of Nigeria 2004). The issue of replacing customary law by foreign law in this area is bound to produce absurdity and injustice (See Marriage Act, Law of Federation of Nigeria 2004).

However, the most criticized aspect of customary law of succession is the way and manner the law treats the women folk particularly the inferior status and inadequate protection of the widows and daughters of the deceased which has rendered the customary law of succession inconvenient to most educated females in Yorubaland. On the other hand, Islamic law cannot be applied universally because the law is addressed only to Muslims and the Muslim community. It is regarded as a law of religion and an integral part of Islam. Islam is the totality of human life. Therefore, it cannot be a viable alternative or a universal option to other non-Muslims.

Conclusion

The following recommendations are proposed:

Reforms of Customary Law in Yoruba land as a First Step

The customary laws of succession in Nigeria are long overdue for reform (Despite the fact that South African practice a mixed legal system, comprises of indigenous laws and law inherited from Dutch and British. The 1996 Constitution gives customary law equal standings with the received laws). Most of these customary laws are discriminatory against women barring wives from inheriting any share in their husband's estate. The denial negates the tenets of 1999 Constitution as amended and contrary to International Convention on Eliminating of Discriminations against Women (CEDAW) to which Nigeria is a signatory. This law needs to be overhauled to allow women as wives to inherit their deceased husbands' estates like other wives who married monogamously (See Section 42 (1) & (2), 1999 Constitution of Federal Republic of Nigeria as amended).

Alongside reform, families and members of the entire citizenry should be sensitized and enlightened on the notion that women are not chattel (Widow inheritance by the male relations of their late husband. See Nzekwu v Nzekwu (1989) 2 NWLR (Pt. 104) 373; Akinnubi vAkinnubi (1997) 2 NWLR (pt 486) 144; Obuzez v Obuzez (2001) 15 NWLR 377) and therefore not like property that can be distributed after passing away of their husbands. This traditional concept should be eliminated from the mindset of all and sundry. This sensitization campaign should not be undertaken by the government alone but should be collectively handled by the traditional rulers, religious leaders, community leaders, and family heads. They are stakeholders in the field of culture and its sustenance in their various communities. These set of people can be regarded as necessary parties because they promote and enforce customary laws that are deeply enshrined in the culture of the people. The involvement of the stakeholders as mentioned here is inevitable for the effectiveness of the proposed reforms.

Simply, these laws are archaic and cannot stand the test of modern times in the global world. Conferences, seminar and workshop should be organized by NGOs, government parastatals and Religious and social groups (This is corollary recommendation to the above point. Although most states particularly in the southern part of Nigeria have been playing active role in customary law related reforms. The development in these states is very recent, apart from Wills Law, Law of Estate Administration enacted by the defunct old Western Region Government and re- enacted by the states devolved from the defunct region. In this respect, some states that set up Law Reform Commission are Lagos, Abia, Bayelsa, Akwa Ibom and Edo.Ekiti signed into law, a Law Reform Commission Bill in 2014. The state need to come out with legislation that will eliminate primogeniture and a law that will put men and women on equal level

under customary law of inheritance. http://www.punchnh.com/news/ekiti-signs-criminal-law-acuses-ff-g-neglect retired 30/6/2015 Jigawa State Justice Law Reforms Commission, Akwa Ibom State Law Reform Commission presented its first annual report in 2010, Abia State is collecting data for a Customary law Manual).

Enlightenment Campaign through Mass Media:

Mass enlightenments programs on the untold hardship and deprivation that wives and in some cases, daughter suffer under customary laws should be embarked upon in a sustained manner. Such campaign should be mounted by Ministries of Information, Communication, Women Affairs, Youth and Culture, and also on electronic social media to enlightened people on the dangers of inequality of succession rights caused to widows and the female heirs.

Radio, Television (TV), town criers, discussions, notices on billboards, newspapers, leaflets, magazine in both English, local languages and local dialect should be employed so as to reach the educated, semi-educated, illiterate, semi-illiterate in our society. These programs are very necessary to effect changes in the attitude of men particularly in the field of succession. It will also reduce men chauvinism to the barest minimum, generally.

The Role of the States House of Assembly

The State Houses of assemblies have a very crucial role to play in the reforms of customary law of succession. These are the only authorities to deliberately abolish or modify existing rules of customary law. Such legislation should abolish all forms of discrimination against widows and female children as contained in the customary law rules. The legislators should therefore prescribe the exact percentage to be given to a widow from her demised husband estate as suggested in this paper. Daughters and sons should be placed on equal footing by such legislation. The states in Yoruba land need to emulate the states (The states are Imo, Bayelsa, Enugu, Cross Rivers and Kaduna states; that is gender and Equal Opportunity Law no 7 of Imo State 2007; the Prohibition of Infringement of a Widow's and Widower's Fundamental Human Right Law of Enugu state 2011; Cross River Female Person's Inheritance of Property Law 2007) that have taken this step earlier.

Need for Intervention of the Legal Aid Council

The legal aid council should provide services for the citizenry in line with the enabling Act (Cap L9 law of the federal government of Nigeria 2004, on legal aid council) that established it and render free legal services for the time being for poor, widows and their children to secure their rights of inheritance. The National Assembly and the State Assembly should endeavor to emulate other African countries (Uganda, South — Africa and Zimbabwe) that have achieved this fit (Cap 4, section 33–46 of 1999 Constitution of Federal Republic of Nigeria. See particular section 32 constitution of Republic of Uganda 1995; Also, Section 8 Constitution of Republic of South Africa, 1996) in their various constitutions (See particular section 32 constitution of Republic of Uganda 1995; Also Section 38 Constitution of Republic of South Africa, 1996 prohibits laws, culture, centenary, and tradition which are against the dignity or interest of women and also ensure outright repeal/abolition of all under customary laws that allows denial and promote discrimination against women as widows or widower (whose applicable) in respect of right of inheritance succession).

References:

1. Elias T. Q.C. The Nigerian Legal system, (London: Rout-ledge & Kingan Paul Ltd., 1963) pp. 121–123
2. Agbede O. Legal Pluralism (Ibadan, Shaneson C. I. Ltd., 1991). Pp. 272–278.
3. Platteau J. P., and Beland J.M. 'Impartible inheritance versus Equal Division: A Comparative Perspective Centred on Europe and Sub-Saharan African Namur; 'Centre de Recherche en Economic du

Development (CRED); (Belgium, Faculty of Economics, University of Namur, 2020). Available at: www.fundp.ac.be/eco/cahiers/filepdf/c2020.pdf.

4. Rose L. 'Children's Property and Inheritance Rights and their Livelihoods: Food and Agricultural Organization of the United Nations'; (New York, Institute of Food Nutrition and Agriculture, 2000). Available at www.oxfam.org.uk/resources/learning/landarights/downloads/children_property_and_inheritance_rights_and+livelihoods.pdf
5. Taiwo, Adetayo Ademola: Legal Pluralism and the Law of Intestate Succession in Western Nigeria (Babcock University Ph.D thesis) (2007) P. 1–2.
6. The Systems of law governing succession matters in Nigeria: Being a prevailing situation and classical type of legal pluralism, most especially in Western Nigeria.
7. Allots, Methods of Legal Research into Customary Laws: Journal of African Administration; Ibadan, University Press, volumes no. 4, (October, 1953). Pp. 175–176.
8. Azinge Epiphany. Restatement of Customary laws of Nigeria, (Journal of Nigeria Institute of Advance Legal Studies, Abuja:, 2013). Pp. 104–106.
9. Nwabueze B. O. Machinery of Justice in Nigeria (Ibadan, Revised edition; Interprint Ltd; 1982. Pp. 125–129.
10. Native Courts Commission of inquiry (Gold coast) 1951. P. 3.
11. See Paolo Contini: Integration of Legal Systems in the Somali Republic in Integration of Customary and Modern Legal Systems in Africa; (Dantiri, Abidabai Press, 1971). Pp. 112–113.

Section 6. Theory and philosophy of politics, history and methodology of political science

https://doi.org/10.29013/EJLPS-22-2.3-64-67

Tran Viet Quang,
Tran Cao Nguyen,
Vinh University, Vietnam
Nguyen Ho Thanh,
Researcher at Vinh University, Vietnam
An Giang University, Vietnam National University Ho Chi Minh City, Vietnam

HO CHI MINH'S VIEWPOINTS ON BUILDING TEACHING STAFF

Abstract. Ho Chi Minh was a great educator of the Vietnamese people. During his revolutionary activities, Ho Chi Minh always attached great importance to education. According to Ho Chi Minh, education is the decisive factor to directly improve the educational level, scientific level, helping everyone to have a capital of history and culture. Over the years, Ho Chi Minh's perspective on teaching staff building has been a guideline for Vietnam's educational career. This is a system of comprehensive views on roles and duties of teachers; views on political and ethical qualities; professional views, teaching methods, and key measures to build a teaching staff.

Keywords: Ho Chi Minh, education, teaching staff, Vietnam.

1. Introduction

Ho Chi Minh (1890–1969) was born into a family of grapes, of peasant background, in Hoang Tru village, Kim Lien commune, Nam Dan district, Nghe An province, Vietnam. He was the genius leader of the Vietnamese revolution, a national liberation hero, a world cultural celebrity, and a great educator. Ho Chi Minh is the embodiment of a revolutionary teacher, lifelong for the people, for the country, for the education of the country, the pure and simple personal life, speaking with work, and a shining example of spirit self-learning. He used to stand on the podium as a teacher, designing the curriculum by himself, organizing the classroom, communicating with modern teaching methods. Ho Chi Minh's educational ideology is a system of comprehensive and consistent scientific arguments that plays a very great role in directing the whole process of building and developing the Vietnamese revolutionary education. In his works, lectures, and articles, Ho Chi Minh has highlighted the point of view on building a fairly complete faculty of roles, duties, ethical qualities, expertise, and teaching methods. teach. In the current period, we study Ho Chi Minh's thought on building a team of lecturers to have correct awareness and apply to this team-building with great theoretical and practical significance.

2. The content of Ho Chi Minh's point of view on building teaching staff

2.1. Ho Chi Minh's opinion on the role of the teaching staff

Firstly, lecturers have the role of training classes of people who will succeed the Party's revolutionary cause, of the nation.

Ho Chi Minh believes that training classes of people who will succeed the revolutionary cause, who are both virtuous and talented, "both rosy", "both specialized" in building a rich, strong and civilized country is the cause of the whole society. In which the key role is the school, the person who directly performs the implementation is the team of lecturers. Ho Chi Minh affirmed: "What is more glorious than training later generations to actively contribute to building socialism and communism. A good teacher — a teacher who deserves to be a teacher, is the most glorious person. Although their names are not published in newspapers or received medals, good teachers are unknown heroes" [6, 329–330].

In order to fulfill their role, teachers must bring their own knowledge, abilities and qualities to learners, guide and guide the young generation to occupy knowledge, making learners promote inherent capacity, develop moral, educational, physical training and aesthetic aspects to become true workers, masterful citizens, actively contribute to the cause of building and defending the country.

Secondly, the teaching staff is the decisive factor for the operation of the education system as well as the quality of education. According to Ho Chi Minh, how the educational process takes place depends on the teaching staff. He affirmed, without a teacher, there would be no education and no education, without staff, it would not say anything about the economy and culture. It is the teaching staff through the system of their educational methods, teaching along with the means of textbooks and other supporting tools to convey educational content that has been built in a most structured way target education is the learner, according to common goals.

Ho Chi Minh pointed out that "It is necessary to train staff for all branches of activity, so there is a need for teachers" [4, 72]. This shows that only when the process is only when the educational process is operated will other branches and fields in society have human resources to operate, that is to have a basis for existence and development.

2.2. Ho Chi Minh's perspective on the required qualities of teaching staff

In addition to the requirements of professional knowledge and teaching skills, the teaching staff also needs specific qualities and competencies to meet the increasingly rigorous and diverse, and rich requirements of practice the teaching process in the context of the country integrating more and more deeply. Teachers' ethics or teaching profession, according to Ho Chi Minh's point of view, can be understood as the rules and standards governing attitudes and behaviors of teachers in life and ethics that teachers have directly affects the quality of education and training. He said: "Teachers as well as students, officials and employees must honestly love their jobs". Regarding the selection of trainers, Ho Chi Minh believes that not everyone can train, especially the trainers of the Union, which requires in-depth knowledge. According to Ho Chi Minh, the teacher must have high qualifications, love the profession, love children, must "model in all aspects: ideology, morality, working style" [3, 46].

Ho Chi Minh emphasized that talent must go hand in hand with virtue. For teachers, the moral qualities of love for students and career love have a close relationship, supporting each other. Loving your students will lead to love your job and vice versa, love you how much you love your job. According to him, the teacher must care and take care of the students with deep feelings like flesh, but the expression must be appropriate for each age group and school level. "To give students virtue, teachers must have virtue," he said. Good or bad students are due to good or bad teachers and teachers " [7, 269]. A teacher who is aware of his exemplary role is to perfect himself. The teacher teaches students about serving the country, serving the people, and loving each other; internal solidarity; need, economic, integrity, righteousness, indifferent mind. To be exemplary in that field means that the teacher is on the way to building his own morality.

In addition, revolutionary morality is one of the standards that require teaching staff to constantly im-

prove to improve themselves. Therefore, building a contingent of teaching staff in universities requires the direction of forming a team that ensures quantity, meeting professional qualifications. In particular, special attention should be paid to fostering revolutionary political and ethical qualities for this team.

2.3. Ho Chi Minh's opinion on the expertise and teaching methods of the teaching staff

Stemming from the educational objectives and contents, Ho Chi Minh said that the contingent of teachers must be proficient in their expertise and proficient in teaching methods. Regarding professional knowledge, Ho Chi Minh emphasized, being a teacher "must be more than a student's head". Therefore, the teacher must be trained and fostered in terms of revolutionary ethics, theory, views, educational lines of the Party, professional expertise, teaching methods. According to Ho Chi Minh, a good teacher does not require mastery in all fields, fully understanding human knowledge, but due to the requirements of the profession, the teacher must constantly improve his knowledge, especially be proficient in his field of expertise better respond to education and training career. They are completely dissatisfied with their existing knowledge, regularly accumulate knowledge, self-study, self-foster, improve their professional qualifications, pedagogical methods to be a good example for students to follow. Ho Chi Minh once told: "The ladies and gentlemen who are teachers and educators must always try to learn more, learn politics, study expertise. If you do not progress forever, you will not keep up with the general momentum, you will become obsolet" [5, 126–127]. In the spirit of grasping the viewpoint "educators themselves also need to be educated", Ho Chi Minh emphasized: "A coach must learn more forever to be able to do his or her coaching job … Trainer practicing whoever thinks that he knows enough, he or she is ignorant" [3, 46].

Ho Chi Minh said that, due to its functions, a characteristic and quality of a lecturer is to constantly study, teachers must have passion, humility to study, and no stigma. Learn more forever, know how to combine and enrich your intelligence. Any teacher who claims to have known enough is the most ignorant and cannot do the teaching. The teacher has to perform learning without getting bored, teaching without fatigue. If you stop learning, that theoretical knowledge will become old, hardened, it does not reflect the vivid reality that makes teaching and learning ineffective.

2.4. Some major measures build the teaching staff from Ho Chi Minh's point of view

With the policy makers' vision, Ho Chi Minh has instructed several measures to build a contingent of "qualified and qualified" teachers in our country. Include:

Firstly, to organize the training and fostering of trainers, and at the same time uphold the spirit of self-training and self-training for each person. With any form of work, the employee must have a basic understanding of his profession as well as develop the necessary practical skills and certain professional ethical qualities. Ho Chi Minh pointed out that in building good and deserving teaching staff, the first and foremost thing is to train a contingent of teaching staff. The qualifications of teaching staff must be constantly fostered and improved. Along with participating in training classes organized by the unit, each lecturer must actively update and foster knowledge and improve the level of all aspects. This is the inevitable requirement, the way to improve the self of teachers is a must-do routine throughout the life of teachers and teachers.

Secondly, create a democratic and solidarity environment in schools. Ho Chi Minh stated clearly: "What job is there, the school department discusses with the brothers, makes everyone's thoughts clear, encourages everyone to work together, not the department in charge of planning and then arresting everyone workers" [7, 436]. In fact, democracy must be promoted to bring into play the creative capacity and enthusiasm of the teaching staff; otherwise, the teacher will become discouraged, frustrated and become "talking machine",

"plow worker" according to the assignment norms assigned by superiors.

Thirdly, set an example for good people, good deeds, and replicate advanced examples. Talking about the role of setting good examples and good deeds in building the teaching staff, Ho Chi Minh pointed out: "Each person must know many people. Furthermore, it is important to enrich spiritual food, it is not advisable to force one person to eat only one dish. As well as entering a flower garden, it is necessary for everyone to see many kinds of beautiful flowers… Good examples in all shapes and sizes are precious objects for you to build people" [8, 665].

Fourthly, always take care of the material and spiritual life of the teaching staff. In Ho Chi Minh's mindset, promoting the role of the teaching staff goes hand in hand with raising the awareness and responsibility of the whole society towards this team. He pointed out that, from understanding teachers, to respect teachers, to cherish in the highest is to help teachers, "must take care of the school in all aspects" [8, 508]. This responsibility belongs to the whole society, directly branches, party committees, and local governments. Not only do teachers have better morality, better knowledge, better teaching methods, a sense of their careers and their hearts, but also make their teachers' life more and more enhanced physically and mentally.

3. Conclusion

Both a professional political activist and an educator, Ho Chi Minh systematically raised his view of the teaching staff building. Applying Ho Chi Minh's perspective on building the current university the teaching staff is the inheritance and development of that perspective in the new time. The task of higher education is to train high-quality human resources to build a rich country, a strong country, a democratic, fair, and civilized country. The teaching staff is the decisive factor in the quality of education, the product of teaching is the future of the nation. Therefore, university the teaching staff must be the typical ethics and intellectuals of the period of integration and development. The moral standards of teachers are the moral standards of society. The intellectual capacity of lecturers must approach advanced scientific knowledge of the times and solve practical problems of the country.

References:

1. Ngo Van Ha. Ho Chi Minh's thought about the teacher and the building of the current university faculty, National Political Publishing House, Hanoi. 2013.
2. Ho Chi Minh, National Political Publishing House, Hanoi. episode 2. 2011.
3. Ho Chi Minh, Complete set, National Political Publishing House, Hanoi. episode 6. 2011.
4. Ho Chi Minh, Complete set, National Political Publishing House, Hanoi. episode 7. 2011.
5. Ho Chi Minh, Complete set, National Political Publishing House, Hanoi. episode 8. 2001.
6. Ho Chi Minh. Complete set, National Political Publishing House, Hanoi. episode 11. 2011.
7. Ho Chi Minh, Complete set, National Political Publishing House, Hanoi. episode 12. 2011.
8. Ho Chi Minh, Complete set, National Political Publishing House, Hanoi. episode 15. 2011.
9. Ly Viet Quang. Ho Chi Minh's ideology on education with the issue of the fundamental and comprehensive reform of current education in Vietnam, National Political Publishing House, Hanoi. 2017.

Contents