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THE SECULAR STATE: THE VIETNAMESE EXPERIENCE

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ABSTRACT

In state atheism, the issue of secularism is frequently deemed a matter not of “separating religion from the state”, but “separating religion from society” or “rejecting religion from society”. Case studies help in effectively evaluating the extent to which this philosophy can be realized. In this regard, the present article is about a case study on the construction of the secular state in contemporary socialist Vietnamese society. The article is mainly based on the provisions of Vietnam’s legal documents on belief and religion. Analyses of Vietnamese, Russian, and Western scholars on the atheistic state and the secular state have been duly conducted. In addition, the placement of state-religious relations within the cultural framework has created opportunities for studying, visualizing, and illustrating the secular state in its various aspects and in a detailed manner. The author has adopted socio-cultural approaches, which employs logical, historical and legal research methods to analyse, synthesize, compare and clarify the following three issues: (1) the formation and transformation of the secular state in Vietnam; (2) the relationship between the atheistic state and the

secular state in Vietnam; and (3) solutions to the problems posed by state secularism in the country. The results indicate that from its establishment in 1945 to the present day, the socialist state in Vietnam has issued legal documents aimed at building a “cooperation” model of a secular state. The model faced certain challenges from 1960 to 1980 due to the influence of other socialist countries, but since the 1986 reform of Vietnam it has increasingly evolved characteristics of a “cooperation” model, which has contributed remarkably in resolving the issue of conflict between the atheist state and the secular state. The harmony between the two types of state, the secular and the atheistic in Vietnam is related to the traditional and cultural elements of Vietnamese society. The cooperation model of a secular state is regarded as the key to building state-religious relations in Vietnam, while a culture of tolerance is fundamental to its construction.

Keywords: Atheistic state, law, religion and belief, secular state, Vietnam.

INTRODUCTION

State secularism appeared in Vietnam in 1945, in the form of the Democratic Republic of Vietnam (now known as the Socialist Republic of Vietnam). Since then, many aspects regarding the question of state secularism in Vietnam have yet to be discussed. Indeed, only a small number of works have explored the issue of state secularism in Vietnam (Do Quang Hung, 2020; Do Quang Hung, 2015; Do Quang Hung, 2008). Vietnamese scholars have affirmed that the Vietnamese state follows the model of a secular state (Do Quang Hung, 2015; Do Quang Hung, 2019; Dang Nghiem Van, 2002), but in the Constitution of Vietnam, the phrase “state secularism” is not used, even though such a provision is standard in the constitutions of many secular countries. Across the world, controversies about secularism in state atheism persist, because the issue of ensuring the principles of secularism seems questionable in socialist societies or in state atheism.

Importantly, the religious policies of socialist countries are not identical. In each socialist country, the formation of a secular state is influenced by many factors; notably history, economy, society, politics and culture. Especially since the collapse of the socialist system in the Soviet Union and Eastern Europe, socialist countries like Vietnam have reformed their national development strategies as necessary

to develop state atheism (or socialism) (Gillespie & Nicholson, 2005), facilitating a deeper understanding of the diversity of modern secular states. Therefore, case studies on state secularism need to be continuously reviewed and expanded. Furthermore, studies focusing on socialist societies are essential and useful, not least for rationalizing religious policies, and for establishing state-religious relations, one of the most complex forms of social relations. In addition, such research helps resolve doubts about religious freedoms, religious equality and the separation between state and religion.

To better understand secularism in Vietnam's socialist society, this article addresses the formation and transformation of the secular state in the country, the relationship between the atheistic state and the secular state here and solutions to the problems posed by state secularism. To this end, the author mainly uses socio-cultural approaches, which have included logical analysis and synthesis, as well as comparative, historical and legal research methods. The study has sourced for materials from both Vietnamese and international legal documents on belief and religion. The author additionally utilizes the research works of Vietnamese, Russian and Western scholars to clarify the research problem.

RESULTS

An Overview of the Formation and Transformation of the Secular State in Vietnam

After its establishment on 2 September 1945, the Government of the Democratic Republic of Vietnam (now known as the Socialist Republic of Vietnam) issued a statement on belief and religion that was unprecedented in the country: "freedom of belief and solidarity between atheists and believers" (*Ho Chi Minh*, 2011). The right to freedom of belief first appeared in Vietnamese legislation with the adoption of the Vietnamese Constitution, dated 9 November 1946, which states: "Vietnamese citizen has the right to freedom of belief" (Art. 10). Nevertheless, although the idea of state secularism was identified by Vietnamese leaders during the Democratic Republic of Vietnam's war with France (1946–1954), sufficient conditions for its implementation did not exist, especially with regard to legal conditions. In his article published in the newspaper *The Truth* on 6 April 1946, the Secretary-General of the Vietnamese Communist Party wrote:

“We stand for the separation of church from state and separation of school from church, because we would like the government not to interfere with religious beliefs, and not to force believers to follow the government’s opinion, so that no one can use education to spread religion, and no one can change the educational program of the state due to religious reasons” (Do Quang Hung, 2021).

Following its victory over France in 1954, the Democratic Republic of Vietnam entered a period of building socialism, during which the provisions of state secularism started to be expressed in Vietnamese legislation. The Presidential Decree of the Democratic Republic of Vietnam No. 234 of 14 June 1955 on Religious Issues (henceforth the 1955 Decree) is widely considered a milestone in defining Vietnam’s model of state secularism, and its characteristics include the following:

- (1) Maintaining the separation between state and religion. Chapter IV of this Decree directly states that the government must not interfere in internal religious matters (Art. 13), while religious organizations are not allowed to participate in governmental affairs (Art. 14).
- (2) Maintaining the separation between education and religion. According to the 1955 Decree, religious organizations have the right to open schools to train people specializing in religious activities (Art. 5), but they are required to obtain permission from the competent state authorities first (Art. 6). In order for religious organizations to open private schools, they must obtain approval from the competent state authority and these schools must teach in accordance with the framework of state educational programs (Art. 9).
- (3) Building a “cooperation” model of state secularism. According to Article 8 of this Decree, religious organizations have the right to establish their own organizations for economic, cultural and social activities, but these organizations will be considered civil organizations and must operate within the framework of “programs and statutes” approved by the government. In addition, this Decree provides provisions on the right of religious organizations to participate in educational activities (Art. 9).

Through the promulgation of the 1955 Decree, President Ho Chi Minh had realized his idea of building harmonious relations between the state and religious organizations. Do Quang Hung (2020) argues that since 1905, the practice of secularization around the world can be divided into two groups: constitutional secularism or the separation of religion from state, as seen in countries such as the United States, France and Turkey; and socialist secularism or the rejection of religion from society, as is the case in the Soviet Union and China. However, Ho Chi Minh took the initiative to build a “cooperation” secular state. On the one hand, he was in no hurry to apply to Vietnamese society France’s “completely” secular model, called *laïcité* (Do Quang Hung, 2008). Therefore, religious organizations in Vietnam would be allowed to participate in certain sections of society in accordance with the provisions of the 1955 Decree. On the other hand, Ho Chi Minh favored a “moderate” secular state model that differed from other socialist countries of the time.

Vietnam’s legal position on respecting the relationship between the Vietnamese Catholic Church and the Vatican can be seen as an example of Ho Chi Minh’s idea of building a harmonious secular state. Article 13 of the 1955 Decree states that “[t]he relationship between the Vietnamese Catholic Church and the Holy Roman See is an internal Catholic problem, therefore the Vietnamese government does not interfere in this internal matter”. In Vietnam, the government does not interfere in internal relations between the Vietnamese Catholic Church and the Vatican; it only has the right to veto the candidates proposed by the Vatican for the priest position in the country and has never sought to appoint candidates not previously approved by the Vatican. By contrast, in 1958 the Chinese government appointed Catholic priests for the first time, in accordance with national legislation, and without the prior approval of the Vatican. These priests then swore allegiance to the Chinese state and renounced their allegiance to the Vatican (Edmond & Jean-Paul, 1993).

However, from 1960 to 1980, Vietnam was under the influence of socialist countries, including in the legal sphere. Many Vietnamese lawyers believe that when Vietnam changed its constitution from one which is democratic (Vietnam Constitution of 9 November 1946) to one based on the Soviet model (Vietnam Constitution of 31 December 1959), the question of introducing Soviet law officially began (Dinh Gia Trinh, 1961). According to Mai Van Thang (2010), the period

from 1959 to 1980 was a stage in the transition to a socialist legal system in the Democratic Republic of Vietnam. Under the influence of the religious policy of the socialist bloc, the secular state model of “cooperation” in Vietnam failed to achieve significant progress. Gillespie (Gillespie & Nicholson, 2005) argues that although the Vietnamese constitutions of 31 December 1959 and 18 December 1980 contained provisions declaring the freedom of religion, this right was in fact viewed as a matter of “internal affairs” as opposed to being a “civil right”. Sidel Mark (2009) reveals that the missing problem in the implementation of the principles of freedom of religion in the constitutions of 31 December 1959 and 18 December 1980, was that it was the duty of the courts and other state bodies to consider the constitutionality of legal documents and administrative acts on religious issues. According to Tran Thi Lien (2013), the influence of socialist law on Vietnamese law was at this time seen in the state’s willpower to control all religious institutions and activities through mandatory permits.

Notably, in 1977 a new legal act on religious issues was issued; it became known as the Resolution of the Government Council of the Socialist Republic of Vietnam No. 297, dated 11 November 1977, “on religious politics” (henceforth the 1977 Resolution). The Resolution added that a crucial feature of the secular state model in Vietnam is its declaration of equality among people regardless of religion. It had clearly stated that “All religions and all citizens are equal before the law” (Art. 3, p. I). However, the Resolution contained some contradictory provisions, such as: “people selected for training in educational institutions of religious organizations must (...) love socialism” (Art.3, p. II); “the appointment of persons specializing in religious activities (including those elected by believers) must be approved in advance by the government” (Art. 3, p. II); and “when the Vatican elects a Vietnamese priest for the office of bishop or higher, the Catholic Church of Vietnam must inform the government of the Socialist Republic of Vietnam about this in order to obtain the approval of the Government in advance” (Art. 6, p. II). Nguyen Thanh Xuan (2020) has described how during the 1970s, a policy of restricting religions and interventions were in place to control religious activity in Vietnam.

The 1977 Resolution was a condensed expression of Soviet influence on Vietnam’s religious law. It detailed the framework for religious

activities and insisted on the “willpower” of the State to control all religious institutions and activities via obligatory authorizations (Tran Thi Lien, 2013). However, if one were to compare the 1977 Resolution to its contemporaneous document in the Soviet Union (Instruction of the Council for the Affairs of Religious Cults and the Council for the Affairs of the Russian Orthodox Church under the Council of Ministers of the USSR on the Application of Legislation on Cults, dated March 16, 1961), it can be seen that religious organizations in Vietnam did not face serious interference in their internal affairs as was the case in the Soviet Union. As evidence, the Instruction contained the following provisions: Religious associations and ministers of cults are not entitled to organize sanatoriums and medical care (Art. 8); religious associations and clergymen cannot, without the permission of the executive committees of regional (city) Soviets of Working People’s Deputies, organize general meetings of believers to discuss issues related to the management of the affairs of a religious association and the use of religious property (Art. 9); religious centres, religious associations and clergymen are prohibited from organizing pilgrimages of believers to so-called holy places (Art. 10); and religious centres, diocesan administrations and other similar religious bodies are prohibited from convening religious congresses and conferences, opening religious educational institutions and publishing religious literature without the permission of the competent authority (Art. 11).

After a period of being influenced by the socialist bloc, 1986 saw the initiation of a comprehensive renovation project (the “Reform”) led by the Vietnamese Communist Party, first in the economic sphere, before expanding to many other areas of public life. With regard to confessional relations, the Reform saw the adoption of resolutions such as No. 24 (“On strengthening religious work in new situations”, dated 16 October 1990) and No. 25 (“On religious work”, dated 12 March 2003). Consequently, the Vietnamese Communist Party executed the following changes: (1) recognizing religion as an integral part of Vietnamese culture; (2) recognizing the inevitable existence of religion in the process of building socialism in Vietnam; and (3) placing religious issues in the national solidarity and patriotic culture of the Vietnamese people.

As a result of the Vietnamese Communist Party’s leadership over the Vietnamese state, after the 1986 Reform, some fundamental legal

acts on belief and religion were issued in turn, as follows: Resolution of the Council of Ministers No. 59, “On religious activity”, dated 21 March 1991 (henceforth the 1991 Resolution); Resolution of the Government of Vietnam No. 26, “On religious activity”, dated 19 April 1999 (henceforth the 1999 Resolution); Resolution of the Standing Committee of the National Assembly of the Socialist Republic of Vietnam No. 21, “On belief and religion”, dated 18 June 2004 (henceforth the 2004 Resolution); Directive of the Prime Minister of the Socialist Republic of Vietnam No. 1, “On work in the direction of Protestantism”, dated 4 February 2005 (henceforth the 2005 Directive); and Law of the National Assembly of the Socialist Republic of Vietnam No. 2, “On belief and religion”, dated 18 November 2016 (henceforth the 2016 Law). The provisions of continuations and these legal documents have led to specific transformations in the characteristics of the secular state in Vietnam. These transformations are discussed in detail below.

First, guaranteeing the freedom of belief and religion. The Vietnamese Constitution of 15 April 1992 and the 2004 Resolution recognize and protect the right to freedom of religion as a “citizen’s right”. Moreover, the Vietnamese Constitution of 28 November 2013 and the 2016 Law recognize the right to freedom of religion as a “human right”. In particular, the 2013 Constitution affirms the right to freedom of belief and religion: “1. Everyone shall enjoy the right to freedom of belief and religion; they can follow or not follow any religion. (...). 2. The State, thus respects and protects the freedom of belief and of religion. 3. No one has the right to infringe on the freedom of belief and religion or to take advantage of belief and religion to violate the laws” (Art. 24). Furthermore, the 2016 Law directly refers to the freedom of religion of foreigners in Vietnam (Art. 8) and of those deprived of certain civil rights (Art. 6). In addition, based on the 1966 International Covenant on Civil and Political Rights, the 2016 Law provides greater clarity in that the right to freedom of religion in Vietnam consists of both absolute and relative parts (Nguyen Son Nam, 2019).

Second, clarifying the separation between education and religion, and maintaining equality among people regardless of religion. This separation is confirmed in Article 18 of the 1999 Resolution and in Article 24 of the 2004 Resolution. Currently, Article 6 of the 2016 Law describes the right to freedom to receive education in legal

religious institutions. However, this Law confirms that “religious educational institutions are not part of the national education system” (Art. 38) and “religious organizations are allowed to participate in educational activities in accordance with the relevant laws” (Art. 55). Furthermore, the 1991 and 1999 resolutions emphasize that “[a]ll citizens are equal before the law, can enjoy all the rights of citizens and are obliged to bear responsibility for the fulfilment of all their duties” (Art. 2). The 2004 Resolution adds that “mutual respect is necessary between atheists and theists and between believers of different religions” (Art. 1).

Third, clarifying the separation between the state and religion. Since the 1986 Reform, there has been no provision in the legislation that “the state does not interfere in the internal affairs of religion”. Nonetheless, the state manifests its “guarantee” and “protection” for freedom of religion, contained in Article 1 of the 1991 Resolution, Article 1 of the 1999 Resolution, Article 1 of the 2004 Resolution and Article 3 of the 2016 Law. Remarkably, in the 2004 Resolution there was for the first time a provision on the state’s respect for religious values: “The state respects cultural values, religious ethics; preserves and promotes the positive values of the tradition of ancestor worship, honours those who have rendered worthy services to the country and society in order to contribute to the strengthening of the great bloc of national unity and satisfy the spiritual needs of people” (Art. 5). This provision was later re-recognized in Article 3 of the 2016 Law.

Fourth, clarifying the characteristics of the cooperation model of state secularism. The 1986 Reform was followed by a period of adding, clarifying, and strengthening religious organizations’ rights in Vietnamese legislation. With the adoption of the 2004 Resolution, the 2005 Directive and the 2016 Law, the state consistently considered the possibility of registering religious organizations and began to recognize the legal status of all denominations of Protestantism (subject to legal norms), as well as broaden the recognition of “small religious groups”. Consequently, religious pluralism and religious diversity have been increasingly expressed in Vietnamese society. From 1955 to 1986, there were only three state-recognized religious organizations, whereas since the 1986 Reform, 42 religious organizations (from 16 religions) are recognized by law (Statistics, 2018). Data of the Pew Research Centre’s index of religious diversity (for 2010) showed that Vietnam took 3rd place out of the 232 countries

and territories on the religious diversity index (RDI) (Pew Research Centre, April 2014). The regulation on cooperation between the state and religious organizations promulgated in the 1955 Decree was developed in articles 52, 54 and 55 of the 2016 Law. In carrying out international relations, religious organizations, high-ranking officials, monks, and believers must comply with the laws both of Vietnam and of the respective countries (Art. 52). Religious organizations can publish books and other publications and produce, export, and import cultural products and religious objects about beliefs and religion in accordance with Vietnamese law (Art. 54). Furthermore, religious organizations can participate in educational, training, medical, social, charitable, and humanitarian activities in accordance with the applicable law (Art. 55). These provisions expanded the ability of religious organizations to cooperate with the state to share their role in the development of Vietnamese society. Moreover, after the 1986 Reform in Vietnam, religious slogans were introduced, such as “Live the Gospel in the Heart of the Nation” (Catholicism), “Dharma – Nationality – Socialism” (Buddhism), “Land of Glory Shining with Religion” (Cao Dai) and “Live by the Gospel in serving God, to serve the Fatherland and the people” (Protestantism) (Religious situation, 2020). These slogans helped Vietnam’s religious organizations adapt to socialism.

In short, the construction of the secular state in Vietnam has continuously taken place according to the “cooperation” model. Accordingly, the state does not push religion out of society, but rather coordinates with religious organizations for the purpose of social stability. This model may be a prudent choice in the context of both past and present atheistic states. The “cooperation” model of the secular state has been revealed evidently after the 1980s. This is because Vietnam joined the 1966 International Covenant on Civil and Political Rights in 1984 and began to internalize religious freedom provisions after the 1986 Reform. Bouquet (2010) has noted that following the 1986 Reform, international legal norms gradually penetrated the national legal system, rationalizing the rules of control over the state as a result. Moreover, John Gillespie (2014) has asserted that globalization and modernization in Vietnam are altering the Vietnamese government’s human rights perspective from one that is introverted and relative, to another that is universal and international, while the current struggle against multicultural problems has enabled Vietnam to develop step by step a complete and universal understanding of “freedom of religion”.

The Relationship between Atheistic State and Secular State in Vietnam

Some authors currently consider state atheism a form of state secularism (Wanner, 2007; Luehrmann, 2011) or a variation on the global experience of secularism (Ngo Thi Thanh Tam & Justine, 2015). Vietnam and other modern socialist countries are today classified as secular states in the international statistics of non-governmental organizations (world atlas, world population review). However, the Russian scientist, Ponkin (2003) argues that in a state with a totalitarian or authoritarian regime, there is “a task of eradicating religion in general” and “the separation of religious associations from the state” is understood in the context of this task. He asserts that countries with such a religious policy are considered non-secular states or “quasi-religious secular” states, as represented, for instance, by the Soviet Union, Nazi Germany and North Korea. Luchterhandt’s (1983) observations of the “understanding of religious freedom in socialist states” exhibit the following three incorrect principles in solving religious issues in the Soviet Union: (1) undermining the legitimization of religious communities; (2) implementing repression as one of the main attitudes towards politics and religion; and (3) developing legal instruments for regulating religious issues in a negative direction. Due to the above analyses, the guarantee of secular principles is frequently questioned in atheistic or socialist states.

Obviously, these studies only focus on the practices of certain socialist countries, whereas the formation of a secular state in any socialist country is influenced by many factors, in particular history, economy, society, politics and culture. Therefore, to clarify any doubts about secularism in socialist Vietnamese society, it is necessary to observe the two main points below:

- i. *The “Cooperation” Model of the Secular State of Vietnam Can Resolve Potential Conflicts in Its Relationship with the Socialist State (or State Atheism)*

The cooperation model of secular state that President Ho Chi Minh outlined in 1955 has proved its suitability for state-religious relations in Vietnam. Following the period from the 1960s to the 1980s under the influence of socialist countries (in particular, the Soviet Union), with the passing of the 1986 Reform, the construction of

a secular state in Vietnam achieved remarkable progress. The “cooperation” model can be regarded as a solution for resolving conflicts between the atheist state and the secular state in Vietnam. Vu Kim Chinh (1997) has proposed an “adequate coordination model” for Vietnam, in which the state and religion can coexist peacefully through mutual understanding and respect for each other, where dialogue leads to cooperation. Common interests provide the basis of dialogue and cooperation: the fate of the Vietnamese people, their happiness and prosperity and the development of culture. By participating in such joint missions, the state and religious organizations do not need to confront and touch upon the issues of atheism and theism. Vu Kim Chinh impresses that the “cooperation” model does indeed mean the liberation of both the state and religious organizations in Vietnam. Moreover, according to Vu Hoang Cong (2019), the idea of “cooperation” with respect to the secular state model in Vietnam is necessary because it would be a mistake to think that religion exists externally to politics. Therefore, he suggests that without relying on the beliefs or strength of any religion, the state should respect religion’s ethical and cultural values. At the same time, the state needs to accept religious organizations’ humanitarian, charitable, cultural and educational activities as a space for cooperation. Furthermore, Do Lan Hien (2019) emphasizes that the “cooperation” or “symbiosis” model is appropriate for Vietnamese society, because through it, the Vietnamese state does not grant the church special political status and instead works closely with it in various ways. It also provides the best conditions for religion to act in accordance with the guiding principles of the Vietnamese Communist Party and state laws, and to ensure the legitimate rights and interests of religion, believers, and atheists alike.

The experience of Russia reveals how a cooperation model can overcome the social shortcomings resulting from an atheist state. Indeed, the secular state in Russia has transformed its model from a Soviet type to a more suitable modern one, namely the “cooperation model”. According to Shakhov’s research (2013), there are three

types of the secular state: segregation, separation and cooperation. The Soviet Union provided one example of a segregation model, in which freedom of conscience can be recognized by the state and be regulated by legal documents, even though the state frequently refers to religion as a negative phenomenon in society. Shakhov (2013) has also confirmed that the relations of the Russian Federation adhere to the cooperation type, which requires that the state and religious associations work together to solve social problems.

ii. *Both the Secular State and the Socialist State Appear to be in Harmony with the Confucian Tradition in Vietnamese Society*

On the one hand, the orientation towards building a secular state corresponds to the history of Eastern religions in general and of Vietnam in particular. According to the Eastern religious tradition, building a religious state is unpopular because the state frequently stands above religion and uses religion as an instrument to govern the country in question (Do Quang Hung, 2008). This is especially evident in East Asian countries such as China, Vietnam, South Korea, Japan and Taiwan, where the Confucian tradition dominates. Samuel Huntington has classified Vietnam as a member of societies belonging to the Sinic civilization, which despite not being part of China, share most of its Confucian culture (Huntington, 1996). Moreover, Guang Xia's research indicates that the distinctiveness of the Chinese civilization derives from the fact that it is secular, because Confucianism is seen as "a this-worldly intellectual tradition, a tradition of humanism and rationalism" (Guang, 2014). Therefore, the construction of secularism (in the sense of being the separation of religion and state and the freedom of both belief and unbelief) occurs naturally in Confucian societies, including Vietnam. Do Quang Hung's (2020) conclusion illustrates that traditional Vietnamese society features certain aspects of "Asian forms" of secularism and secular states. Pierre Huar and Maurice Durand (1993) have proposed two characteristics of law in traditional Vietnamese society: (1) it has the character

of Confucianism, as it is frequently based on moral principles that are borrowed from the doctrine of filial piety and loyalty and almost never on abstract principles, as in the West; and (2) it has the character of secularism, expressing the will of kings. Moreover, Paul Cliteur and Afshin Ellian (2020) point out that secularism is not “a kind of colonial vestige of Western thought; in non-Western traditions, too, there are countless countries where a secular vision of the state has taken root”. Besides, any recognizable form of the religious state has never been present in Vietnam. With regard to state religion, most Vietnamese researchers believe that this does not exist in Vietnam, although there is considerable controversy about whether Confucianism or Buddhism has been the state religion in different periods of the country’s history (Do Quang Hung, 2002). Therefore, between the two paths of a religious state and a secular state, Vietnam’s history leans towards the latter.

On the other hand, the construction of a socialist state has proved suitable with respect to Vietnam’s historical and social context. Socialism entered Vietnamese Confucian society in the 1920s as a tool for the liberation of the Vietnamese people from French colonialism. While some Vietnamese Confucians repeatedly used Confucian teachings and even democratic-bourgeois doctrines to (unsuccessfully) liberate the nation during the period 1862–1930 (Dao Duy Anh, 2020), Ho Chi Minh spread Leninism from the Soviet Union into Vietnamese Confucian society. Following the path of the proletarian revolution under the leadership of Ho Chi Minh and the Communist Party of Vietnam, the Vietnamese people achieved victory over the colonialists and fascists in the “August Revolution” of 1945. Obviously, introducing the socialist doctrine into Vietnamese society was received enthusiastically by the patriotic Confucians of Vietnam, who considered socialism a tool for national liberation. Therefore, the theory of socialism easily gained a central place in Vietnamese Confucian society at the time it was introduced in Vietnam, due to its revolutionary nature and the urgent need of the Vietnamese people for national liberation. Moreover, socialist theory has much

in common with the traditional Confucian doctrine of Vietnam. According to Nguyen Khac Vien (1974), socialist and Confucian doctrines share a contempt for religion (“man is above all a social being”) and both doctrines emphasize collectivist principles and social obligations. Individualism is foreign to these two theories. Tonnesson (1993) has expressed his agreement with Nguyen Khac Vien (1974) and has refuted the thesis of Western scholars such as Paul Mousse that Confucianism and communist doctrine in Vietnam had a few similarities. According to Jorn Dosch (2008), Marxism-Leninism was solidified in Vietnamese society for many reasons, including the similarity of socialist doctrine to Confucianism. Woodside (1989) has explained the success of communist parties in East Asia by pointing out the similarities between Confucian theory and socialist thought. The similarities between socialism and Confucianism, according to all these authors, include belief in truth, presence of a trained elite, influence over the masses, the role of morality and subordination of the individual to the collective. The reality of Vietnam in the 1930s was that there was no struggle over philosophical ideologies and theories between traditional (Confucianism) and socialist doctrines.

Thus, the congruence between the Confucian tradition of Vietnamese society, secularism and socialism has created conditions for the secular state and the atheist state to coexist in Vietnam. Socialism and secularism in Vietnam are harmonized through the construction of a “cooperation” secular state model, which the foregoing discussions of Vietnamese history has demonstrated is possible.

Solutions to the Problems Posed by State Secularism in Vietnam

Secular state construction can be viewed as a work of recognizing and implementing the following principles of secularism: “freedom”, “equality” and “separation”. However, according to Jocelyn Maclure and Charles Taylor (2011), such a notion cannot be grasped through

simple formulations such as “separation of church and state”, “the neutrality of the state towards religions” and the “privatization of religion”, even though all these formulations contain an element of truth. The inseparability of these principles requires countries to ensure at the same time the elements of “freedom”, “equality” and “separation”. According to Domenico Melidoro (2014), there is a lack of analysis clarifying the nature and relative status of the principles that constitute secularism, so each country needs to have the appropriate legal and cognitive solutions for implementing the principles of secularism and the characteristics of a certain secular state model. In the case of Vietnam, the following two proposals can be considered.

i. Completing Legal Regulations

In essence, the construction of a secular state model is the settlement of the relationship between state and religious associations, in which the latter include both religious organizations and religious groups (without legal status). Vietnam is modernizing its legal system, but basically retains its affiliation with the socialist legal family. However, the posing of the relationship between state and religious organizations indicates that the relationship between public and private law is becoming a matter of Vietnamese law. Moreover, this is already the influence of Romano-Germanic law. For this reason, the publication of a specific legal act is always the first requirement in the process of legally regulating state-confessional relations. Do Quang Hung (2012) has explained how the change in religious structure after the 1986 Reform led to changes in religious demographics, the formation of a religious market in Vietnam and difficulties in defining an appropriate legal system in religious matters. Therefore, he argues that a law on religious legal entity should be issued in Vietnam. According to Nguyen Phu Loi (2020), the religious pluralism that exists in Vietnam reflects the country’s religious legislation, which is approaching the model of a civil religion, hence it is necessary to improve the provisions on religious organizations. Obviously, the construction of the “cooperation” model in Vietnam has required a law on religious associations.

First of all, any law on religious associations will have to address the issue of religious diversity and religious pluralism. What is needed (for it is currently lacking in Vietnam) is an appropriate legal framework for regulating small religious groups and new religious phenomena (Chung Van Hoang, 2017). According to statistics from the Committee on Religious Affairs of the Government of Vietnam, there are over 70 different types of new religious phenomena, most of which have originated domestically, although others have been imported from countries such as Taiwan, Japan, France, China and India (Statistics, 2018). In addition, a law on religious associations will need to clarify the government's encouragement to participate in the social spheres of religious organizations. Hitherto, these incentives have been limited to general statements and are concentrated in just two articles of the 2016 Law. Consequently, it is necessary to confirm the encouragement and support of the state in meeting the needs of religious organizations' participation in the social sphere. The legal provisions on religious associations should have the function of identifying and improving the degree and extent of this participation. The content of these legal regulations can correspond to the three modern trends in determining the legal status of religious organizations as proposed by Durham (2010). They were, namely the maximization of social benefits generated by religion, the assistance (as distinguished from control) by the state to religious organizations, and the development of legal structures for increasingly pluralistic societies.

At the same time, the law on religious associations effectively and explicitly protects the principles of "separation" and "equality" of the state secularism model. On the one hand, the law on religious associations, which contains provisions on the responsibilities of religious organizations, guarantees the principles of secularism and ensures that religious organizations cannot lead society with the tendency of "religion interferes in politics". On the other hand, this law, which enshrines the provisions on the duties of the state, concretizes

the principle “the state does not interfere in the internal affairs of religion”. Moreover, the law on religious associations guarantees the neutral position of patriotic religious organizations. Currently, harmonious and cooperative religious-state relations are supported by the role of patriotic organizations in religious communities (Le Ba Trinh, 2018). Patriotic organizations in a religious community have proved effective in regulating and resolving conflicts between the government and religious organizations. However, Vietnam needs to avoid the mistakes from Chinese history, which as pointed out by Goossaert and Palmer (2011) highlighted that the patriotic religious organizations founded under the auspices of the Chinese Communist Party in the 1950s did not have an independent voice, and as one of the most typical results, Chinese Catholic organizations obeyed the orders of the Chinese central government, not the Vatican.

ii. *Ensuring Traditional and Cultural Elements in Building the Secular State*

The idea of cultural vectors has been presented by M.V. Nemytina (2007) in the work “Civilizational and cultural approach in jurisprudence”. According to Nemytina, along with the vectors of time and territory, there is a vector of civilization and culture based on a development programme that ensures “continuity in law, accumulating experience, supporting traditions and opening up opportunities for innovation”. Obviously, this idea has proved rational in Vietnam when resolving conflicts between the state and religious organizations. For example, by placing the issue of religion in a cultural framework after the 1986 Reform, the Vietnamese state initially found a suitable way of coexisting with religious organizations, which was building a “cooperation” model of state secularism. The traditional culture of Vietnam has always held a firm position in Vietnamese society, even after its acculturation with European culture, which lasted from the 16th century until the present day. According to G.I. Muromtseva (2014), “traditional”

society has long disappeared in Europe, but continues to exist (sometimes in surviving forms) in a number of regions of South East Asia, for instance. In fact, Vietnam is one of the societies located in the region mentioned by Muromtsev (2014). This is evidenced in the existence of the Dong Son culture from about the 7th century BCE, which is considered the “root” of Vietnamese culture. Building a model of state secularism on a cultural base ensures that the process of “development” or “innovation” occurs continuously, without interruption. According to Nemytina (2018), culture follows tradition because culture can be viewed as fundamental values and ideas, or as experience passed from generation to generation, thereby ensuring continuity in the development of human societies. Nemytina (2018) emphasizes that from the methodological point of view, “tradition” and “innovation” are paired categories.

If a model of state secularism is to be built on Vietnamese culture, tolerance is the leading factor that must be considered. Traditional Vietnamese culture is characterized by a high level of tolerance (Condominas, 1987). Over time, cultural tolerance has turned into religious tolerance. Thanks to religious tolerance, Buddhism, Confucianism and Taoism have, despite their differences, coexisted peacefully for more than 19 centuries in Vietnam. Even in the history of Vietnam, Buddhism and Confucianism have alternated in the significance of the role they have played in society, but they have not excluded or denied each other. The policy of “banning religion” by some Vietnamese dynasties from the 17th to the 19th centuries damaged the natural development of religions. Only due to the principle of tolerance have different religions in Vietnam been able to coexist and respect one another. In the context of religious pluralism and religious diversity in the secular state model of Vietnam, the issue of tolerance is even more important. When studying principles related to the intersection of freedom of expression and freedom of religion, Malcolm (2009) has emphasized the principle of “promoting pluralism and tolerance” by arguing that

religious tolerance and “religious pluralism, religious diversity” are connected and mutually supportive. By contrast, secularism is considered a condition of tolerance though it is frequently mistaken for tolerance (Petre, 2014).

Furthermore, Vietnamese culture is the first factor that must be considered when applying any model of state secularism to Vietnamese society. Alontseva (2019) argues that the nature of the relationship between the state and religious institutions depends on the traditions of that state, cultural heritage, people’s mentality, the attitude of the state apparatus to religion and religion’s importance in society. On this problem, Nemytina (2007) claims that each civilization has its own vector of development and evolves within the framework of its civilizational and cultural program. Furthermore, due to the continuity of social life, modern countries and their inhabitants have different codes of civilizational and cultural development. Moreover, in the current international context, one country should not copy the model of another, even of the same legal family. Although the existence of a socialist legal family has been recognized in modern comparative studies ever since the collapse and disappearance of the socialist system, socialist countries in different parts of the world (Vietnam, China, North Korea, Cuba), which have built and maintained political and economic models that have very little in common with each other, hardly give grounds for recognizing a cultural community in the form of a socialist legal family (Nemytina, 2007). The entire transformation of the legal regulation of relations between the state and religious organizations in Vietnam from 1986 to the present reveals that the optimal direction of building state secularism should be found in Vietnamese culture.

CONCLUSION

The development of law is essentially a phenomenon of culture and civilization, so it should be considered in its specific cultural and

social context. The building of a secular state model in Vietnamese socialist society is an expression of such a phenomenon. Vietnam's law on belief and religion since 1945 has proved the existence of a cooperation secular state model in the country. This model was drafted by Ho Chi Minh in 1955 and, due to the influence of other socialist countries, faced certain challenges from 1960 to 1980. Notwithstanding the 1986 Reform, this model was subsequently transformed in the context of international integration and religious development.

The questions of “secularism”, “religion”, “atheism”, “law” and state” in Vietnam can be viewed comprehensively when they are put together in the framework of the country's socio-cultural context. The simultaneous and peaceful existence of an atheist state and a secular state in Vietnamese society can be explained by the compatibility of these concepts with the Confucian tradition of Vietnamese society and the cooperation model's ability to harmonize the interests of the state and religious organizations. In the construction of the secular state in Vietnam, it is necessary to ensure the principles of secularism in the direction of perfecting the regulations on the behaviour of the state and religious associations and ensuring unique contact with the tolerant cultural tradition of the Vietnamese people.

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