

ASSURANCE OF ETHNIC MINORITIES' CULTURAL RIGHTS IN VIETNAM - THE IMPORTANT BASIS FOR EQUALITY AMONG ETHNIC GROUPS

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Abstract

In the process of national construction and development, the Party and State are always consistent in implementation of principle: "Equality, respect, solidarity, relation settlement between ethnic groups and mutual development" and especially pay attention to the implementation of cultural rights of the people in general and ethnic minorities in particular through a legal system and specific policies on the basis of compliance with international treaties to which Vietnam is a member. This research focuses on analyzing the cultural right assurance of ethnic minorities in Vietnam, which is an important basis for equality among ethnic groups in the whole country. The result of research show that Vietnam has issued many guidelines and policies to ensure the cultural rights of ethnic minorities, contributing to the socio-economic development and the realization of equality among ethnic groups during 76 years of construction and development. From the research results, the author proposes some solutions to improve the legal system as well as improve the implementation effectiveness of ethnic minorities' cultural rights in Vietnam.

Keywords: *cultural rights, ethnic minorities in Vietnam, ethnic equality.*

1. Introduction

1.1. Human rights are significant and valuable values

Human rights are the result of the bloody and tearful struggle in human history, the development and progress of human rights has reflected the development and progress of society and human rights are the expression of human values. Insurance and protection of human rights is always one of the important tasks that countries must implement in order to contribute to the country's stability and development and this is also a premise for peace and prosperity of human.

The United States Declaration of Independence stated: "All human beings are born free and equal in dignity and rights". They are entitled with inalienable rights by the Creator; Among these rights are "Right of Life, Liberty and the Pursuit of Happiness" [4, page 9]. In the French Declaration of the Rights of Man and of the Citizen in Article 1 has stated: " Men are born and remain free and equal in rights "[4, page 15-16]. With specific provisions on human rights such as freedom, equality, ownership, free exchange of ideas and opinions, equality in front of the law, freedom of speech, freedom of thought, belief, etc.

Especially the ideas of freedom, freedom is being able to do anything as long as it doesn't harm others. This is a very progressive idea with deep influence on the legal system of many countries. These two declarations recognized a lot of human rights and civil rights on the basis of freedom and equality, these were the great progressive ideas at that period. It is said that this is a great progress in human thought on human rights.

The Universal Declaration of Human Rights (1948) affirmed the rights as well as the role and position of human rights assurance in life, " recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world. People everywhere in the world ought to enjoy - freedom of speech and belief and freedom from want and fear because poverty has been proclaimed as the highest aspiration of human beings, etc. It is essential that human rights must be protected by law, etc. The member States have committed to cooperate within the United Nations framework and promote the common respect and comprehensive assurance of human rights and fundamental freedoms" [4, page 62-63].

Inheriting the progressive views of the previous philosophical schools, Karl Marx, Friedrich Engels and Vladimir Lenin gave a dialectical materialistic conception of the origin of human rights. Human rights are not given by nature or by a force in society but a natural human right, reflecting the human need for freedom, equality, rights and obligations. Human rights are closely associated with human history and close relationship with socio-economic bases in each historical period. Starting from viewpoint that Human is a "social - biological" entity, human nature is the sum of social relationships, classics of Marxist theory assert that human rights are born based on two natural and social origins.

Marx, Engels, and V.I. Lenin said that human rights are always associated with freedom and equality " , etc. Freedom and equality must be declared as human rights" [11, page 153]. About freedom, Marx and Engels said: " The non-freedom period in the world history required the laws expressed the non-freedom, because that animal right - is different from the human rights as the embodiment of freedom - the embodiment of non-freedom" [10, page 183]. Human existence itself has proven freedom, freedom of thought and action, in the progress of the real world to serve life, freedom is associated with human and belonging to Human. In order to overcome injustices to get the opportunity to develop capacity and realize their rights, people must liberate themselves, overcome dependence and loss of freedom. Therefore, human rights are synonymous with human freedom. As for equality, that is the equality in legal terms, in terms of political, economic and cultural interests among all members of society, regardless of ethnicity, religion, class of the subjects.

In Vietnam, in the light of Marxism-Leninism, the protection and execution of human rights is always an important content throughout the leading process of the Party and State. In the guidelines and lines of the Party, policies and laws of the State always aim to ensure

and maximize the human rights. Over the years, civil rights, political and economic rights, social and cultural rights which have been effectively implemented, contributed to ensure the rights and interests of the people. In addition to the achievements that have been reached, there are still some issues that need to be settled. In theoretical terms, our Party always affirms that Marxism-Leninism is the ideological foundation and guideline for action, so the research and clarification of the concept of human rights as well as the ideology application should be clarified, thereby affirming the value and sustainable survival of those ideas. In practical terms, the assurance and implementation of human rights still have violations, foreign hostile forces colluded with reactionary in the country to make misrepresentations about the human rights situation in our country in order to serve their schemes. In our country, freedoms and equal rights are considered as basic human rights which is a condition and a prerequisite for the execution of other rights.

The Vietnamese government has given the consistent viewpoint on human rights issues. In the book "Protection and Promotion of Human Rights in Vietnam" (White Paper on Human Rights 2018), the State of Vietnam stated that human rights are reflected in the following aspects: "Firstly, human rights are the aspirations and common values of all mankind. Human rights are universal but when applied, it should be appropriate to the characteristics of nations and peoples, etc. Secondly, sovereignty, human right and self-determination have a close and unifying relationship, etc. Thirdly, human rights are the unity between the rights and obligations of each individual, between the individual's rights and interests and the community's rights and interests, etc. Fourthly, human rights are closely related to peace, security and development, etc. Fifthly, ensuring and promoting human rights is first of all the responsibility and authority of each country" [2, page 7-8].

Human rights are a historical category which is influenced by the historical context and always moving along with the development of history. Therefore, in the current context, assurance of human rights also needs some appropriate adjustments. In the context of deep globalization and international integration, Vietnam cannot integrate internationally on human rights, we must "Vietnamize" for the international views and laws on human rights that are suitable with our country's conditions in order to ensure the people's legitimate rights and interests as well as suitable with the new situation.

1.2. Cultural rights are a category of human rights

Cultural rights are a category of human rights that ensures no discrimination for all people, they can freely access, participate and contribute to cultural life [6]. Article 27 of the Universal Declaration of Human Rights (UDHR) stated that "everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits". Article 27 of the International Covenant on Civil and Political Rights (ICCPR) also stated: In those States in which ethnic, religious or

linguistic minorities exist, persons belonging to such minorities shall not be denied the right in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language. Regarding aspects of cultural rights, the 1966 Convention on Economic, Cultural and Social Rights (CESCR) has been concretized in Articles 13, 14 and 15. Accordingly, the cultural rights of people generally include [8]:

- The right of each individual to participate in cultural life;
- The right of each individual to enjoy the benefits of scientific progress and its applications;
- The right to enjoy the protection of moral and material interests derived from artistic, literary and scientific products of which the beneficiary is the author; be respected and acknowledged for customs, practices, histories, or cultural differences;
- Freedom in the creative activity of scientific research.

Particularly for ethnic minorities, Article 2 of the 1992 Declaration on the Rights of Persons belonging to ethnic, racial, religious and linguistic minorities: Persons belonging to national or ethnic, religious and linguistic minorities (hereinafter referred to as persons belonging to minorities) have the right to enjoy their own culture, to profess and practise their own religion, and to use their own language, (hereinafter referred to as persons belonging to minorities) have the right [9]:

- Enjoy the culture in individually or collectively form, freely and without interference or discrimination of any kind;
- Actively participate in cultural, religious, social, economic and community life;
- Participate effectively in decisions at the national level and, where appropriate, at the regional level when it comes to the minorities of which they are members or to the regions where they live in a manner not contrary to national law.

Convention on the Protection and Promotion of the Diversity of Cultural Expressions of General Conference of The United Nations Educational, Scientific and Cultural Organization affirms that "cultural diversity is developing strongly in environment of freedom, justice and democracy and mutual respect among peoples and cultures, which are integral to peace and security at the local, national and international levels" and "Emphasizing the importance of cultural diversity for the full implementation of human rights and fundamental freedoms enshrined in the Universal Declaration of Human Rights as well as in internationally recognized instruments received globally" [14, page 1].

Assurance and promotion of the implementation of human rights by ethnic minorities is also a common obligation of States. However, starting the unique characteristics of ethnic minorities, assurance of the rights of this group also requires appropriate policies, taking into account the factors associated with ethnic minorities. The Committee on Economic, Cultural

and Social Rights in its Joint Statement 21 also affirmed: Ethnic minorities as well as those belonging to ethnic minorities not only have their own identity rights but also the right to development in all areas of cultural life. Any program aimed at promoting the constructive integration of minorities and persons belonging to minorities into the general society of a Member State should be based on inclusion, participation and non-discrimination in order to preserve the distinctive identity of minority cultures [7].

2. Method

To carry out this research, on theoretical term, the author has based on the viewpoint of Marxism - Leninism, Ho Chi Minh's thought, the view of the Communist Party of Vietnam on culture and based on the provisions of Vietnamese law on human rights and citizenship. 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 on the issue of ensuring the cultural rights of ethnic minorities in Vietnam - an important basis for realizing equality among ethnic groups.

3. Result

Vietnam is a unified country with 54 ethnic groups. As of April 1, 2019, the population of 53 ethnic minorities is 14.1 million people, accounting for 14.7% of the total population of the country [13], concentrated mainly in mountainous areas, especially in the Northwest, Central Highlands and Southwest regions. The ethnic groups of Vietnam have a tradition of solidarity and support in the struggle against foreign invaders, nature disaster and the country development. Each ethnic group has its own cultural identity, creating the diversity and richness of the unified Vietnamese culture.

The 2013 Constitution in Article 5 stated: “The Socialist Republic of Vietnam is a unified nation of all ethnicities living together in the country of Vietnam. All the ethnicities are equal and unite with, respect and assist one another for mutual development; all acts of discrimination against and division of the ethnicities are prohibited. The national language is Vietnamese. Every ethnic group has the right to use its own spoken and written language to preserve its own identity and to promote its fine customs, practices, traditions and culture. The State shall implement a policy of comprehensive development and create the conditions for the minority ethnicities to fully utilize their internal strengths and develop together with the country. In addition, to ensure the rights of ethnic minorities, Article 42 of the 2013 Constitution also stated: “A citizen has the right to determine his or her ethnicity, use his or her mother tongue and choose his or her language of communication.” At the same time, it also affirms: “Everyone is equal before the law. No one shall be discriminated against in political, civil, economic, cultural and social life”. [3] This principle has also been reflected throughout the entire legal system of Vietnam, institutionalized and concretized in legal documents such as the Law on Election of Deputies

to the National Assembly and Deputies to People's Councils; Criminal Procedure Code; Civil Code; Civil Procedure Code; Labor Law; Education Law; Law on Protection of People's Health; Law on Compensation Liability of the State and many other legal documents, etc. [2, page 43-44).

As for ensuring the cultural rights of ethnic minorities, Vietnam has also paid special attention to better ensure the cultural rights of ethnic minorities in the Vietnamese territory, this is shown in the contents:

3.1. The right to prioritize cultural development of ethnic minorities

The cultural rights of ethnic minorities are reflected throughout in the Party's viewpoints and policies and the State laws. The Platform for National Construction in the Transitional Period to Socialism” in 1991 affirms that “respect for the interests, traditions, culture, languages, customs and beliefs of the peoples, opposing the people’s large and narrow ethnic groups, discrimination and separation of the nation” [15]; The provisions of the 2013 Constitution (Articles 5, 42) as mentioned above also reaffirm that viewpoint.

With the policy of building a unified and diverse culture in the community of ethnic minorities in Vietnam, in which priority is given to the development of ethnic minority culture along with Socio-economic development, social security assurance, hunger eradication and poverty reduction, the preservation and promotion of ethnic minority culture are both urgent and strategic tasks to be performed for long-term. The Government has approved policies and schedules to effectively preserve, promote and develop ethnic minority cultural values. On September 15, 2020, the Prime Minister issued Decision No. 1409/QĐ-TTg on the issuance of a plan to implement Resolution No. 120/2020/QH14 dated June 19, 2020 of the National Assembly on approval of investment policy of the National Target Program on socio-economic development in ethnic minority and mountainous areas for the period of 2021-2030, in which the cultural sector emphasizes the focus on preserving and promoting traditional culture values of ethnic minorities associated with tourism development and special attention to investment in the development of ethnic groups still face many difficulties. Enhancing the quality of the movement " All people unite to build cultural life ". Thereby propagating and mobilizing for ethnic groups in the Vietnamese ethnic community to understand each other, get close to each other, support and develop the economy, culture and society to meet the demands and aspirations of the people. Creating conditions for people to participate and promote their mastery role in the construction of a new cultural life, contributing to enhance the level of cultural enjoyment of people in ethnic minority and mountainous areas [16].

3.2. The right to preserve and maintain the cultural identity and to participate in activities of cultural life

According to statistics, there are 62,283 intangible cultural heritages of 63 provinces and cities inventoried, 288 intangible cultural heritages included in the list of national intangible cultural heritages (including 145/288 heritages of ethnic minorities - accounting for more than 50% of the total heritage); 05 heritages in the form of spoken and written language, etc. in the whole country. In the period from 2016 to 2020, there have been 3 special national relics, 8 historical - cultural relics and scenic spots related to the ethnic minorities which are ranked national heritage; There are 126 intangible cultural heritages, 276 elite artisans who are ethnic minorities [15].

The right to preserve and develop ethnic minority culture is considered a special right with important significance for ethnic minorities and has been regulated in many different documents. Article 41, Article 42 of the 2013 Constitution stipulates: “Everyone has the right to enjoy and access cultural values, participate in cultural life, and use cultural facilities; Citizens have the right to identify their ethnicity, use their mother tongue, and choose a language of communication. To ensure this right, our State not only promulgates specialized legal documents as a solid legal basis for the rights execution but also develops the policies and projects on cultural preservation and development such as: Project on preserving and developing culture of Vietnam's ethnic minorities until 2020 according to Decision No. 1270/QĐ-TTg or the regulations of the Ministry of Education and Training on promulgating the ethnic minority languages teaching framework for children and civil servants working in ethnic minority areas; preserving and maintaining the traditional costumes of Vietnam's ethnic minorities in the current period [1], etc.

3.3. The right to use and popularize one's own language and choice of language for communication

In the civil rights stated in the 2013 Constitution, the right to use and access a language is mentioned in Article 42 as follows: “A citizen has the right to determine his or her ethnicity, use his or her mother tongue and choose his or her language of communication” [12].

Article 5 of the 2013 Constitution clearly stated: "Ethnic groups have the right to use their own language and script, preserve their national identity, and promote their fine customs, practices, traditions and culture";

The 2005 Education Law stipulates: “The State creates favorable conditions for ethnic minorities to learn their own language and writing in order to preserve and promote their national cultural identity and to help ethnic minority students easily absorb knowledge when studying in schools and other educational institutions”;

The 2014 People's Courts Organization Law stipulates on the spoken and written language used before the People's Court: "The spoken and written language used before the Court is Vietnamese. The Court assures to proceeding participants the right to use their own language and writing before the People's Court. In this case, an interpreter is required.

Article 21 of the 2013 Cultural Heritage Law also has similar provisions. Then, the Vietnamese Government issued Decree No. 82/2010/ND-CP regulating the teaching and learning of languages and scripts of ethnic minorities in general education institutions and regular education centers through.

3.4. The right to access and enjoy cultural values

The right to enjoy cultural values can be understood as the right to recognize and ensure the demand of feeling and exploiting the values and good social capital created and kept in the community life of an individual or community.

The right to enjoy cultural values was first recognized in our country in a legal document in the 2013 Constitution (Article 41). Accordingly, this right focuses on the aspects of creativity, access and enjoyment of socio-cultural and spiritual values. Specifically, Article 24 of the 2013 Constitution stipulates: "Everyone has the right to freedom of belief and religion, and has the right to follow any religion or to follow no religion. All religions are equal before law. The State shall respect and protect the freedom of belief and religion.

No one may violate the freedom of belief and religion, nor may anyone take advantage of a belief or religion in order to violate the law"; Article 39: "Citizens have the right, as well as the obligation, to learn"; Article 40 of the 2013 Constitution stipulates: "Everyone has the right to conduct scientific or technological research, or literary or artistic creation, and to enjoy the benefits brought about by those activities"; Article 41: "Everyone has the right to enjoy and access cultural values, participate in cultural life, and use cultural facilities".

Together with creating conditions for ethnic minority cultures to be preserved and promoted, the authorities at all levels have also implemented practical actions for every person to gradually improve and enhance their spiritual and cultural life. At the present, there are more than 90% of households in ethnic minority areas listening to Voice of Vietnam and over 80% of households watching television. Radio and television programs in both Vietnamese and 26 ethnic languages are broadcast to remote villages [5].

In general, it can be seen that people, whether belonging to any ethnic group or Kinh group, are ensured by the State to have equal rights in enjoyment and encouraged to promote cultural values created by themselves or the community. In addition, the State also creates all conditions, both in law and in physical facilities, to ensure this right of the people, including ethnic minorities.

4. Discussion and Conclusion

The achievements in ensuring the cultural development right of ethnic minorities are detailed examples in ensuring and promoting the ethnic minorities' rights in particular and human rights in general in Vietnam which maintains equality among all ethnic groups in the country. In addition to the achieved results, the cultural rights assurance of ethnic minorities and the system of Vietnamese policies and laws on ethnic minorities in general and laws on ethnic minorities' cultural rights in particular. There are still some limitations, such as: an overlap and an inappropriate relationship between regional and community policies, policies for households in general and ethnic policies leading to ineffective policy interventions; The cultural identity of many ethnic groups is facing the risk of being lost and assimilated, especially in poor communities under the impacts of modern socio-economic life, the cultural invasion and religion - belief transformation which has been happening more and more strongly. Many of organization and management regulation of traditional villages associated with cultural communities are broken (or destroyed in the process of development); Although the basic cultural institutions for ethnic minority areas have been invested, they are still poor, especially in the northern mountainous areas and the Central Highlands due to difficult topographical conditions.

The context of globalization and the wave of the fourth industrial revolution that has brought great achievement in socio-economic development is undeniable. However, it also brings challenges and negatives such as the gap between rich and poor; changes of social norms; inverting the social human resource structure, the collision between the indigenous culture and the imported culture is inevitable. Besides, industrialization - modernization and market economy made a strong influence on the cultural identity of ethnic minorities. The above context and practical situation also made a significant impact on ensuring the cultural rights of ethnic minorities. In order to improve the effectiveness of the enforcement of cultural rights of ethnic minorities in Vietnam in the coming time, the author proposes a number of solutions as follows:

Firstly, it is necessary to continue to implement specific cultural policies for ethnic minorities and well implement socio-economic development policies in ethnic minority and mountainous areas; review, adjust and supplement to complete existed policies and study and issue new policies to meet the requirements of developing ethnic regions and ethnic minority work tasks in the new period. Especially with the preservation of ethnic minority cultures, it is necessary to issue a new scheme on preserving and developing the culture of Vietnam's ethnic minorities in the coming period on the basis of inheriting and continuing to implement the key objectives and tasks have been set forth in the Project "Preservation and promotion of culture of Vietnam's ethnic minorities until 2020".

Secondly, it is necessary to prioritize investment in preserving and promoting the traditional performing arts of ethnic minorities; at the same time, effectively, openly and transparently use the state's investment sources with a focus and priority on mountainous areas, border areas, islands, ethnic minority areas and a number of different types of people. Preserve and promote traditional art forms need. Collect, restore and develop some traditional art forms at risk of being lost.

Thirdly, developing policies to encourage research, collection, preservation, transmission and introduction of the intangible cultural heritage of ethnic minority communities; building a contingent of intellectuals, writers and artists among ethnic minorities, adopt policies to encourage them to return to work in the locality. Focusing on training and fostering a contingent of teachers teaching cultural specialties. Adopting policies to discover, foster, employ, treat and honor cadres in the fields of culture and art; respecting talented and virtuous people. Adjusting salary and allowance regimes for those operating in specific arts disciplines.

Fourthly, continuing to implement hunger eradication, poverty reduction, and raising the living standards of ethnic minorities, focusing on people in highland, remote and remote areas is a prerequisite for ethnic minorities to entitle cultural rights. Combining with radio and television coverage programs; strengthening grassroots-oriented cultural, information and propaganda activities; increasing the duration and improve the quality of radio and television programs in ethnic minority languages; doing well in researching, collecting, preserving and promoting good values and traditions in the cultures of the nations. Implementing the universalization of lower secondary education and mountainous education programs, improve the quality and effectiveness of education and training, especially the system of boarding schools for ethnic minorities at all levels.

Fifthly, strengthening bilingual education programs for ethnic minority children and local language training for Kinh teachers in ethnic minority areas, employing more ethnic minority teachers, allowing to use and teach in ethnic minority languages as a medium of instruction in schools, supporting cultural education programs for ethnic minority groups.

Sixthly, promoting education, propaganda to raise awareness for ethnic minorities, overcoming customs and psychological barriers, especially ethnic minorities with difficult conditions about the importance of education access in hunger eradication, poverty reduction and socio-economic development. Developing communication programs appropriate to cultural, gender, age and ethnic factors. Developing effective communication models in the community; expanding and diversifying communication activities to raise awareness of all levels of party committees, authorities and people about education in hunger eradication, poverty reduction and socio-economic development. Strengthening the dissemination of

laws and information on ethnic minority policy mechanisms in general and policies related to education for ethnic minority areas in particular.

Seventhly, organizing cultural activities such as festivals, entertainment services, building bookcases, establishing clubs, creating an environment for ethnic minorities to have the opportunity to fully enjoy themselves. cultural rights. Eliminating all outdated customs, associate legal propaganda with criticism of bad habits, ideas that favor men and despise women; uphold and honor the fine traditions of ethnic minorities.

Eighthly, ethnic minorities also need to be proactive in exercising their cultural rights such as actively participating in the process of formulating programs to preserve and develop national cultural traditions; training for the next generations the values of their own nation and building a sense of preserving them in the process of economic development and integration.

The Party and State of Vietnam always identify people as both the goal and the driving force of development; in all socio-economic policies, people are always placed at the center; The assurance and protection of human rights, cultural rights in general, and cultural rights of ethnic minorities in particular are one of the important factors in realizing equality among ethnic groups and for the development of ethnic minorities. sustainable development, contributing to the victory of industrialization and modernization of the country, building socialism in our country according to the goals of democracy, justice and civilization, for the happiness and progress of human./.

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