



Thoughts on democracy in the rule of law state of early modern western philosophy and its reference value for the expansion of democracy in the rule of law state in Vietnam today

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Abstract

Building a socialist rule of law state in Vietnam today is one of the most important and strategic political tasks, which has been consistently affirmed by our Party in the documents of the Party congresses since 1986 to present. Practice shows that, along with our achievements, the process of building our rule of law state also reveals some limitations in theory as well as confusion in practical activities. Therefore, studying the thoughts of democracy in the rule of law state of modern Western philosophy and its reference value for the expansion of democracy in the rule of law state in Vietnam today is extremely important. In that sense, with a methodology system of material dialectics, this article mainly clarifies some basic issues of the thoughts on democracy in early modern Western philosophy and applies the value of these thoughts to Vietnam today.

Keywords: democracy, the rule of law state, law, philosophy, the west, the modern period

Introduction

Democracy is a progressive social value that has been formed in association with the historical process of fighting for human freedoms and equality. It is both the basis, purpose, and driving force for the formation and development of the rule of law state, as well as a fundamental and important criterion for assessing the level of rule of law of a country or people. Therefore, implementing and promoting democracy in the process of building the rule of law state in countries around the world in general and Vietnam in particular is a regular requirement. To be able to do well the above regular requirement, it is necessary to receive dialectically the values of mankind's thoughts on democracy, including the thoughts of the early modern Western philosophers, the process of building the rule of law state in Vietnam today.

Content

1. The Thoughts on Democracy in the Rule of Law State of Early Modern Western Philosophy

The issue of democracy in the rule of law state is a content that is always discussed with many different approaches. In the view of early modern Western philosophers, the foundation of the rule of law state is the democracy. Without democracy, the characteristics of a rule of law state will be mainly theoretical. It is this view, which was later inherited by Marx when he stated his point of view: "in all forms of state other than democracy, the state, the law, the state system are the dominant factors, but the state does not really dominate, that is, the state does not penetrate materially into the content of other non-political domains" [2, p.351].

The democratic foundation provides for the birth of the rule of law state and thus, of course, the rule of law state is a state that respects and protects human rights, citizens' rights, and guarantees democracy because the regime itself democracy, in itself, is the promotion and respect for human rights and citizens' rights. So what role does democracy play in the rule of law? According to early modern Western philosophers, it includes the following contents:

Firstly, the most important issue of democracy is the expression and exercise of freedom in the rule of law state. Freedom is an eternal issue and aspiration of mankind in every period of history. But freedom is always understood and regulated by many factors, both subjective and objective. Along with the right to equality, freedom is considered by Western philosophers as the most basic innate natural right of human beings that are born from birth. And it is also the highest goal that legislative systems must aim for. Rousseau in *Discussing the Social Contract* asserts: "If we look at what is best for all and what is the pinnacle of legislative systems, we can see it in the two goals: Freedom and equality" [4, p.115].

Freedom is divided into two categories including personal freedom and civil liberties. Individual freedom (freedom in the state of nature) is based on natural selfishness and human instincts that individuals act only when it is beneficial. And civil liberties (social freedom), including political freedom, will be obtained when individuals comply with the requirements of the common will. Thus, all human beings are born with the right to freedom, but can only have "true freedom" when people enter into the social contract and concede natural freedoms in exchange for social freedom: "Social order is a sacred right that underlies all other rights. But social

order does not come naturally, it is established on the basis of conventions" [4, p.52]. Accordingly, social freedom is the true freedom of man.

The basic sign of freedom in the rule of law is *the objective expression and exercise of subjective freedom* (in the words of Hegel), in other words, it is freedom perceived in the the law and the inevitable existence of reality is not in the sense of instinct. The most progressive point of early modern Western philosophers in the concept of democracy and the rule of law is the concept of law as a means to exercise freedom: "*The purpose of the law* is not to destroy or suppress freedom, but *to preserve and expand freedom*. For in every state of being created with legal power, where there is no law, there is no freedom" [1, p.93,94]. Freedom is then a value, a basic human right that the law is not what produces freedom but what guarantees freedom. They also make a very clear distinction between the concept of freedom as natural freedom and the freedom to obey the laws of the state - or the freedom to obey one's will:

Freedom is not, as we have been taught, *the right to let each person do what he wants* (because noone can feel the freedom if the will of others may dominate him), but the right for *freedom of handling and disposition* of as we wish, with respect to people, actions, property, as well as all our possessions, within the permissible limits of the legal system in which we live, where we are not overpowered by the will of others, but freely do as our own will [1, p. 94].

When freedom is limited within the framework of the law to simultaneously exercise their own freedom and that of other individuals in society, only then can society be preserved, makes the domination of freedom not the domination of unconscious, natural instincts, but the perceived freedom. Only when such a state of freedom is reached can a people's state system be established, and not vice versa.

Sometimes, it is often understood that only the authority is freedom, and the obligation associated with authority is something coerced by law (Hobbes in Leviathan). Here, freedom as understood by Hobbes is the freedom of man to act as he wishes. These ideas are the premise for Kant to have a connection between freedom, will and the rule of law, in which free will is available as a "power" as a condition for the realization of freedom, it is the rule of law. Kant's basic principle of the rule of law is this: act outside so that the free use of your power of choice can coexist with anyone's freedom according to a universal law.

If freedom is thus expressed, the exercise of freedom can only be based on the law as the most "universal law". Inheriting the above ideas, later Kant, Finchte and then Hegel considered freedom of *self-consciousness* as the principle of the rule of law, of morality and of all moral orders.

According to that content, freedom in the rule of law state must include in it not only the conscious existence of the *self-conscious* freedom of individuals but also the whole state in relation to its citizens with a sense of its rights and obligations in both moral and ethical aspects. Thus, the nature of decentralization in the rule of law state has the ultimate purpose not only to control, divide and balance power in parts of state power, but to ensure the implementation of the freedoms in society, through the control of people's power. Reaching that state of freedom, *the true rule of law comes into reality*.

Secondly, the way the people exercise their power. If considered, the rule of law state is a state in which power belongs to the people, then the issue that needs to be discussed more deeply from the democratic perspective is how the people will exercise their power when the powerful sections the state always represents it. The early modern Western philosophers have clearly defined the responsibilities of the people and the people who represent them in these cases: "The people with supreme power must do what can be done by themselves, and the things that the people cannot do well must be entrusted to ministers. Ministers, if not elected by the people, are not of the people. The basic maxim of a democratic government is: The people elect a minister, that is, a consul to rule them" [3, p.49]. This idea of representative polity is completely rational, justifiable, the problem remains if it is still through the "hierarchy" (in Hegel's words, understood as the intermediary between the state and civil society) in order for the people to participate in the exercise of power, how should "hierarchy" be established. Unfortunately, the visions of how to authorize and control the people's power after authorizing their representatives have not been adequately addressed by philosophers of this period.

The above limitation, later analyzed convincingly by Karl Marx when he pointed out, do not think that every time people authorize the state, then they have exercised their power even though they seems to be the subject of formal state power: "Through the hierarchy, the people begin to participate in the affairs of the state, and the state enters into the subjective consciousness of the people as something in the afterlife" [2, p.408]. That is to say, at that time, the people, understood in the "luxury" sense of the word, ended up being only civil servants, and the people in general, or "the masses", the "crowd" could not mobilize on their own but it takes people in power to make them mobilize and use. In short, the people do not know what they want and the "hierarchy" do not understand state affairs to the same extent as officials, so they are redundant, or in other words, the officials have the ability to carry out the work. Currently, state work does not need "hierarchy" as representatives of the people's power. *That is the alienation of power.*

Therefore, Rousseau pointed out that only the common will can control state forces to serve the common good. Power belongs to the people because they are free to express their will and equally to make their own agreements: "The act of association will create a common mental body, including as many members as there are voices in a council; each member receives their consensus in that association, they find their collective self, their life and their will in the collective" [4, p.68]. So, real power can only belong to the people when it is based on true democracy. When there is real democracy, the result that derives from it is inevitably the power belonging

to the people, because then: "The *state system* in general, is only an element of the people's existence, the *political system* itself, here, does not constitute the state" [2, p.349].

However, democracy here must be understood as the spirit of true equality, that is, not making everyone command or not be commanded, but rather: "Command those who are equal to you and to obey those who are equal to you." [3, p.91]. Thus, democracy means not no owner but is owned by equals. This genuine equality is far from extreme equality, and it is through the law that, when entering society, the natural freedoms of man, through "assignment," becomes civil liberties as a perceived necessity: "In the state of nature all men are created equal. But when they form society they lose their equality and they become equal only through the law" [3, p.91].

After all, in a bourgeois rule of law, the purpose of law-making or decentralization is also to realize bourgeois democracy. Therefore, it is clear that "democracy" is the most basic criterion, which governs the other two factors, which are "law" and "decentralization". At the same time, it stipulates the existence and legitimacy of a true rule of law state.

2. Applying the Thought on Democracy in the Early Modern Western Philosophy to the Expansion of Democracy in the Rule of Law State in Vietnam Today

Some problems posed in the expansion of democracy in the rule of law state in Vietnam today To ensure the rights and freedoms of individuals in society, the foundation of the rule of law state must be based on democracy. The law, when built on the basis of a democracy or in other words, only when the status of democracy is reached, can really be social agreements and different social forces can participate equally in that agreement process. Democracy is the only structure for people to exercise their freedom in the negotiation process because contracts are expressed through political views and people choose their representatives through that negotiation, it is to choose the structure of the contract. In other words, democracy is the only way to drag the freedom down the everyday layers of life.

The socialist rule of law state in Vietnam is an institution in which the power of the people is absolutely affirmed. To uphold the law and ensure human rights, what we need is a rigorous and scientific mechanism to realize that in the rule of law state. How do people really master power even through authorization? That is democracy. The problem here is that democracy must be considered as the core content, the most basic factor that regulates other manifestations of the rule of law state. Only then can there be true unity between the content and form of a true democracy.

The practice of building the rule of law state in our country in recent years shows that power belongs to the people is always an important principle in building the political regime of our state. In order for this principle to be fully grasped and maximized in practice, it is necessary to find a way to help the people truly master power when directly deciding on socio-political issues and also when through the form of authorization.

This requires a strict and specific regulation mechanism on the forms of democracy implementation, combining effectively the use of direct democracy and representative democracy in our country. It can be seen that, direct democracy allows to maximize the participation of the people in important national and local issues, but it greatly depends on the cognitive capacity of democracy of each citizen. Therefore, if not fully aware of democracy, the people may be manipulated, provoked, and the final decisions misrepresent the legitimate aspirations of the people. As for the representative democracy, although it ensures a high concentration in realizing the people's right to master, it depends on the ability to perform the duties of the representative and the representative agency. Therefore, we need to combine effectively using both these forms in association with renovating methods, perfecting mechanisms and laws to promote the people's democratic rights to the maximum. In addition, it is necessary to ensure that promoting democracy within the Party is the core to promote democracy in society in accordance with the spirit of the 12th National Congress of our Party. Because the Communist Party of Vietnam is both the ruling Party and a member, the leading organization of the political system that practices democracy in the whole society. Therefore, the core role of the Party is clearly expressed in social life. The widespread practice of democracy in the Party will serve as a model for cadres and Party members to apply in practice in agencies and units and is decisive for the implementation and promotion of democracy in society. Faced with the above requirement, a "key" task is required to build a politically, ideologically and organizationally clean and strong Party - on par with the requirements and tasks. In addition, it is necessary to renew the Party's leadership method, to come up with guidelines and solutions to practice democracy in socio-political life so that democracy reaches each agency, organization and individual. Strengthen propaganda, education, raise awareness and understanding level of cadres, party members and people about democracy.

Applying democratic thought in early modern Western philosophy to the expansion of democracy in the rule of law state in Vietnam today

Democracy is a progressive social value that has been formed in association with the historical process of fighting for human freedoms and equality. It is both the basis, purpose, and driving force for the formation and development of the rule of law state, as well as a fundamental and important criterion for assessing the level of rule of law of a country or people. Therefore, implementing and promoting democracy in the process of building the rule of law in countries around the world in general and Vietnam in particular is a normative requirement. To be able to do this well, it is necessary to dialectically absorb the ideological values of humanity's democracy,

including the ideas of early modern Western philosophers on the process of building the rule of law state in Vietnam today.

Mentioning the democracy in the rule of law state, in addition to the principle that the law must be a social contract expressing the will and aspirations of the people, one of the more important principles that shows the degree of democracy in the rule of law state is the relationship between the citizen and the state. When laws, as rules for arranging the social order so that each part of it is an organic element of a complete organism, the question is that how political body of the state related to the parts of it, how the relationship between state power and citizens is considered so that the people really see themselves as subjects of that power, as asserted by Rousseau. In that relationship, state power - in the name of legal regulations, has a legitimate and objective basis for existence because it expresses the will and desire of individuals. It ensures fairness and equality because it applies to everyone. It is useful and necessary because in this way, people's civil liberties are guaranteed and social order is maintained. It is sustainable because this is the common will that has been agreed upon. When citizens obey such laws, they are essentially obeying their will. They are the real subject of the state power. In that relationship, the people own the power of the state, the state is governed by the law as well as being governed by the power of the people through their will expressed in the law. The process of building a socialist rule of law state in Vietnam, in order to ensure democracy, it is necessary to establish such relationship in the relationship between citizens and the state through the law.

The democratic nature of our state must ensure the principle that state power belongs to the people. To ensure that power belongs to the people, the state must truly represent the people. All state policies and laws must derive from the interests of the people, express the will and aspirations of the people, and be subject to the people's inspection and supervision. This has been affirmed by the Communist Party of Vietnam as a consistent principle in the content of the Constitution of all periods (the Constitutions of 1946, 1959, 1980, 1992 as amended and supplemented in 2001), especially in the original version. The latest 2013 Constitution of our country emphasizes in Article 2 that: The State of the Socialist Republic of Vietnam is a socialist rule of law state of the people, by the people and for the people.

But in fact, it is important to make the people truly the subject of state power. To do that, the Party and the state need to create conditions for people to move from the status of "is the master" moves to "exercise the mastery". In order for them not only to have the right but also to have the capacity to actively, vigorously and fully use their rights such as: dare to speak, dare to do, bring into play the role of inspection, supervision and social criticism of state power agencies. To do so, it is necessary to have a really good democratic practice mechanism with a good legal system that properly reflects the development trend of society, the legitimate will and aspirations of the people. Strictly enforce the law and perfect socialist democracy. That is the real destination of democracy, the highest goal that all socialist rule of law states need to aim for in order to ensure the existence of their true nature and character.

On the basis of the values suggested by the important political thought "power belongs to the people" of the early modern Western thinkers, we have applied it to build a socialist rule of law state in Vietnam based on the people as the root and consider that to be the essence of the regime, the consistent spirit expressed throughout the Party's resolutions. However, in recent times, the role of the people is sometimes blurred in participating in all areas of social life; Sometimes the people's opinions and thoughts have not been properly heard and absorbed, leading to apathy and abandonment in the implementation of the people's political rights. To overcome that situation, our Party and State need to focus on a few basic contents:

Firstly, all legal policies must be for the people and come from the people. It is necessary to create mechanisms, policies and legal frameworks to legalize the rights and obligations of citizens in contributing ideas, giving social criticism and monitoring activities of the Party and the State. In addition, it is necessary to build an institution to control state power from the people by democratizing and disclosing information. The State must have the responsibility to provide and explain information in a transparent, accurate and complete manner before all opinions and questions of the people and take responsibility for its wrongdoings.

Inheriting the Western rule of law theory to ensure the purpose, the essence of the rule of law is to submit to society and its citizens. To do this, one of the strategic objectives and the first task of the rule of law is to recognize and regulate human rights and freedoms by law. Accordingly, the law must on the one hand guarantee the natural and political rights of people such as: the right to life, liberty, the pursuit of happiness, the right to stand for election, to vote, and to inspect and supervise power of the government. On the other hand, the law must be supreme, it must be really effective for all citizens to comply with its provisions. This is the principle that should be promoted first in the process of building the rule of law in Vietnam. In order to implement this principle, the state needs to speed up the process of perfecting the legal system in order to protect the basic rights, obligations and legitimate interests of citizens. Continue to thoroughly understand, legislate and effectively implement the principle of "*allowing citizens to do whatever the law does not prohibit, and public authorities to do only what the law allows*" and the referendum law. Timely supplementing new contents in overlapping legal documents with gaps and develop a law on demonstrations, a law on associations and strict sanctions to meet the requirements and urgent current issues arising in practice.

Secondly, promote the democratization of society and make it the goal and driving force of the process of building a socialist rule of law state in Vietnam. In order to successfully carry out comprehensive democratization in all fields of social life, it is necessary to have appropriate mechanisms in place to expand democracy and promote the people's real mastery in all economic, political, cultural and social aspects. In which,

it is necessary to determine that economic democracy is the condition and premise for democracy in the remaining fields. Therefore, it is necessary to develop legal documents that clearly recognize and stipulate the form of ownership of means of production, organization of management and distribution of products by organizations and individuals within the framework of the law. Next, to be able to implement political democracy well, it is necessary to promote democracy in the content and leadership of the Party. Specifically, it is necessary to well solve the relationship between the Party and the state, in which the basic task of the Party is to lead the government through guidelines and resolutions, while the state performs well the functions of class and society by managing and operating all areas of society to ensure that the people's mastery is recognized by law and that the people's power is exercised through government organizations, institutions and its representatives. In addition, it is necessary to ensure democracy in the field of cultural thought, which is essentially the freedom of thought and expression of citizens within the limits prescribed by law. Accordingly, all citizens have the right to comment and discuss decisions of the Party and the State. At the same time, the people's rights are guaranteed, such as: debate, social criticism, freedom and creativity in the fields of science, art and spiritual culture of the people.

Thirdly, thoroughly grasp and strictly implement the democracy regulations at the grassroots and the ordinances on the implementation of democracy in localities. The process of implementing and organizing the implementation of the grassroots democracy regulation in recent years has revealed a number of limitations leading to the distance from the people and the bureaucracy of many officials and cadres at all levels becomes more and more serious. Therefore, in order to well implement the grassroots democracy regulation, it is necessary to focus on solving a number of problems in the immediate future, such as: Stepping up the propaganda and educating the people about democracy with the motto "speak to people and listen to the people". Ideological work must be associated with the issues of people's livelihood, wisdom and civil rights in order to realize democracy; Party building together with political system reform, democracy promotion goes hand in hand with strengthening discipline and legal education; To run for election, to vote must ensure accuracy, objectivity and honesty. On the other hand, it is necessary to overcome all manifestations of formal democracy and fight against bureaucracy and corruption, and strictly handle acts that infringe upon the people's mastery. If we solve the above problems well, we will surely build a truly radical, extensive and progressive socialist democracy in accordance with the spirit of "power belongs to the people".

Fourthly, in order for the executive agency to take on an important role and mission to ensure democracy in the rule of law, especially in the context of international integration, our state needs to build an e-government towards digital government and digital economy in Vietnam. Building the rule of law state has now become an international standard, a valuable requirement for all states. In the face of the trend of integration and internationalization of the industrial revolution 4.0, taking shortcuts, taking the lead, and applying scientific and technological achievements to all areas of social life, first of all, in governance, management of society through data and websites is an inevitable and extremely urgent trend today. It contributes to creating a driving force for innovation, improving transparency in government operations, fighting corruption and affirming our country's position in the international arena. In response to the requirements of reality, our Party and State have also paid attention to this issue and achieved certain achievements in recent years. However, in order to improve the efficiency of the construction and operation of e-government in our country, it is necessary to well solve a number of problems such as: Accelerating the improvement of institutions to create a sufficient legal basis for the implementation of building e-government; Completing national databases and using them effectively; Having an appropriate investment mechanism for the application of information technology and building the national e-government; Create a common and unified gateway to all levels of industries, agencies from central to local levels and people to improve transparency and democracy in e-government activities.

It can be seen that the expansion and promotion of democracy is both a condition and a driving force for building a socialist rule of law state in Vietnam. It is one of the vital and strategic tasks of the socialist revolution in our country. Therefore, it needs to be properly recognized for its role in order to be legislated and effectively implemented in practice. Implementing democracy and upholding and respecting the law is a solid basis for realizing the goal of "rich people, strong country, and civilized democratic society". The higher the democracy, the stricter the rule of law, and conversely, the stricter the rule of law, the more democracy can be implemented. Democracy and the rule of law are not contradictions but the unity of two opposites that create the essence of the socialist rule of law state in Vietnam.

Conclusion

Thus, the theory of the rule of law state in human history, especially the thought of early modern Western philosophers, is still one of the effective theories and has timeless value for the process of building the rule of law states in the world. It has an important meaning in orienting and suggesting the process of awareness and practice of building a socialist democracy of a rule of law state in Vietnam.

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