

Rousseau's thoughts on the Unity between Law and Morality in Building the Rule of Law State

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Abstract: *As the second generation of the French Enlightenment movement, Rousseau's thoughts on the rule of law are a full convergence of positive and progressive features of the times. This paper aims to analyze Rousseau's thoughts of a just legal system and political virtue where the people want to protect the freedom and equality of citizens, which brought great value to the bourgeois revolutionary movement in the eighteenth century. By using the research methods such as analysis, synthesis and comparison, the author has found that up to now, Rousseau's ideology on law and morality has still had many inherited values, contributing to enriching the theory of building a socialist rule of law State in Vietnam.*

Keywords: Rousseau; law; morality; freedom.

1. Introduction

Rousseau's ideology on politics and the rule of law emphasizing the role of law and civic ethics in building society had a great impact on the revolutionary spirit of the Enlightenment. With the emphasis on the moral element, Rousseau affirmed the subject's position of humans in creating his own political life, on the other hand, he showed the necessary "criticism" for a period of reasoning worship. In the context of today's times, the issue that Rousseau raised is still valid in building a peaceful, stable political environment and developing together for the sake of the people.

2. Literature Review

Rousseau's conception of the unity between law and morality in building the rule of law state

In the search for the essence of a good government, Rousseau affirmed the need for a correct legal system and people with political virtues. People with political virtues here are classified into two types: One is the masses and the other is the legislator. It is the masses who directly pass the law.

Therefore, having a good lawyer requires a legislator to propose a just law, following the people's interests. Besides, it also needs to have wise and virtuous masses to pass laws for the common good of the whole community. Both legislators and the masses, according to Rousseau, need to have a unity of knowledge about law and political morality.

Good laws are passed by citizens with political virtues, and it is also necessary to have politically virtuous citizens so that the law can play its role. The unity of law and political morality is the unique feature of Rousseau's ideology. The basic idea of this connection was built from an important motto that Rousseau drew upon: "It is to avoid situations that put our duties in opposition to our interests, and to show us that our good is in the harm of others, for surely in such situations, even if we sincerely love no matter how much we love virtue, sooner or later we will lose heart and not realize it; and I become unjust and cruel in reality" (p.83).

Rousseau's thoughts on law were always in connection with morality and human psychology issues. This is the basic principle that helps us understand why Rousseau puts the just legal system in line with the common will or always puts the interests of the individual in the interests of the community. Rousseau argued that, since people always tended to find ways to make a difference and relied on laws to turn them into authority over others, there is a need for virtuous citizens who are always devoted to the common good of the community based on respect for the law. To make the right decisions, the people must be intelligent enough to perceive the common good and have the virtues to pursue those interests in every vote, although sometimes the common good goes counter to the individual good. With much of what Rousseau has shown, moral citizens are crucial to the success of rational and sustainable social order.

As researcher Christopher D. Wraight observes: "The legislator is a gifted persuader, but he is not an alchemist: the material he is aiming for must be able to fine-tune itself." (p.84) [8]. Therefore, when discussing the role of the legislator, Rousseau particularly emphasized a unique role, that is, to mold the people into a common moral community. Without this action, there can be no lasting transition from the state of nature to civil society, and therefore there is also no law. Rousseau argued that any compulsion of citizens to obey the law will not bring long-term effects. According to Rousseau, do not make the law "a bandit's gun" and obedience from the people is only "coercion". This is a connecting thesis from Montesquieu to Rousseau. In his work "The Spirit of the Laws" Montesquieu said that the principle of the democratic government is political morality with meaning: "the love of the laws and of our country" (p.259) [1]. However, Rousseau found that, in practice, the law was followed by people with three very misleading attitudes: First, their compliance can be done simply because of the threat of punishment. Second, compliance with the law can be viewed as an exchange of purchases, where each person always "desires to enjoy the rights of citizenship but is not willing to fulfill his or her duties". Third, compliance with the law can become mechanical, a thoughtless way of behavior. However, once obeying the law mechanically, the individual

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will cannot be promoted in building the general will, leading to the law's degradation over time. The formality in obeying the law makes people not only free but also become slaves to the law and this is the cause of gradually breaking the nature and role of the law. "The worst of the evils is the formal compliance with the law, in fact only to break the law safely." (p.106) [5]. Therefore, compliance with the law has a positive meaning only when it comes from understanding and voluntarily accepting the purposes promoted by the law, where happiness is equal and free for all citizens. This is the attitude that he considered the most important for activating and maintaining a fair society. He wrote: "if forcing someone to obey the law, makes them love the law, then they just need to know what their duty is to do it right." (p.105) [5]. That is the reason why in the work "The Discourse on the social contract", the author emphasized that there are laws that are not engraved on steles or bronze tablets but in the hearts of all citizens, which are moral principles, customs, and traditions. This is the part our policy doesn't know about, but everything else depends on it" (p.129). [2].

E. Putterman's statement on this matter makes sense: "The frequent use of violence is not only politically illegal but also shows the inability to act as a permanent instrument of the state. Instead, it is not violence but morality, customs, and public opinion that defend the law, and each must be carefully guided or "improved" to strengthen the power of the law (p.34) [4]. Rousseau repeatedly emphasized that the result of successful social transformation is not the creation of a "better" citizen, but a "more virtuous" citizen. Thus, while much of political science and the rule of law focuses on social structures such as institutions, constitutions, and laws, Rousseau argued that, ultimately, it is essential to build good moral habits to be able to support political life according to the regime's laws. If we cannot do that, the law will always be evaded. "Politicians have failed to see that the greatest support of public authority lies in the hearts of citizens and that there is no substitute for morality in maintaining the government." (p.106) [5]. In many cases, Rousseau spoke of the importance of socialism, the union of patriotism, and civic love of the law as one of the most radical and profound aspects of his thoughts. "Wherever people love their country, respect the law and live simply, the little things are enough to make them happy." (p.116) [5].

To be sure of achieving harmony between law and virtue, Rousseau pointed out the need for a well - designed public education system. As analyzed in Emile, there is a long way to go in forming citizens who conform to the law that a good legislator would make. "Make citizens and you will have everything you need; without citizens, you would have nothing but petty slaves. Forming a citizen is not an individual's job, it takes an educational process from an early age (p.113) [5]. That is the reason why when we study Rousseau's political thoughts, we cannot separate them from his ideas on education and morality. Ultimately, Rousseau's thoughts demanded the ethical dignity of citizens and the presence of a fair legal system to allow the good nature of man to flourish. This is also one of the contents with historical value and has great inheritance value these days.

3. Results and Discussion

Regarding the value of Rousseau's thoughts on the unity between law and morality in state building

First of all, one of the interesting finding of the paper is that Rousseau's thoughts of promoting the role of law were valuable in fighting against the autocratic society under the French feudalism. In the 18th century, in France, all power was in the hands of the King – "Only in the King does the supreme power exist. The King alone represents the legislative power, independent and undivided." (p.158) [7]. Although living in that society, right at the foot of the king's throne, Rousseau spoke out to promote a legal system that reflected the "general will", reflecting the aspirations of the people. That legal system must be built openly, transparently, towards the building of peace, stability, freedom and equality. Rousseau asserted: "For the defense of liberty and equality we have no master but the wise law we make ourselves; and those things are controlled by honest judges that we ourselves choose (p.8) [5]. Thereby, it shows that Rousseau removed the theocratic and secular elements of the outdated feudal system to look for a social organization based on citizens in that society, reflecting his beliefs of the people living in that society. In this way, Rousseau contributed to the liberation of man, in keeping with the spirit of the age of Enlightenment: "The century in which human life is no longer a game of politics and religion. In the public area, freedom of the press, revolution and humanity have evolved within the area of reason (p.634) [6]. This view ignited the revolutionary spirit of the times. By abolishing the old order and building a new society, people make their own laws to ensure freedom and equality. Rousseau's views clearly laid the foundations for modern rule of law, where freedom and democracy are exercised only when the law is passed by the people and is paramount.

Secondly, another finding is that Rousseau's thoughts highlighted the role of morality in the context of the Enlightenment period, which focused on promoting the role of "reason" and made a great contribution to the "criticism" of the times, establishing human values, for the long - term progress of man. While standing up against autocratic, irrational feudalism, most thinkers take reason as a measure and a standard for all values. However, because of overemphasizing reason and "rationalizing" all values, besides the advances of science, technology, and civilized values, the Enlightenment period also revealed weaknesses. Unlike most intellectuals at that time, Rousseau's analysis in two essays - " Discourse on the Sciences and Arts " and "Discourse on the Origin of Inequality" clearly outlined the opposition to the distinction between the value of civilization and its negative effects on society, between the progress in people's material lives and their moral alienation, which is a real paradox: The more civilized people are, the more ruthless they are, the disparity increases to the point of contrast and deepens between the two classes of people: the rich and the poor. From there, he sketched out a theory about the necessary unity between material progress and human morality, especially in building the state. If we do not focus on morality and rely only on reason, do not emphasize building human virtue but only building wisdom, sooner or later people will push humanity into a period of struggle and kill each other. Indeed, the era of Enlightenment in Europe

was also a period marking the era of colonial expansion over the remaining territories, spreading slavery, prolonged oppression and exploitation, and wars worldwide, leaving extremely severe consequences to this day.

4. Discussion

Therefore, it can be said that Rousseau, although standing in the ranks of the people supporting the Enlightenment, used "reason" to oppose theocracy and secular power, at the same time opposed to simply using "reason" to ignore essential moral values in the re-establishment of a new social order, in which people need to be properly cared for in terms of intellect and virtue. By emphasizing the position and role of morality next to reason, Rousseau leaves a warning about the consequences of the cult of reason, the selfish lifestyle, chasing after the material life, and forgetting that true human freedom and happiness should be promoted based on reason and virtue. Although what Rousseau asked is difficult, the questions he raised, help us to realize that political projects are being concretized in the institutions of modern politics that are not rational. We can achieve so much more if we start from the root of the problem: building human relationships based on trust and virtue, instead of just looking for ways to bind, control and kill each other. This is a view with radical value compared to the times, with many inherited values for humanity these days, especially in a context where ethnic conflicts and divisions are taking place increasingly.

5. Conclusion

In conclusion, faced with the problems of the times, like other people supporting the Enlightenment, Rousseau advocated the role of reason in building a new society. In building the state, Rousseau emphasized the role of law and morality, to build a free and equal community. In Rousseau's view, people always play the role of subject, create the law and protect and obey the law themselves. However, it is difficult to enact the law, and to comply with the law created by oneself is even more difficult. Therefore, it is necessary to build generations of citizens with political morality: love freedom, and the law. What Rousseau expected certainly needed association with a progressive and humane education system. Rousseau's ideological contents are not only valuable to the French bourgeois revolution but also contribute to enriching the theory of the modern rule of law in the world today.

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