

FROM PHAN CHAU TRINH'S VIEWS ABOUT THE ROLE OF LAW, ASSOCIATING WITH THE CONSTRUCTION AND PERFECTING OF THE SOCIALIST RULE OF LAW STATE IN VIETNAM TODAY

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Summary:

Phan Chau Trinh (1872 - 1926) was a culturalist, educator, patriot, and great thinker of the Vietnamese nation. In the field of ideology, Phan Chau Trinh is a person with progressive and innovative ideas, having a profound influence on socio-economic life, and is one of the typical representatives of a tumultuous historical period in Vietnam at the end of the 19th century and the beginning of the 20th century. The development of Vietnam over the past 35 years is remarkable. Economic and political reforms since 1986 have spurred economic development, rapidly transforming Vietnam from one of the poorest countries in the world to a low-middle-income country. Due to extensive economic integration, Vietnam's economy was massively affected by the COVID-19 pandemic but also showed considerable resilience. Vietnam is also witnessing rapid changes in population and social structure. In the context of intertwined opportunities, challenges, and advantages, Phan Chau Trinh's basic conceptions of the law's role, associating with the construction and perfecting of the socialist rule of law state in Vietnam, remain the value in the current period. From the philosophical approach, political philosophy, the history of philosophy, through the study and analysis of historical records and other related documents, this article focuses on researching the basic content in Phan Chau Trinh's views about the role of law, thereby linking to the construction and perfecting of the socialist rule of law state in Vietnam today.

Keywords: Ideology, Phan Chau Trinh, law, state, Vietnam.

1. Introduction:

In Phan Chau Trinh's system of views, there is an ideology about the state. Phan Chau Trinh had absorbed the patriotic thought of the Vietnamese nation, the basic contents of the New Literature and New Culture ideology along with the Renovation thought and associated with the historical - social conditions of Vietnam and the world in the late 19th and early 20th century. The reality regarding the process of movement and development in reforming and renovating during the early 20th century in the history of Vietnam has proved that the renovation ideas in the early 20th century have made definite additions and contributions to the development of contemporary social progress. In Phan Chau Trinh's views on the state, if we disregard the limitations of historical conditions and classes, in a certain respect, Phan Chau Trinh's thought on the state is still meaningful and valuable in the construction and perfecting of the socialist rule of law state in Vietnam today.

2. Basis, research methods, techniques used, research questions, and research purposes

Theoretical basis

Based on the theoretical basis of Marxism - Leninism, Ho Chi Minh's ideology, lines, guidelines, and policies of the Party and the State of Vietnam on constructing and perfecting the Socialist rule of law state of Vietnam follows the perspective of the Communist Party of Vietnam.

Practical basis

The process of leadership, direction, and implementation of the Party, State, and localities in constructing and improving the socialist rule of law State of Vietnam.

Research Methods

The article utilizes dialectical and historical materialism methods in research and other specific methods: analysis, synthesis, logic, and history.

Techniques used

The article utilizes the technique of document analyses which are the works of Phan Chau Trinh, mainly the Anthology of Phan Chau Trinh, Da Nang Publishing House in 1995 by Nguyen Van Duong, as well as a system of texts and documents related to the construction and improvement of the current socialist Vietnamese rule of law state.

Research questions

Question 1: What are the basic contents of Phan Chau Trinh's outlooks on the role of law?

Question 2: What are the points of connection when studying Phan Chau Trinh's views on the role of law in building and perfecting the socialist rule of law state in Vietnam today?

Research purposes

The purpose of the article is to analyze and clarify the basic content of Phan Chau Trinh's point of view on the role of law, thereby relating to the construction and improvement of the current socialist rule of law state of Vietnam.

3. Content

3.1 Phan Chau Trinh's basic views on the role of law

Phan Chau Trinh (1872-1926), courtesy name Tử Cán (梓幹), pen name **Tây Hồ** (西湖) or **Hy Mã** (希馬), is a true Confucian with a tendency to reform. During his lifetime, Phan Chau Trinh attached great importance to the construction of state

institutions and state management, dignifying the role of law. Thanks to his sharp thinking and sensitivity to the times, Phan Chau Trinh realized the superiority of democracy compared to military rule, and he appealed to compatriots for comprehending reasons and being unanimous in taking care of the country.

In fact, in the process of researching and learning, we confidently assume that Phan Chau Trinh's outlook on law is interpreted in the last lecture on Military Rule and Democracy that Phan Chau Trinh expressed in Saigon in 1925 before his death (1926). In the lecture, he focused on presenting the ideal state model for Vietnam in the future, when the Duy Tan movement is completed. According to Phan Chau Trinh, the ideal state model was the state organization model of developed countries in Europe at that time. In general, that state is organized and operated according to the basic principle of "Separation of powers," with the mechanism of three independent powers: the legislative branch is assigned to Parliament, the executive branch is headed by the Head of State, whom Parliament elects, the judiciary branch is assigned to independent judicial bodies. He wrote, "Three powers, the legislative power, the executive power, and the judicial power, should be separated. They should not be gathered in one person's hand" [1, 817]. The state apparatus consists of the following main parts: First, Parliament - consists of two houses: the House of Representatives and the Senate. With many more or less than 60 Deputies, the task of the House of Representatives, in particular, is making the Constitution and law "The fate of the western country belongs to that house" [1, 825]. Citizens from 21 and older have the right to vote. The ones from 25 and older have the right to stand for the election. The citizens do not elect the Senate. The two houses cooperated to elect the President (Director of State) and the Government cabinet. Second, head of State and cabinet: The post of head of state (the President) at the head of the executive branch is elected by the Parliament for a term of 7 years and by majority rule. The throne will be passed to the successor following the hereditary system if the country has a king. The President is appointed among the members of the Parliament. The chosen President must take an oath before the two houses, roughly saying: "Stick to the democratic Constitution and be fair. Do not betray friends and follow other Parties to oppose the others. If doing something illegal, the President will be deposed" [1, 819]. According to Phan Chau Trinh, the Government (cabinet) is elected by the Parliament, called the State Council. The cabinet consists of about 20 ministers who are active in their responsibility for each person's professional field, "not just idling like our ministers" [1, 816]. Besides, in that power mechanism, Phan Chau Trinh also emphasized: "If the cabinet does something that does not satisfy the people's satisfaction, there will always be someone criticizing." Third, the judicial institute - this institute administers trial officials and judicial affairs in the country. The judges are not concurrently appointed by the rulers (administrative) as in our country during the monarchy, but by those who have mastered the law of Judicial authorities. They have jurisdiction over both the civilian population and the Government. Judiciary has the right to be independent when adjudicating. Judges only obey the law and their conscience. In the aforementioned power mechanism, Phan Chau Trinh also affirmed the important role of the law when he assumed that "Democracy means the rule of law." The rule of law democracy should be built on a complete and stable legal foundation. The law sets forth the powers and duties of the authorities, each position and agency in the state

apparatus, from the lowest to the highest. Everyone is equal before the law. Phan Chau Trinh wrote: "But no matter what, we have already had the obvious law in our country. The right of the Government is limited, so they cannot go beyond their powers. Therefore, it is impossible to repress it even if they want to. Besides, when violating the law, they are equal before the law even if they are President or just a villager" [1, 815]. "The rights and duties of every person in the country, even the ones working for the government or the ordinary ones, are specified by law" [1, 817-818].

In his system of political ideology, Phan Chau Trinh has formed the concept of an ideal model of Vietnam in the future [5, 97]. Due to objective and subjective conditions, Mr. Phan's concepts about the ideal model have many differences and changes over national reform and revolutions periods. In general, Mr. Phan recognized the superiority of democracy compared to monarchy; he encouraged the citizens to understand everything and join hands to take care of the country.

After the failure of the Dong Du movement, the common opinion that was quite popular in the thought of Duy Tan Confucianists in general, including Phan Chau Trinh, was to abolish the monarchy and build a democratic republic consisting of three houses owned by the people, the power is held by the people and is operated by the representatives, everything is decided by the people. Phan Chau Trinh upholds the social model governed by law. He highly praised the Constitution, considering it a legitimate tool to restrict the Eastern autocratic monarchies exclusively abused military power. Phan Chau Trinh said that "If a country is ruled by the ideas of a person or a royal court, its population is but a herd of sheep that are left in abundance and happiness or hunger and sorrow depending on the shepherd's generosity or malignity. If it is ruled on the basis of popular rights, the country creates its Constitution and laws and sets up different agencies to take care of the common affairs for everyone" [1, 783]. The Constitution must be associated with the sovereignty of the country and national independence. Following the Constitution is civilized regulations, the laws, decided by the people, reflect the people's will. Modeling democracy in France, he analyzed the relationship between the President and Parliament based on the Constitution. It is the Constitution that builds and protects the stability of the rule of law democracy: "Once the President has been elected, he must vow before those two houses: "Follow the democratic Constitution, do not betray friends, do not follow one Party to against another, keep up the justice, if you do something wrong, the people will immediately banish you. First, MacMahon, and then Millerand was removed from office for violating the constitution" [1, 815-816].

In fact, in his records of activities, Phan Chau Trinh was also the first person to have the merit of generalizing the role of politics. Accordingly, politics plays a very important role for the people, progressive politics makes people happy, and backward politics harms the people. Good or bad politics depends on the use of people, and the political purpose will determine the use of people in that politics. In short, politics has an important role in influencing all fields of social life. With that argument, it proves that his thinking is very sharp. He wrote: "The people's fortune is rooted in politics, and good or bad politics begins with the use of people. If politics is to make the

country beneficial and people wealthy, then the way people are used will be public; using righteous people, wisdom will be promoted, all works will be fulfilled; if politics is used for personal purposes, then the use of people must be private; Using people in private makes bribery arise, and discipline disorder" [1, 428].

With such awareness of the important role of politics for the people, although he advocated the proletarian revolution under certain conditions, he believed that the choice of democracy or monarchy politics must rely on the people. He wrote: "After the reconstruction of the country, the monarchy or the democratic must be up to the people's will, the youth party should not preside over either side" [1, 645], proving that in Phan Chau Trinh's views over the periods, all political goals are focused on benefiting the country, the people, and the pursuit of a good society for the nation, and follow which political system is decided by the nation's people.

3.2. Associating with the construction and perfecting of the socialist rule of law state in Vietnam today.

To the issues about law mentioned by Phan Chau Trinh, when we ignore the limitations of historical condition and class, it preserves its topical significance. First of all, it is expressed through the fact that state power is unified. There is an allotment, coordination, and control among state agencies in exercising legislative, executive, and judicial powers. Second, the topical significance dignifies the role of "Strictly abide by the laws" and the principle of democratic centralism in social organization and management. Third, it also shows the mastery of the people.

First, state power is unified. There is an allotment, coordination, and control among state agencies in exercising legislative, executive, and judicial powers.

The power of the State of the Socialist Republic of Vietnam is unified, which belongs to the People. The 2013 Constitution affirmed that the State of the Socialist Republic of Vietnam is a socialist rule of law state of the People, by the People, for the People. The Socialist Republic of Vietnam is a State of the people, from the people, for the people; All-State power belongs to the people and is based on an alliance between the working class, the peasantry, and the intelligentsia. State power is unified. There is an allotment, coordination, and control among state agencies in exercising legislative, executive, and judicial powers[3]. Also, Article 107 of the 2013 Constitution affirms: The People's Procuracies shall exercise power to prosecute and supervise judicial activities; The People's Procuracies include the Supreme People's Procuracy and other Procuracies as prescribed by law; The People's Procuracies have the duty to safeguard the law, human rights, citizens' rights, the socialist regime, the interests of the State, and the lawful rights and interests of organizations and individuals, thus contributing to ensuring the strict and unified observance of the law[3]. Moreover, there is an allotment, coordination, and control among state agencies in exercising legislative, executive, and judicial powers in the State of Vietnam. Next, the 2013 Constitution stipulates: The National Assembly is the highest representative organ of the people and the highest organ of State power of the Socialist Republic of Vietnam. The National Assembly exercises constitutional and

legislative powers. It also decides the important domestic of the country and exercises supreme control over all activities of the State.

It can be said that, by nature, the power of the people is indivisible. When the unified state power belongs to the people, this power is, in principle, not shared with other individuals and organizations. In essence, when state organs exercise legislative, executive, and judicial powers, they exercise the power that the people entrust and authorize. Delegates to the National Assembly of the Socialist Republic of Vietnam, deputies to the People's Councils at all levels following the 2013 Constitution and the Law on Election of Deputies to the National Assembly and People's Councils (2015) are also elected by the people based on the principle of universal, equal, direct and secret suffrage. The State of Vietnam is assigned, coordinated, and controlled among state organs in the exercise of legislative, executive, and judicial powers to serve the People. Furthermore, in order to realize the above outlook, it is necessary to establish and implement a mechanism of "allotment, coordination, and control" among state agencies in the exercise of legislative, executive, and judicial powers. This mechanism must ensure the control of power in order not to allow the occurrence of abusing power.

Second, dignifying the role of "Strictly abide by the laws" and the principle of democratic centralism in social organization and management.

"Strictly abide by the laws" is a fundamental and important content of the socialist rule of law state of Vietnam because the cause of complete innovation of the country, especially promoting industrialization and modernization, developing a socialist-oriented market economy, building a socialist rule of law state, building advanced culture imbued with national identity, actively integrating into the world,... not only needs the law but also has to put the law first in all fields of social activities, including the activities of Party and State. The Constitution affirms that: "The State shall be organized and operate in accordance with the Constitution and law, manage society by the Constitution and law, and implement the principle of democratic centralism" [3]. In the socialist rule of law state of Vietnam, not only the Party and the State but all political organizations (Vietnam Fatherland Front and its members: Vietnam Trade Union, Vietnam Farmers' Union, Ho Chi Minh Communist Youth Union, Vietnam Women's Union, Vietnam Veterans Association... other socio-political organizations) and other social organizations shall be organized and operate within the framework of the Constitution and the law.

Dignifying and managing society by law and implementing the principle of democratic centralism are important in the socialist rule of law state's organizing and operating. Dignifying and managing society by law not only shows the spirit of "Strictly abide by the laws" but also ensures social order and discipline and effective and efficient law enforcement. For effective and efficient law enforcement, the State needs to be organized and operate on the principle of democratic centralism. "Democratic centralization" reflects the relationship between the State and the people, demonstrating the close combination of the State's responsibilities and powers with the people's counterparts in the process of national innovation. It is necessary to

distinguish two functions of the principle of democratic centralism: on the one hand, the first function is the freedom when commenting and sharing ideas to develop and approve guidelines, policies, and laws. On the other hand, the second function is to form a sense of law, a high sense of responsibility for the disciplined and unconditional implementation of the guidelines, policies, and laws that have been adopted. Specifically, the people have the responsibility and the right to freely exchange and contribute constructive ideas to approve the State's guidelines, policies, and laws. Whilst, the State has the responsibility and the right to cooperate closely with the people to realize the approved guidelines, policies, and laws most effectively and efficiently to serve the people.

Thus, "Strictly abide by the laws" and managing society by law are not only a profound and consistent outlook of the Communist Party of Vietnam but also grows into "the order" of the Socialist rule of law state of Vietnam. Dignifying the role of "Strictly abide by the laws" and to manage society by law effectively and efficiently, it is necessary to exercise "State power is unified. There is an allotment, coordination, and control among state agencies in exercising legislative, executive, and judicial powers". Simultaneously, the organization and operation of the State must abide by the principle of "democratic centralism" in order to arouse the positive spirit in politics and mobilize the people's maximum force to join in state management and national construction, which is an inevitable and objective trend today, especially in the context of innovation, integration and the impact of the fourth industrial revolution.

Third, showing the people's right to be the master.

The rule of law state is a common value of humankind, a universal category but at the same time contains specificity, and the unique value of each country and nation, determined by a series of factors such as history, customs, traditions, social psychology, political and economic regimes, culture and geographical environment. The rule of law state has principles and basic features, but it is not a constant model for all countries. Specific factors not only create the outstandings and distinctiveness of each country or nation in the process of national construction, defense, and development but also determine the level of internalization and tolerance of universal values of the rule of law state worldwide. Vietnam is well aware of the need to build an illuminated universal rule of law state in general and a socialist rule of law state with specific features of Vietnam in particular in, then becoming the essential requirement in construction and development of the country by the trend of international integration of Vietnam. Institutionalizing the view of building a socialist rule of law state of the Communist Party of Vietnam, Constitution 2013, Article 2, Chapter I, on the political regime, the concept of a socialist rule of law state Vietnam has been affirmed: "The State of the Socialist Republic of Vietnam is a socialist state ruled by law and of the People, by the People and for the People. All State power belongs to the People and is based on the alliance of the working class, the peasantry, and the intelligentsia; The state power is unified and delegated to state agencies that coordinate with and control one another in the exercise of the legislative, executive and judicial powers."

On the issue of human rights, basic rights and obligations of citizens, in Article 14, Chapter II, the 2013 Constitution also constitutionalized the Party's viewpoint on human rights, noting: "In the Socialist Republic of Vietnam, human rights and citizens' rights in the political, civil, economic, cultural and social fields shall be recognized, respected, protected and guaranteed in accordance with the Constitution and law. Human rights and citizens' rights may not be limited unless prescribed by law solely in case of necessity for reasons of national defense, national security, social order and safety, social morality and community well-being." In the spirit of the 2013 Constitution, Vietnam's legal system has been gradually improved according to the criteria of a rule of law state, higher in quantity and quality, meet the realistic requirement of development, modernization, and international integration, stick to the necessities of life and meet the criteria of "synchronous, unified, feasible, public, and transparent." In the field of human rights, civil rights, a series of legal documents have been studied, revised, supplemented, or provided by proper agencies following the spirit of the 2013 Constitution.

In the past years, although Vietnam has achieved remarkable achievements in building and perfecting the legal system, including laws related to human rights and civil rights; however, the current legal system still has shortcomings, unable to meet the requirements set forth due to the lack of synchronization and overlapping; publicity, transparency, feasibility, and stability are still limited, not reaching the level of a legal system serving development. In building a legal system, the State is responsible for acknowledging and fully recording the civil, political, economic, social, and cultural rights of the people and citizens, ensuring the feasibility or effectiveness of the legal system. Simultaneously, the State must also develop mechanisms to ensure that the legal system is implemented in practice, inspect and supervise the process of organization and implementation, ensure respect for human and civil rights recognized in the Constitution and laws, so that everyone can appreciate and evolve their rights in practice; prevent all violations of human rights and civil rights. The construction of a legal system must also facilitate, promote and create a favorable environment and support for the access to human and civil rights of all people of vulnerable social groups.

In Vietnam, the people's mastery is summarized into the motto "people know, people discuss, people do, people check." People's sovereignty through forms of self-governance, direct democracy, and representative democracy. The Constitution and many legal documents, such as the Law on Election of National Assembly Deputies and People's Council Deputies, the Law on Organization of the National Assembly, the Law on Government Organization, the Law on Organization of Local Government, the Law on Complaints, The Law on Denunciations, the Law on Anti-corruption, the Law on Referendums,... all have specific regulations on conditions, forms and methods for people to participate in state and society management activities. Other laws, such as the Law on Vietnam Fatherland Front, the Trade Unions Law, the Youth Law,..., all concretize the Constitution's provisions on socio-political organizations participating in state and society management. Through the media, such as printed newspapers, written newspapers, video newspapers, online newspapers, etc., many people's reflections and opinions are checked and handled timely by the

Party and State organizations, contributing to strengthening people's trust in the Party and State.

4. Results and discussion.

In the course of Vietnamese history in the late 19th century and early 20th century, Phan Chau Trinh's ideology in general and his outlooks on the role of law, in particular, contributed to enriching the vitality of bourgeois-democratic thought and further clarifying the requirement against feudalism - a historical issue of a new era, posed in Vietnamese society. Phan Chau Trinh's outlooks on the role of law played an important role in transforming Vietnamese people's thoughts. It was to implement a step-by-step movement on the ideology of abandoning the monarchy and switching to democracy. It was also a movement switching from feudal thinking to the early modern period, thinking in the early years of the twentieth century. With a life of arduous struggle, Phan Chau Trinh made great contributions to the nation in terms of political ideology. Studying Vietnamese history in the late 19th century and early 20th century clarifies not only the profound transformation of the entire revolutionary movement but also the big role of strong-willed revolutionary scholars in determining policies, building national unity bloc, and finding an approach to integrate with regions and world. Simultaneously, we can learn from lessons about the role and importance of patriotism in the national liberation movement in the early years of the 20th century.

The evaluation of Phan Chau Trinh's ideology and the cause is essential, especially Phan Chau Trinh's outlooks on the role of law, which made an important contribution to the Duy Tan movement in the early 20th century in Vietnam.

Although Phan Chau Trinh's outlooks on the role of law are in their rudimentary form and have not yet expressed their comprehensiveness, they still express systematic, reflect the reality of contemporary life and bear the imprint of times. Despite certain limitations, it is clear that Phan Chau Trinh's ideologies and conceptions about the role of law and activities have made an important contribution to creating a special change in the Vietnamese nation's thinking. The special change is the awakening of the people about civil rights, democracy, people's livelihood, an independent nation, and the role of law. This study was conducted to analyze and clarify the basic content of Phan Chau Trinh's outlooks on the role of law, thereby relating to the construction and perfection of the socialist rule of law state in Vietnam today. The result showed that Phan Chau Trinh's conception about the law was presented in the last lecture on Military Rule and Democracy that Phan Chau Trinh gave in Saigon in 1925, before his death (1926). In the lecture, he focused on the ideal state model for Vietnam in the future when the Duy Tan movement is completed. Phan Chau Trinh also emphasized that the rule of law democracy should be built on a complete and stable legal foundation. The law defines the powers and duties of the authorities, each post and organs in the state apparatus, from the lowest to the highest person. Phan Chau Trinh dignified the social model governed by law. He highly appreciated the Constitution and considered it a legal tool for limiting the absolute Eastern monarchy's exclusive military power and abuses. From the research results,

the article relates to the construction and perfection of the current socialist rule of law state in Vietnam, which is shown first of all through the fact that state power is unified, and there is an allotment, coordination, and control among state agencies in exercising legislative, executive, and judicial powers. Second, dignifying the role of "Strictly abide by the laws" and the principle of democratic centralism in social organization and management. Third, showing the mastery of the people.

5. Conclusion

Phan Chau Trinh was not only a writer, poet, patriot but also a prominent thinker and philosopher of Vietnam in the late 19th century and early 20th century.

The study also pointed out that, in the current context, Vietnam's development over the past 35 years is remarkable. Economic and political reforms since 1986 have encouraged the development of the economy, rapidly converting Vietnam from one of the poorest countries in the world to a low-middle-income country. Due to extensive economic integration, Vietnam's economy was heavily affected by the COVID-19 pandemic but also showed significant resilience. Vietnam is also witnessing rapid changes in population and social structure. Vietnam's human capital index (HCI) is higher than the average level of the East Asia - Pacific region and lower average income countries. Health care has also made great progress as living standards have improved. Vietnam's rapid growth and industrialization have left many negative impacts on the environment and natural resources. Urbanization, economic growth, and fast population growth pose increasing waste management and pollution treatment challenges. The Government is working to reduce the impact of the growth on the environment and effectively adapt to climate change. Many strategies and plans to develop the country and improve people's living standards; struggles to protect the country's independence, sovereignty, unity, and territorial integrity are being implemented. If we ignore the limitations of the practical aspects, in revolutionary methods and cognitive viewpoints, Phan Chau Trinh's view on the role of law is still a profound theoretical and practical issue, which has theoretical and practical meanings in building and perfecting the socialist rule of law state in Vietnam today. The limitation of this study is that it has not shown and clarified the relationship between Phan Chau Trinh's political thoughts and his conceptions of the law's role.

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