



## Building the Vietnamese Social Rights Resources State - Traditional and Current Impact Factors

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**Abstract:** The state is always built on the historical, economic, cultural and traditional bases of a certain society. The socialist rule-of-law state (socialist law-governed state) has a profound origin from the views in the history of NNPQ, but derives from the nature of the regime, conditions and specific historical circumstances, so it is necessary to build a law Socialist Vietnam does not mean "raw" views and models that are already available but must be based on critical inheritance and creative development under new conditions.

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### 1. Legal State and Social Rights Reserve State:

#### 1.1. Some Issues about the Rule of Law State:

The term "rule of law" or "rule of law" refers to a state model in which all manifestations of government power are capable of being measured according to legal standards. Law and the ability to resist all risks and adversely affect knowledge tools to ensure order. The basis of the rule of law is the idea of justice, fairness based on the recognition and full acceptance of the supreme value of human personality, guaranteed by the institutions of the framework of the order of freedom, democracy and human rights, safety for citizens. According to Fritz Stier-Somlo, "science does not recognize any definition of" rule of law ", the rule of law has long become one of the common ideas associated with good politics. Selig (FWJ Schelling) argues that "the rule of law is the ultimate ideal regime of mankind, the full expression of the absolute spirit (the absolute) in human relations with people. ". That is the limited government, the process is really appropriate, rational, uniform protection, comprehensive and fair trial; a form of government based on human "modernity" and transparency, moderation, rationality and fair conduct among citizens, as well as a program that limits state influence to set Establishing and maintaining a legitimate peace order guaranteed by the state. The basis of the rule of law and the supreme power of law with the same meaning, are "the dominance, supremacy or supremacy of the law" (or "the advantage of the legal spirit is synonymous with the rule of law") and is a component of legal order to strengthen the protection of human rights, fundamental freedoms of individuals within the nation and the development of the democratic forms of government. The Constitution as the law has absolute authority, the

legislature must comply with the constitutional order, the executive and judicial branches must obey the law. The law must be applied effectively, with strong domination of arbitrary and illegal acts in order to protect individuals by law before the state. Democracy is an element of rule of law and "a democracy of the rule of law can only be effective if People can abide by, examine and monitor their decisions; otherwise, everything will just be a superficial cover for the decision-making machines that aren't legalized appropriately at the back" In civil matters, The rule of law ensures the principle of approaching courts (the general rule of law recognized by civilized countries): "the principle whereby a civil complaint must be able to be submitted a judge is one of the basic principles of law recognized by everyone "; At the same time, fair treatment under the law requires that "under the rule of law, no citizen can be treated differently or bear a greater burden than another citizen" and a system Administrative courts deal with legal relations between citizens and the state, "are responsible for maintaining the law as the legislative branch has built and ensured that all state activities are carried out according to law."(Stier-Somlo, 1873-1932). The judge enforces justice in legal disputes on the basis of legal equality.

In summary, The basis of the rule of law with the most basic definition is that no one is above the law or everyone must obey the law (Wikipedia); is a whole country that is responsible for implementing justice, obeying the law and paying special attention to respecting human rights and corresponding principles. The basic content of The basis of the rule of law theory is the promotion of the law in relation to the state, the law is a tool to limit state power. From the management

perspective, The basis of the rule of law is a state managing society by law; In particular, individuals, collectives, organizations and public agencies must comply with the law. The central, historical elements of the idea of The basis of the rule of law are: legal superiority, protection of human rights and decentralization (no authoritarian power, isolation of state powers according to functional functions) (Thesing, 2002). Legislative, executive and judicial action and equality in participating in state management and social management. Through each period of thought, there are new steps to show the development of human thinking about the level of social management organization, reflecting the aspirations of human beings who are born with freedom and equality. ; has the right to own and control social life. The ideology of The basis of the rule of law contrasts with the autocratic, authoritarian, oppressive people of contemporary regimes, demonstrating the dialectical relationship between one side of The basis of the rule of law (based on the law to act) and one side is social citizenship (Selling, 1775-1854). As an early value in the history of political-legal thought, the thought of The basis of the rule of law has been tested by humanity, selected over the centuries, increasingly being added to the new development of a doctrine; to the revolutionary era of capitalism model The basis of the rule of law has become a reality in many Western countries and is becoming a popular form in the contemporary world.

### 1.2. State of the Socialist Rule of Vietnam:

"Modern Western The basis of the rule of law ideology and doctrine has been propagated into Vietnam since Nguyen Ai Quoc, the founder of the Democratic Republic of Vietnam, conducted a struggle to expose and condemn the regime. The French government's harsh, cruel, non-human, unlawful and illegal rule in Vietnamese colonies". The success of August 1945 revolution, President Ho Chi Minh also initiated the views on the law of the people, by the people, for the people associated with the process of construction and development of the Democratic Republic of Vietnam State. The 1946 Constitution showed the spirit of building the State of the people, by the people and for the people. But right after gaining independence, our country fell into a war situation, and at the same time due to different perceptions and false prejudices in the concept of the rule of law, mechanically identifying the basis of the rule of law with the state. bourgeois should come before the doi moi reforms, ideological ideas, doctrines and principles have not been studied in time and fully. Through the practice of conducting comprehensive reforms of the country, in our perception, the Party has clearly seen the need to build and implement State management in the direction of the National Assembly. Since then, there have been important steps in the amendment of the 1980 Constitution and the promulgation of the 1992 Constitution. However, the 1992 Constitution has not yet used the term "Rule of law" but

must attend the Congress of delegates. The national party in the mid-term term of the 7th term (January 1994) and then the 8th Central Conference of the 7th term (January 1995), the views and contents of developing the National Assembly are officially set. Research and exploration to approach the concept of the rule of law are set as an urgent requirement; On that basis, it provides a scientific foundation for step by step forming and perfecting the basic viewpoints of the Socialist Vietnamese National Laws of the Party and the State. Implementation of the Resolution of the 7th National Congress of the Party, the construction and improvement of the Socialist Republic of Vietnam has made important progress; step by step develop the system of viewpoints and basic principles of building a socialist law-governed state of the people, by the people and for the people. At the 8th National Congress of delegates (July 1996), our Party once again affirmed the 5 basic views on the reform of the state budget of the Resolution of the 8th plenum (7th term). These five views are 1 / Building a socialist state of the people, by the people and for the people; taking the working-class alliance with the peasant class and the intellectual class as the foundation, led by the Communist Party. To fully exercise the people's mastery, maintain strict social and specialized discipline with all activities infringing upon the interests of the Fatherland and the people. 2 / State power is unified, with the assignment and coordination among state agencies in implementing legislative, executive and judicial rights. 3/Implement the principle of democratic centralism in the organization and operation of the State. 4/Strengthening socialist legislation, building the Vietnamese National Assembly. Social management by law, at the same time, attach importance to education and moral improvement. 5 / Strengthen the leadership role of the Party towards the State. To the 9th National Congress of the Party (4/2001), our Party continues to affirm the task of building a socialist law governor of the people, by the people and for the people under the leadership of the Party and pointing out "Our state is the main tool to exercise the people's mastery, the state of the rule of the people, by the people and for the people. State power is unified, with the assignment and coordination among state agencies in implementing legislative, executive and judicial rights. The state manages society by law". With the first concept of the rule of law: "The rule of law - in general, is a system of views and ideologies to promote laws and legislation in the organization and operation of the state apparatus and in social life. The basis of the rule of law is the state that manages society according to the law"; The 9th National Congress of Congress marked a development step of the Party's thinking about socialist law-governed people. At the 10th National Congress, our Party continues to affirm: "Our state is a socialist rule-of-law state. Need to build the operation mechanism of the State, ensuring the principle that all state power belongs to the people. State power is unified, with the division and coordination among agencies

in the implementation of legislative, executive and judicial rights. Perfecting the legal system, increasing the specificity and feasibility of the provisions in legal documents. Develop and perfect institutions to check and supervise the constitutionality and legality in the activities and decisions of public agencies”.

Inheriting and developing the Party's viewpoint on building a socialist law-governed State of Vietnam, the Resolution of the 11th National Congress of Representatives affirmed: "Our state is the socialist law governor of the people, by the people and for the people. All state power belongs to the people whose foundation is the alliance between the working class and the peasantry and intellectuals, led by the Communist Party of Vietnam. State power is unified; there is a division, coordination and control among agencies in implementing legislative, executive and judicial rights. State promulgated laws; organizing and managing society by law and constantly strengthening socialist legislation. The State serves the people, intimately connects with the people, fully exercises the people's democratic rights, respects and listens to people's opinions and is supervised by the people; have mechanisms and measures to control, prevent and punish bureaucracy, corruption, waste, irresponsibility, abuse of power, infringement of democratic rights of citizens; strictly maintain social discipline, strictly punish all acts of infringing upon the interests of the Fatherland and the people. The organization and operation of the state apparatus are based on the principle of democratic centralism, the division and decentralization, and at the same time ensuring the unified direction of the Central Government”. Building and completing the current socialist republic is based on the basic views and characteristics of the basis of the rule of law. In particular, the first content is to build and perfect the legal system starting from the Constitution and affirming the supremacy of the law. The law is the main management tool of the State, all organizations and individuals must comply with the law and equality before the law, if violating the law, they shall be dealt with according to law. From the requirement to build and perfect the socialist law of the Socialist Republic, the 11th National Congress of the Party added content to control the power into a new element of the state power mechanism in our country. Assessing the reality of the process of building a socialist law-governed state in the past years, our Party commented: Building a socialist law-governed state in Vietnam is an objective necessity, the establishment of the socialist law-governed state in the past has achieved the achievements. certain achievements, "building a socialist law-governed state is promoted, efficiency and operational efficiency are raised"; building a socialist law-governed state has not kept up with the requirements of economic development and country management.

Thus, from the perception of theory, receptive selection of common values of the CPP in general and from

the practice of leading the process of building the socialist law of Vietnam, through documents of the Party Congress, can Outline the basic characteristics of the Socialist Republic of Vietnam as follows: the 1/Socialist Republic of Vietnam is the State of the people, by the people and for the people; all state power belongs to the people. 2/State power is unified, with a clear assignment and close coordination between state agencies in implementing legislative, executive and judicial rights. 3/The state is organized and operates on the basis of the Constitution, laws and laws to hold the supreme position in adjusting social relations. 4 / The State respects and ensures human rights, civil rights, enhance the legal responsibility between the State and citizens, practices democracy, enhances discipline and discipline. The 5/Socialist Republic of Vietnam led by the Communist Party of Vietnam. The concept of a socialist Vietnam law-governed state is understood to include elements: people's ownership; upper religious constitution and law; respect and protect human rights; the unified state power, the assignment and coordination of control between state agencies in implementing legislative, executive and judicial rights; The Communist Party of Vietnam is the only force leading the State and society. At the same time, the difference between the concept of a socialist Vietnam law-governed state with a common perception of the world economy is expressed in two basic elements: state power is organized according to the principle of socialist and political socialism.

## 2. Traditional and Current Impacts:

### 2.1. The Effects and Impacts of National Traditions:

Over thousands of years of history of building and maintaining the country, there have been many good traditions of the nation, such as the tradition of national unity, traditions of patriotism, love and mutual assistance. However, the country has experienced thousands of years of feudalism, nearly 100 years under colonial rule, focusing on the resistance against foreign aggression and is in the early stages of the transition period to socialism. Therefore, feudal ideology still has a profound effect on society as well as awareness and experience in building a legal system and social management (social management) under our country's laws. An important feature of social governance in our country is the coexist existence of a dual form of the principles of social management recorded in writing with the principles of the convention and non-textual recognition. The standards of human activity and behavior are not only defined in law but also in many conventions, practices, customs, practices, ethics, teachings... The role of laws in many cases are not essential. In addition to the rules set by the village and recorded in the village charter, individuals as individuals are also bound by customs and practices. The shop is quite heavy. Human behavior and gestures are often more closely linked to the scales of social moral values than with

the rules. In fact, people respect morality more than respect the law.

In particular, from the 10th century onwards, Confucianism was of Chinese origin but became a weapon for Vietnamese to resist aggression and assimilation, and it was also used by Vietnamese feudal dynasties. used to organize social management and build an independent state, for the development of the nation. Confucianism introduced into Vietnam is no longer the original Confucianism but has been adapted to the national traditions and needs of the country to become a factor of the dominant culture and ideology in Vietnam. Male. Along with protecting the absolute power of the king and the imperial court, Vietnamese feudal laws clearly reflect the nature of the protection of the interests of the class that dominates, exploits and suppresses the opposing classes ; expressed in many inequalities and injustices, such as: protecting the state's sources of income and exploitation, strengthening the economic base, bureaucracy; promote power and social hierarchy; protect the interests of feudal landlords, privileges, privileges of mandarins and bureaucratic aristocracy; protecting inequality between husband and wife, strict regulations for women. One emerging problem is the relationship between individuals and communities: in the tradition left behind by history, relations and community interests are dominant and encompassing all. Individuals are only respected and protected when joining themselves in the community, strictly following customary laws with many levels and community levels overlapping. The individual person has never been considered an independent entity with the right to exist and develop his personality. Due to the development of the state and the feudal Vietnamese law heavily influenced by Confucianism, it is not the law but the morality and customs and practices that play a dominant role in the adjustment of communal relations. Assembly Through feudal and colonial regimes, the working people are law enforcers but not yet the authors of the law; The old law only benefits feudal colonialists. On the other hand, community calculation (relative, village, occupation ...) often create a way to handle heavy love and lightness (lower order tradition) as well as feudal laws (and later bourgeois laws) that allow morality to hide the nature class. Heavy, non-democratic ideological and social order ideology, lack of laws and laws are not serious ... are common defects, major limitations have been imprinted in psychology, habits and the way of thinking and how to do Vietnamese people as well as the philosophy of "reasonable and affectionate" as a summation in management sometimes, some places cannot be contradictory with legislation, with reason. Ethnic psychology from thousands of years has caused many difficulties to form and develop a spirit of rule of law in society. "It can be easily seen that the lack of history in the Vietnamese political system is the rule of law of the state apparatus. We have never had a civil society in history."

Today, ideological remnants and small-scale feudal customs still exist, especially the two patriarchal diseases and self-disciplined freedom that have hindered the process of going up to large production, boosting public industrialization and modernization (industrialization and modernization) of the country.

## 2.2. Impacts of the Current Context:

In the early years of innovation implementation, the social management in conditions of changing to the socialist-oriented economy has not been given adequate attention; Many new and emerging socio-economic issues need to be addressed positively and effectively. The clear delimitation of functions, tasks and modes of operation between the Party and the State in the context of Party leadership is a complex issue; We are still exploring and experimenting more than achieving real results. In the turning point, the new management mechanism is being formed, developed but not yet completed. The administrative management system, social order and morality, building democracy and promoting creativity in the people still exist many limitations and limitations. System of policies and laws, management tools have not been highly effective. The leadership of the Party to the State is not equal, has not fully utilized the management capacity and effective management of the state apparatus (BMNN). BMNN is still cumbersome, many intermediaries overlap in functions and tasks; inadequate in qualifications, management capacity and professional knowledge. Organization and operation are still heavy, not well-defined responsibilities, powers, assignment and coordination among power agencies; not ensuring the relative independence of legislative, executive and judicial rights; the decentralization relationship between the central and local authorities still has some unspecified aspects. The elected bodies are not yet real enough, effective and effective management of administrative and professional agencies is still low. The pilot implementation of non-organization People's Councils of districts, precincts and wards is posing many issues that need to be supplemented and adjusted to the functions and tasks of some agencies in the State Department. Despite many efforts to innovate and reform but the organization and operation of the executive system still have many shortcomings, many aspects have not met and keep up with the development requirements of the country. BMNN is not really clean and strong; bureaucracy, corruption, waste is serious, has not been prevented, the management effect is not strict; Loosening social discipline is likely to overshadow the good nature of the regime, reducing people's confidence with the Party and State. The consolidation of organizational structure and cadre work, order and discipline are weak in the political system.

The work of building and completing HTPLs in our country is still in the early stages, it must continue and regularly improve so that the law can meet the

development of social life and the need to strengthen state management (State management). Many pressing areas of social life still do not have laws that regulate mainly by law documents, even without the legal documents under regulation. FCs of our country are not synchronized, lack of uniformity, low feasibility, slow to live. The existing HTPL has not kept up and has not met the requirements of the country's socio-economic development, for building a socialist law-governed state of the people, by the people and for the people; protect the freedoms of people, of citizens, of international integration and the region of our country. In many areas of social life, the situation is both lacking democracy and discipline; there is still a place, sometimes there is a disregard for the law. The law has not strongly affirmed the role of an effective tool of the State for social management, protection of people's ownership and the fight against law violations are becoming an important and urgent task to meet requires State management (state management) in the market mechanism and the National Program for Crime Prevention. The effectiveness of the law has not been fully and effectively promoted in the areas of management. Social management by state law also reveals many shortcomings and weaknesses; not yet in line with the mission of the renovation period and has not met the current requirements. The backwardness and shortcomings in the formulation and implementation of policies and laws have created gaps in production, business and other aspects of the CTT, causing negative phenomena and legal violations. laws and partly reduce the effectiveness of state management.

In addition, the renovation and construction and improvement of the Socialist Republic of Vietnam still face objective obstacles such as the reverse of the market mechanism, bureaucracy and corruption in the ECT, the effects of thought. feudatory. In addition to positive impacts, the market economy also contains negative aspects, adversely affecting the social life, where many social evils arise, impacting significantly on the transformation of morality in a bad way. The market mechanism that emphasizes the value of money has a strong impact on the fields of culture, education and ethics of society. In fact, there are many conflicts between material development and mental degradation, between economic and cultural and moral ethics. "Principle of maximizing personal interests", taking material benefits as a top priority, Knowledge-based economy has been pushing people into the "vortex" of profits, creating pragmatic thinking, "stimulating" count unethical, cheating, regardless of public opinion, trampling on morality, law, distorting moral standards and upsetting social values. In the process of international integration (international integration), cooperation and cultural exchange with other countries, we acquire many civilized achievements and enrich the national culture; But also influenced by unhealthy foreign imports. International

integration also creates negative impacts on the ideology, morality and lifestyle of many people, including cadres, party members and young generations.

### **3. Some Issues of The Problems for The Construction of Socialist Protocols:**

Building and perfecting the socialist law of Vietnam is the policy and strategic direction of the Party and State stemming from the indispensable and objective requirements of the process of going to socialism; meet the requirements of strong innovation in methods and enhance the effectiveness and efficiency of social management by the law of the state towards democracy, harmony and sustainability in the period of promoting industrialization, modernization and international integration. The goal of building the socialist law of Vietnam of the people, by the people, as a way of organizing politics to maintain the working-class nature, promoting socialist democracy, making the state truly clean, strong, enhance the effectiveness of state management and social management.

However, the State has always been built on the basis of history, economy, culture and tradition of a certain society, in which the cultural and traditional elements have significant impacts on the construction. build the state. Socialist law governor has deep roots from the views in the history of humanitarian law, but due to the nature of the regime, conditions and specific historical circumstances, building a socialist law-governed Vietnam does not mean "calf Originally "the views and models that are available must be based on critical inheritance and creative development in new conditions. Due to being built on a historical, cultural, economic, social and class basis other than the previous economic forms, the socialist The basis of the rule of law has its own characteristics compared to the other sub-nationalities in economic forms - other society.

"Every nation has a direct relationship with God" and it is said that the development of each nation has its own national, historical and managerial success. The society of each nation cannot be associated with the inheritance, adaptation of cultural traditions, quintessence and national characteristics. Building The basis of the rule of law on the basis of oriental culture, Vietnamese national culture, must both inherit the progressive thoughts of mankind and pay attention to the specific characteristics of the nation - basic values transmitted system, plays a huge role in deciding to build a socialist law-governed state. However, tradition always contains both positive and negative aspects of current development because: tradition carries both heritage and metastasis. One emerging problem is the relationship between individuals and communities: in the tradition left behind by history, relations and community interests are dominant and encompassing all. Due to the development of the state and the feudal Vietnamese law heavily influenced by Confucianism, it is not the law but the morality and



customs and practices that play a dominant role in the adjustment of communal relations. Assembly In the mechanism of the market economy and stiff competition, such conflicts need to be studied and handled scientifically on development requirements. Therefore, the construction and completion of the socialist law of Vietnam pose many issues that need to be studied and designed in accordance with the characteristics and traditions of the nation and the level of social development. In particular, it must be associated with the preservation and promotion of national cultural values and identities, combining tradition - modernity in management including construction and renovation, refining inheritance and promoting on spirit of innovation; overcome the obstacles of ideology, psychology, habits and habits of the past for the development, in accordance with the requirements of the country and the time to create a closer and more coherent connection in social management contribute to speeding up the process of building the socialist law of Vietnam of the people, by the people and for the people.

A state governed by the inevitable rule of law must have a cultural stature, ensuring moral bases for its existence to be acknowledged and handed down. The cultural goal of socialism is to create a real premise to harmonize and enrich people, "so the first historical task in the cultural goal of socialism is to overcome limitations. about the culture of previous societies". Therefore, along with improving knowledge and the need to comply with the law, the enhancement of moral education will contribute to the formation of cultural and civilized norms of behavior between people and people, improving efficiency. manage

and healthy social relations. There, the combination of the value of law with the value of morality is a principle in building a legal cultural environment; is the basis for "forming the value system and social norms consistent with the traditions, national identity and requirements of the times".

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