

The Historical and Practical Logic of Marxist Virtue and Law in the New Era

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Abstract: The relationship between the rule of law and the rule of morality has always been an issue of great concern in both academic and political circles, and it is also a cutting-edge issue of Marxism in the new era. Marxist theory contains the theoretical content of moral and legal governance, and it is this content that provides a scientific and powerful theoretical guidance for the idea of moral and legal governance with Chinese characteristics, which was gradually formed in the process of "Sinicization" after Marxism was introduced into our country, and at the same time points out the direction for our future development. Starting from the ideological sources and theoretical innovations of Marxist moral and legal governance, further generalizing and analyzing the historical and practical logic of moral and legal governance in China in the new era will clarify how to combine the Marxist theory of moral and legal governance with the traditional Chinese concept of moral and legal governance and realize creative transformation and development.

1. Introduction

The governance strategy of "moral and legal governance" is the result of combining the Marxist idea of combining morality and law with the traditional Chinese concept of morality and law and realizing creative transformation and development after the Marxist idea of combining morality and law was introduced into our country, and it is a scientific theory of the Sinicization of Marxism. In the new era of socialism with Chinese characteristics, the organic combination of moral rule and the rule of law, thus realizing the combination of moral and legal rule, is the way we must unswervingly take the road of socialism with Chinese characteristics, so as to further realize the Chinese dream of the great rejuvenation of the Chinese nation.

2. The ideological basis and innovation of Marxism's combination of moral and legal rule

The Marxist idea of combining morality and law is mainly reflected in the study of the relationship between morality and law. To a certain extent, we can turn the relationship between moral governance and the rule of law into the understanding of the relationship between morality and law. The Marxist idea of the combination of morality and law is, more accurately, the modern idea of the combination of morality and law. Looking back at history, it is not difficult to realize that

it was Western society that gave birth to the modern rule of law, which then gradually went global. Despite the fact that the West is a society governed by the rule of law, it is the moralizing political philosophy that has been the consistent tradition of Western political philosophy. Although the rule of law plays a major role in social governance, they attach equal importance to the safeguarding role of morality. In Western societies, there are a variety of different views in the academic community on the issue of moral governance and the rule of law, as well as the relationship between morality and law. Among the many ideas, the debate on this issue between the natural law school and the analytic positivist school of law is the most typical and the one that has received the most attention. The natural law school points out that bad law is not law, and that law needs to contain moral content in order to have the quality of law; the analytic positivist school of law points out that bad law is also law, and that law and morality are not to be confused, and that there is no direct, necessary connection between the two. However, when researching and analyzing the relationship between morality and law, our examination needs to be based on a specific socio-economic foundation, a prerequisite keenly perceived by the classic Marxist writers, surpassing many non-Marxist legal thinkers. In Marxism, the emergence of ideology and other consciousness is closely related to people's material interactions and social life. All thinking and spiritual activities of people, including politics, law, and morality, are products of material activities.

On the basis of the above, the Marxist classic writers made the following analysis of the relationship between law and morality:

There is a connection between law and morality. First of all, law and morality are determined by the economic base from the root, and change with the change of social and economic conditions, the old law arises from the old social relations, when the old social relations change or disappear, the old law will also change accordingly. At the same time, both law and morality have class nature, the law is made by the ruling class, reflecting their mastery and planning of the whole society. Marx pointed out that "the manifestation of this will, determined by their common interest, is the law" [1]. When morality is put into the context of class society, people's classes are different, and different social classes have evolved different moral consciousness, which can be described as "morality is always the morality of class" [2].

Law and morality are also different. Although law and morality belong to the same category of superstructure, but the essence of the law is the system, while the essence of morality is ideology. The scope of the role of law and morality is different, the law can provide and regulate the scope is much smaller than morality. Law regulates people's rights and obligations, while morality only regulates people's obligations. Laws are implemented with a large number of specific procedures and are guaranteed by the coercive power of the state, while morality relies more on the consciousness of the masses and is expressed in social customs and word-of-mouth. Law and morality respectively in the process of social regulation and adjustment of the role embodied in the difference, the law can be directly on people's daily behavior to regulate, but morality to a large extent rely on people's mindset in the subtle influence to play its role. It is based on these many differences, in the adjustment of social relations between the two should complement each other.

The Marxist idea of combining morality and law stands on the position of historical materialism, starts from the material conditions of society, and uses the method of class analysis to study and analyze the relationship between law and morality, reflecting a high degree of scientificity. According to Marxism, although law is largely influenced by the decisive influence of the economic base, the influence of other superstructures, such as religion and morality, cannot be ignored. Both morality and law are determined by the economic base and produce changes as the economic base changes. Marxism takes human freedom and emancipation as the ultimate goal, which requires the breaking up of private ownership, and the breaking up of private ownership cannot be separated from the construction and improvement of the legal system. Marxism believes that the mission and

ultimate goal of law and morality are extremely similar or even convergent, and only by combining them organically can they maximize their respective advantages and jointly achieve the goal of freedom, liberation and comprehensive development of all mankind.

After the theoretical content of moral and legal governance contained in Marxist theory was introduced into our country, it has been continuously integrated with the social reality of our country, and gradually formed the idea of moral and legal governance with Chinese characteristics, which provides a scientific and powerful theoretical guidance for our future development.

3. The historical logic of the state's moral and legal governance in the new era

3.1. The theoretical origin of the idea of "ruling by both morality and law"

As early as the Western Zhou period, China's intellectual circles have been thinking about the relationship between "virtue" and "punishment", and at the same time, there has been a tendency for the two to merge and be utilized in the governance of society and the state. The Zhou Dynasty recognized that the fact that the Shang Dynasty was able to eliminate the Xia should be attributed to the failure of the Xia's ruler to exercise virtue. The reason why the Zhou people were able to destroy the Shang Dynasty was mainly because the Zhou people had virtue, while the Shang Dynasty was not worthy of heaven's virtue, and the heavy punishment of the rule of the country led to the loss of the people's heart, and the destruction of the dynasty. The Duke of Zhou put forward the "respect for heaven and protect the people", "noble morality and cautious punishment", "Heaven is impartial and it helps only the virtuous" formed the Western Zhou's "rule of virtue" idea. The Zhou people advocate "supplementing morality with punishment", they put forward should be "first use morality to educate people, and then use punishment", which for the formation of later generations of moral and legal political ideas provide a theoretical basis. It is not difficult to see that during the Western Zhou period, the idea of ruling by both morality and law sprouted and became the theoretical root of the relationship between morality and punishment in ancient China.

3.2. The ideas of "Morality Guiding and Punishment Supplementing" and "Punishment Guiding and Morality Supplementing"

During the Spring and Autumn Period, Confucius absorbed the idea of "moral governance" from the Western Zhou Dynasty and proposed the implementation of "benevolent governance" and the restoration of the "Zhou Rites", advocating that "governance should be based on virtue". He argued that morality has an effect that harsh punishments do not. Confucius listed "morality" before "punishment". "Guiding the people through virtue and maintaining order through the observance of etiquette, the people will develop a sense of shame and will consciously discipline themselves." ("Analects of Confucius"). At the same time, it is also proposed that "alternate leniency with severity", that is to say, recognizing the reasonableness of the existence of punishment. However, the rule of virtue is always at the head of governance, and punishment is only a kind of auxiliary. Xunzi pointed out that "Directly killing those who do bad things without education, so that although there are many penalties, but cannot suppress the evil spirit; just education without the implementation of penalties, those who do bad things will not be punished" ("The Works of Xunzi"), and advocated that the rule of etiquette should be the mainstay of governance, and that etiquette and the law should be used in parallel. The Mohists put forward the idea of "love for all" as the common basis for the rule of virtue and law, and the Taoists put forward the idea of "the harmony of virtue and law" on the basis of the negation of man-made virtue and law. During this period, thinkers generally realized that it was not enough for morality to play a role in the process of ruling a country, and that it was also necessary to regulate it by law. Dong Zhongshu used the "hundred and

one" of "Warmth and heat occupy a hundred parts, while cold occupies only one of them, and so is the proportional relation between morality and punishment" ("Chunqiu Fanlu") as an analogy for the ratio of morality and punishment in the governance of a country. He emphasized that "great virtue and small punishment", "The saints are more caring and less severe, more kind and less strict, and in this way they cooperate with the heavens." ("Chunqiu Fanlu"), and since then, the idea of "Morality Guiding and Punishment Supplementing" has been established.

However, the Legalists advocated that "no distinction should be made between the close and the distant, between the noble and the lowly, and that the law should be used as the basic means of governing the country" ("The Taishigong Zixu of Shiji"). Han Fei Zi pointed out that "the rule of law is the only way to govern the people" ("The Book of Lord Shang"). Guanzhong pointed out that "To educate the people by affirming knowledge and etiquette, to guide the people by setting an example, to prevent the people by establishing rules and regulations, and to guide the people by setting up township officials and township officials. Then, they would use decrees to restrain the people, rewards to encourage them, and penalties to deter them." ("The Works of Guanzi"). Although the Legalists advocated "ruling the country according to law", it does not mean that they completely denied the role of moral rule. In contrast to the "Morality Guiding and Punishment Supplementing", they emphasized the "Punishment Guiding and Morality Supplementing", and their "rule of law" also contains the idea of moral governance, but the "rule of law" is over-emphasized, often ignoring the moral education. The fundamental purpose of the Legalist theory of the "rule of law" was to provide an efficient and effective ruling program for the feudal monarchy. The monarch had the right to make laws, and the law was only a tool for the monarch to rule, and the enactment and modification of laws depended on the will of the monarch. There is a fundamental difference between the Legalists' idea of the "rule of law" and the modern theory of the rule of law.

3.3. Inheritance and development of the idea of "ruling by both morality and law"

The rulers of the Qin dynasty were deeply influenced by legalistic thinking, and if the prosperity of the Qin dynasty was due to the application of the rule of law, then the destruction of the Qin dynasty was due to the excessive application of the rule of law. The rule of law in ancient Chinese societies had its limitations. The benefits of the rule of law under a bright ruler outweighed the disadvantages, while the opposite was true for the rule of law under a dim ruler. The rapid demise of the Qin Empire had a far-reaching impact on the Han Dynasty. It was easy to abolish the "bad law" of tyranny, but it was difficult to establish a new "good law". The Western Han Dynasty vigorously advocated the role of moral education, and advocated the rule of inaction. However, this idea gradually ceased to meet the needs of the times during the rapid development of the Han Dynasty, and the rulers were in urgent need of a more positive and active strategy for governing the country. In the middle of the Western Han Dynasty, Neo-Confucianism emerged. Based on Confucianism, Neo-Confucianism fused the views of Legalism, Mohism, and Taoism, and gradually became the orthodox feudal legal ideology, i.e., "Virtue is the principal and the punishment is the auxiliary, and the rites and laws are united". Confucianized laws laid a solid foundation for the prosperity of the Han Dynasty and helped the country achieve long-term stability. To this day, Confucianized legal thinking still plays a crucial role in modernized law.

Throughout the development of China's ancient legal system, although the previous understanding of "virtue" and "punishment", "etiquette" and "law" have their differences, but on the whole, most thinkers and politicians have recognized and advocated the "etiquette and law, virtue and law". Looking back at history, when the rule of law and the rule of morality are reasonably combined and applied, the society is mostly stable and prosperous. The "combination of morality

and law" contains the profound reflection of the Chinese people on national governance since ancient times, and demonstrates the dialectical nature of traditional Chinese legal culture, which has a unique value that can be creatively transformed and developed.

4. The practical logic of the new era of national moral and legal governance

4.1. Theoretical Points

As an important part of the president's thought on socialism with Chinese characteristics in the new era, his proposition of "ruling by virtue and law" embodies the significant advantages of state governance in contemporary China. In December 2016, the president argued how to rule by combining virtue and law in his speech at the 37th Collective Study of the Political Bureau of the Communist Party of China (CPC) Central Committee.

4.1.1. Recognize the differences

Law and morality are inherently two different things. We must actively recognize the differences between the two. The law is formulated by the state or the state approved, the state coercive force is the law can be implemented to ensure that it is a social code of conduct, with rigid characteristics; morality is the people's spiritual level of understanding, need to rely on public opinion or personal self-consciousness to adjust, with flexible characteristics.

4.1.2. Point out the similarities

Although the law and morality through different ways of social order to make their own norms and adjustments, but they are common service to the construction of the whole social order and structure.

4.1.3. Integration point of argumentation

Law is inseparable from morality, morality is inseparable from law. Loss of morality of the law will lack of humanistic concern, lack of temperature, difficult to become a good law recognized by everyone. Without the law morality will not be strongly safeguarded. Simply ruling the country by law or ruling the country by morality has its own drawbacks, therefore, to achieve both morality and law, and jointly play a positive role in social governance.

4.2. Practical Initiatives

4.2.1. Strengthening the role of morality in supporting the rule of law

Morality is formed by people in long-term social interaction and practice, it is the values generally recognized by the vast majority of people, is the basis for the formation of the legal system. Law and morality belong to the scope of the superstructure, are a reflection of certain social conditions, political, economic and cultural social status quo, and with these changes in the economic base. The law is based on morality to make a further deepening of the first moral violation, there is a legal constraint. Therefore, law and morality under the same social conditions are often highly unified, and this unity is manifested in the mutual support of law and morality, which is the root of morality being able to play its fundamental role. The edifying effect of moral norms can effectively regulate the basis of people's daily behavior, so that the degree of social civilization gradually improved, but also for the comprehensive rule of law to provide a good social and cultural atmosphere, guiding people to consciously fulfill their obligations and responsibilities.

4.2.2. Implementing moral requirements into the construction of the rule of law

The president has paid great attention to the construction of the rule of law in China, pointing out that we should unswervingly take the road of socialist rule of law with Chinese characteristics and promote the modernization of the national governance system and governance capacity. Although important achievements have been made in the field of rule of law construction in China at present, and the overall social situation is stable, there are still problems and loopholes in the construction of the rule of law. For example, laws and regulations unilaterally reflect the objective law and the will of the people, lack of relevance and operability; the case handling process involves money transactions, favoritism, corruption and perversion of the law. The solution to these problems requires, on the one hand, further improvement of the law, the rigidity of the law, and on the other hand, the power of morality, to guide people to the good. In order to implement the moral requirements into the construction of the rule of law, we need to focus on the integration of different social periods of socially recognized and effective moral standards, and raise them to the law, and then guide the society as a whole to a positive and good morale. For key areas of immediate interest to the masses, law enforcement should be intensified to safeguard the masses' adherence to morality and to rally their consensus on morality.

4.2.3. Utilizing the rule of law to solve outstanding problems in the field of morality

The main advantage of the role of moral norms lies in the fact that they can gradually penetrate their normative content into people's hearts in a softer form. The president pointed out that only when the rule of law is used to carry the concept of morality can morality have a reliable system to support all the laws and regulations we have formulated. The president attaches great importance to the moral construction of citizens, and the Outline for the Implementation of Civic Moral Construction puts forward the requirements of "patriotism, dedication, honesty and friendliness" for the moral construction of citizens in the new era. The president pointed out that, for the public reflected strong social misconduct, to strengthen the rectification efforts in accordance with the law, the occurrence of social misconduct is not only the social and moral level of loopholes, but also reflects the imperfection of the legal system. The law is the bottom line of morality, but also the protection of morality. Strengthen the relevant legislation, improve the reward and punishment mechanism and social credit system, set up and recognize moral models in the whole society, and give as much protection as possible to law-abiding citizens. At the same time, strict law enforcement, establish the authority of the rule of law, according to the law to punish those who do not abide by morality and integrity, and sanction moral and trustworthy behavior. Rewards and punishments are clearly defined, that is, we should use legal means to punish those who violate the law by abandoning morality, and clean up the social atmosphere. At the same time, we can make use of various forms of media and platforms, such as television, radio and the Internet, to carry out appropriate publicity and education on the legal system, strengthen the role of social warning through the analysis of real-life cases, improve the construction of the socialist legal system, raise the level of social morality, and promote the formation of good social customs.

4.2.4. Raising the awareness of the rule of law and moral consciousness of all people

Engels pointed out that the power of matter can only be destroyed by the power of matter, and when scientific theories are grasped by the masses, the power of theories will be transformed into the power of matter. The people are the main body of social life, the creators of history and the decisive force for social change. While the people create the material wealth of society, they also create the spiritual wealth of society. In the process of promoting the combination of the rule of law and the rule of morality, the active participation of the people, as the main body, plays a decisive

role in the comprehensive and smooth promotion of the rule of law, and the creativity and practicability played by the people in this process should not be overlooked. Therefore, citizens must first know the law and understand it before they can further abide by it consciously. Through the popularization of education on the rule of law, citizens can fill in the gaps in their knowledge of the law and deepen their understanding of its provisions, so that as many citizens as possible can first come to know the law and agree with it. The active use of various media to publicize the spirit of our laws and the concept of the rule of law can cultivate and enhance the people's respect for the law and promote their conscious observance of the law. At the same time, we should also pay attention to the moral education of the masses. Compared with the rule of law education, moral education is more likely to get in-depth and long-lasting effect, and the improvement of moral level will also help to cultivate people's rule of law literacy.

4.2.5. Playing the key role of leading cadres in ruling the country by law and virtue

Leading cadres are not only the organizers and promoters of the rule of law, but also the advocates and demonstrators of the rule of the country by virtue. In the process of leading and guiding the Party, the Party will also set an example by strictly abiding by the Constitution and laws, guiding the whole society to abide by the law through the Party's leading law-abiding style, and resolutely governing the Party in a comprehensive and strict manner, which fundamentally ensures the comprehensive rule of law and the realization of the rule of law and virtue in an organic combination. Leading cadres as a "key minority" should not only take the initiative to shoulder the responsibility of promoting the comprehensive rule of law, but also set an example as a demonstrator of moral construction. In the process of self-inspection within the party, we found that some leading cadres not only did not play a leading role in complying with laws and regulations, but also violated them, disrupted social order, corrupted party conduct, and lost faith in the people. Compliance with the law, moral cultivation is a cadre growth and success of the required courses, to realize the new era of "moral and legal", the role played by party members and cadres is also crucial, party members and cadres should always maintain a communist should have a noble character and integrity, and actively drive the whole community to morality and respect for the law and abide by the law.

5. Conclusion

In the new era of socialism with Chinese characteristics, we still have to adhere to the combination of the rule of law and the rule of virtue. As a scientific strategy of governance, "moral and legal governance" is not only a continuation of Marxist moral and legal thinking, but also an inevitable choice of the cultural accumulation of the Chinese nation, representing the Chinese wisdom of social governance, and is of great practical significance.

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