

ADAPTING MONTESQUIEU: THE INTEGRATION OF SEPARATION OF POWERS INTO VIETNAM'S SOCIALIST GOVERNANCE FRAMEWORK

ADAPTAÇÃO DE MONTESQUIEU: A INTEGRAÇÃO DA SEPARAÇÃO DE PODERES NO QUADRO DE GOVERNANÇA SOCIALISTA DO VIETNÃ

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Abstract: This paper explores the profound impact of Montesquieu's political philosophy, particularly his theory of the separation of powers, on modern governance structures worldwide. Montesquieu's seminal concept of dividing government authority into legislative, executive, and judicial branches is foundational to contemporary democratic systems, aiming to prevent power concentration and safeguard liberties. Beyond the historical context of 18th-century France, Montesquieu's ideas have significantly shaped the constitutional frameworks of legal states, advocating for a balanced power distribution to ensure governmental integrity and accountability. This study also examines the unique adaptation of these principles in Vietnam's socialist governance model, which integrates Montesquieu's theories with Vietnam's socio-political ideology. This adaptation illustrates a tailored approach that maintains the core ideals of separation of powers while modifying them to meet local needs and challenges. The paper highlights how Montesquieu's doctrine, despite its Western origins, is flexibly applied in Vietnam, showcasing the theory's global relevance and adaptability in varied political landscapes.

Keywords: Constitutional Theory. Montesquieu. Political Philosophy. Separation of Powers. Socialist Rule-of-Law State. Vietnam.

Resumo: Este artigo explora o profundo impacto da filosofia política de Montesquieu, particularmente sua teoria da separação de poderes, nas estruturas de governança modernas em todo o mundo. O conceito seminal de Montesquieu de dividir a autoridade governamental em poderes legislativo, executivo e judiciário é fundamental para os sistemas democráticos contemporâneos, visando evitar a concentração de poder e salvaguardar as liberdades. Além do contexto histórico da França do século XVIII, as ideias de Montesquieu moldaram significativamente as estruturas constitucionais dos estados legais, defendendo uma distribuição equilibrada de poder para garantir a

integridade e a responsabilização governamentais. Este estudo também examina a adaptação única desses princípios no modelo de governança socialista do Vietnã, que integra as teorias de Montesquieu com a ideologia sociopolítica do Vietnã. Esta adaptação ilustra uma abordagem personalizada que mantém os ideais centrais de separação de poderes enquanto os modifica para atender às necessidades e desafios locais. O artigo destaca como a doutrina de Montesquieu, apesar de suas origens ocidentais, é aplicada de forma flexível no Vietnã, mostrando a relevância global e a adaptabilidade da teoria em cenários políticos variados.

Palavras-chave: Teoria Constitucional. Montesquieu. Filosofia Política. Separação de Poderes. Estado Socialista de Direito. Vietnã.

1. Introduction

The landscape of Western political philosophy has been indelibly shaped by the contributions of Montesquieu, whose theories on the separation of powers have profoundly influenced the constitutional framework of modern states (Agu, 2024; Do; Nguyen, 2022; Ergashevich, 2024; Feng, 2024). His seminal concept delineates the division of governmental power into three distinct branches: legislative, executive, and judicial (Akhtar, 2023; Inan; Nuredin, 2023). This tripartite system, articulated in the 18th century, extends beyond mere administrative organization to embody a fundamental principle essential for the preservation of democracy and the prevention of power concentration.

Montesquieu posited that true liberty is at risk when the same entity or group holds the authority to legislate, execute, and adjudicate laws. His insight led to a revolutionary doctrine advocating for a clear separation of these powers, each residing in separate entities capable of mutual regulation. This structural design ensures a balance, granting each branch autonomy to perform its functions effectively while establishing mechanisms to prevent any overreach by the others. The legislative body enacts laws, the executive enforces them, and the judiciary interprets them, with each branch checked and balanced by the others through a robust system of institutional checks and balances.

The relevance of Montesquieu's theory transcends the historical context of 18th-century France, where he critiqued the monarchical consolidation of power. His principles have become a cornerstone in the governance models of contemporary legal states, emphasizing the sovereignty of the populace. This framework is crucial in modern democracies, where the dispersion of power is not only vital for maintaining governmental integrity and accountability but also for safeguarding the freedoms and rights of individuals

against the potential despotism of majority rule.

Montesquieu's separation of powers is more than a mere theoretical construct; it serves as a foundational principle for legal states capable of adapting to changing political dynamics while upholding democratic values. As such, this framework continues to be central to ongoing debates and developments concerning governance and the rule of law across diverse political systems globally. Through an analytical exploration of Montesquieu's influence, notably his impact on modern legal states and the specific adaptations within socialist Vietnam, we can appreciate the enduring value and contemporary relevance of his political doctrines. These adaptations in Vietnam reflect a unique integration of universal legal norms with specific national characteristics under the guidance of the Communist Party, illustrating a tailored approach to the separation of powers that supports a unified state power structure while respecting the foundational ideals of Montesquieu's theory.

Theoretical Background: Montesquieu's Influence on Modern Legal States

Montesquieu's trias politica, emphasizing the separation of powers, profoundly shapes the governance structures of modern legal states (Sheehan, 2021). This concept, fundamental to understanding political liberty, argues that the separation of judicial, legislative, and executive powers is essential to prevent arbitrary governance and ensure liberty (Petersen, 2023).

Montesquieu admired the English system for its embodiment of these principles, but he also expressed concerns about the extremities of liberty possibly undermining the structural safeguards meant to protect it (Krause, 2000). His analysis was not merely an endorsement of the English model but a nuanced appreciation of the balance required to maintain liberty and order.

The impact of Montesquieu's ideas is evident in the constitutional setups that emerged during and after the bourgeois revolutions, reflecting his influence on the development of modern political systems that prioritize the rule of law and individual freedoms. His philosophical contributions extend beyond mere political architecture to embody the spirit of laws that govern civilized societies (Goldoni, 2013).

Furthermore, Montesquieu's thoughts on the non-arbitrary state highlight the importance of constitutional independence among the branches of government as a backbone for freedom. His theories resonate through ages, influencing various political landscapes and legal reforms across the globe, indicating the timeless relevance of his ideas about governance and civil liberty (Abdulrasheed, 2021).

In conclusion, Montesquieu's conception of state power and his trias politica principle remain central to the philosophy of modern legal states, advocating for a balanced distribution of power essential for sustaining a free and civilized society.

2. Literature Review

The development of constitutional theory and political philosophy in Vietnam has been significantly influenced by historical figures and ideologies, ranging from Ho Chi Minh's Marxist-Leninist philosophy to the ancient doctrines of Confucianism. This literature review explores how these ideological currents have influenced Vietnam's approach to the socialist rule-of-law state, separation of powers, and their alignment with or divergence from Montesquieu's theory.

Influence of Ho Chi Minh and Confucianism. Several studies highlight the pervasive impact of Ho Chi Minh's thoughts and Confucianism on Vietnam's political and educational systems. Nguyen; Nguyen e Nguyen (2023) emphasize Ho Chi Minh's vision on the importance of educating the young generation, integrating educational content with comprehensive human development, crucial for the country's modernization and international integration. This educational philosophy aligns with the broader goals of a socialist rule-of-law state by promoting a well-rounded citizenry capable of contributing to national development (Nguyen; Nguyen; Nguyen, 2023).

Moreover, Nguyen; Pham e Lai (2023) and Quyet (2023) discuss the historical and contemporary relevance of Confucius's ideas in Vietnamese governance. Nguyen; Pham e Lai (2023) delve into Confucius's "Rectification of Names" and virtuous rule, illustrating their influence on the ethical and moral frameworks within Vietnamese governance. Nguyen (2023) connects these ideals directly with the efforts of the Communist Party of Vietnam to cultivate a politically and ethically conscious citizenry, essential for the sustenance of a socialist rule-of-law state.

Montesquieu's Separation of Powers and Socialist Rule-of-Law State. Montesquieu's concept of the separation of powers, though originating in a different cultural and political context, finds its resonance in the modern Vietnamese governance model, albeit adapted to socialist principles. The papers reviewed do not explicitly connect Montesquieu's theories with Vietnamese constitutional practice; however, the emphasis on a balanced distribution of power and ethical governance implicitly draws parallels with his ideas. The studies by

Nguyen; Nguyen e Nguyen (2023) and Nguyen, P. T. e Nguyen, Q. T. (2024) underline the integration of comprehensive human development philosophies into governance, suggesting a nuanced interpretation of separation of powers where different state functions converge to educate and empower the populace, aligning with socialist legal principles.

Cultural and Political Dynamics in Modern Vietnam. The adaptation of traditional and ideological tenets to modern governance is also evident in the broader cultural and societal context. Nguyen, T. N. T. e Nguyen, Q. T. (2024) and Phung; Nguyen e Le (2024) discuss the socio-economic and cultural changes impacting rural and ethnic communities in Vietnam. These changes, driven by policies and transformations at the national level, reflect the complex dynamics between traditional Vietnamese culture and the demands of modern governance, illustrating the practical challenges in applying historical ideologies within a rapidly modernizing society.

Vietnam's constitutional development, guided by a blend of socialist ideologies and traditional Confucian principles, reflects a unique fusion of historical and modern political philosophies. While direct references to Montesquieu's separation of powers are limited, the overarching principles of balanced governance and rule of law are evident in the Vietnamese context. The reviewed literature underscores the continuous interaction between traditional values and contemporary political necessities, framing Vietnam's evolving constitutional theory within the broader narrative of political philosophy and socialist governance.

3. Montesquieu's Mark on the Theory of Separation of Powers - The Seeds of Progress

As a pioneer of the Enlightenment movement, Montesquieu brilliantly accomplished his historical mission in the struggle against despotism, political tyranny, and ecclesiastical authoritarianism, laying the theoretical foundation for the entire French Enlightenment. He devoted much time and passion to studying the "spirit of laws," state power, and the rule of law. According to him, "Law, in its broadest sense, refers to the necessary relations inherent in the nature of things. In this sense, everything has its law. The spiritual world, the physical world, transcendental intellects, as well as animals and humans all have their laws." (Montesquieu, 2006, p. 37)

State power is one of the most crucial aspects of Montesquieu's system, embodied in his conception of government and the doctrine of separation of powers. Government, as a

category of political philosophy, specifically refers to the subject of state power. It also encompasses the content related to the principles of organization and operation that demonstrate the execution of power by that subject. Montesquieu categorizes state governments into three types: despotic, monarchic, and democratic. The fundamental difference between these three governing systems lies in: “A democratic government is one in which the people or a portion of the people hold supreme power. A monarchical government is ruled by one individual, but governed by established laws. In a despotic government, by contrast, only one individual rules, without any laws, following only his will and preferences.” (Montesquieu, 2006, p. 46) He also refers to the aristocratic government as a form existing in a republic alongside democratic government “when supreme power lies in the hands of a segment of the people.” (Montesquieu, 2006, p. 47)

Along with government, the corresponding powers and laws for each type of government are central topics Montesquieu addresses, in which the theory of separation of powers is seen as the soul of Montesquieu’s political doctrine. According to him, separation of powers is political freedom in relation to the constitution. Here, legislative power is the authority to make, amend, or repeal laws; executive power decides and enforces matters of foreign affairs, war, defense, security, economics, “legislative power represents the collective will of the nation, while executive power enacts that will” (Montesquieu, 2006, p. 108); judicial power is the authority to punish criminals and resolve disputes. The legislative body consists of representatives elected by the people to exercise the law-making power on their behalf. It operates independently from the people but must report back to its constituents, “The body representing the people should only make laws, and review how they are implemented.” (Montesquieu, 2006, p. 111) The executive body is an acting agency, executing the collective will. The executive body must also establish a people-oriented military to ensure that the executive power does not oppress the people. Regarding the judiciary, Montesquieu believed, “the power to judge should not be given to a permanent council of elders, but should be appointed from the body of the people periodically for one year as dictated by law, forming a court, operating as long as necessary.” (Montesquieu, 2006, p. 108) This means, according to him, there should not be a permanent judicial body and judicial officials like the legislative and executive bodies, but should be appointed by the assembly for a certain period. Montesquieu wanted to erase the fear that the power of judgment had instilled in the people under despotic regimes, his view being “when it is not attached to anybody or office, it becomes invisible, like a zero... so people only fear the

mechanism of rule, not the rulers themselves.” (Montesquieu, 2006, p. 108) However, he also affirmed that courts should not be permanent, but legal documents and laws must be permanent, specifying specific things rather than being the personal views of judges.

Montesquieu also discussed the relationship between these three branches of power in their operation. According to him, these branches need to operate independently from each other, for if the executive merges into the legislature, power will be concentrated in the hands of one person, and laws will be enacted and enforced dictatorially, thus eliminating freedom. If the judiciary merges with the legislature, it will lead to arbitrary decisions regarding the lives and freedoms of citizens. If the judiciary merges into the executive, the judges will have the power of oppressors. If one person or one body holds all three powers, then “all will be lost,” resulting in a despotic, authoritarian regime. According to Montesquieu, although the legislative, executive, and judicial branches operate independently, they are interdependent, creating a collective motion of the entire state system.

Montesquieu founded the theory of separation of powers with three components: legislative, executive, and judicial, to limit the scope of state power, expand the freedoms and democracy of citizens, and protect the natural rights inherent in human beings in the context of the harsh dominance of the despotic feudal state and the ecclesiastical order of 18th century France. The three branches—legislative, executive, and judicial—not only operate independently but are also restrained, controlled, and bound by each other. Montesquieu viewed law as an effective means of maintaining social order and checking state power. However, this rule-of-law democracy is only meaningful and effective if based on principles of ethics and tolerance, a spirit of responsibility, and the sacrifice of personal interests for common goals. Since their inception, Montesquieu’s ideas about natural rights, democracy, separation of powers, political ethics, and the spirit of tolerance have gradually been realized, becoming the foundational principles of the rule-of-law state.

Since their inception, with the doctrine of separation of powers, Montesquieu’s ideas were quickly adopted widely, becoming a common political practice in the modern world. The bourgeois class, progressive feudal nobility, peasants, craftsmen, and the poor have found in these ideas a spiritual weapon in their struggle against the landlord and backward feudal classes. Based on a progressive legal worldview, bourgeois thinkers founded the doctrine of the rule-of-law state. The emergence of the rule-of-law state marked a fundamental shift in society, from an agricultural to an industrial society, from a divine-right

political regime to a civil society. Montesquieu's progressive ideas still hold great value in the context of building a rule-of-law state to replace the centralized bureaucratic, subsidizing state in addressing economic, political, and social issues that are becoming an inevitable objective trend of today's political civilization.

4. Limitations in Montesquieu's Theory of Separation of Powers

Despite its significant value, Montesquieu's thought inevitably contains limitations of its era. The primary and common limitation is his idealistic view of history, particularly in how he addresses the origins of the state and law. Pre-Marxist philosophers, including Montesquieu, often sought causes in spiritual dynamics, subjective desires, or exceptional individuals. In contrast, classical Marxists found the roots in the material production process and the relationships among people. Friedrich Engels summarized history and asserted: "The state is definitely not a power imposed on society from outside. Nor is it the 'reality of a moral idea' or 'the image of a rational reality'." (Marx; Engels, 1995, p. 252-253)

Montesquieu's doctrine of separation of powers, to some extent, is theoretically enlightening but not very feasible in practice, even within capitalist states and capitalism itself. The challenge is ensuring the supremacy of law, primarily the constitution - the fundamental law of the state in society and state governance. The state itself, the entity that produces laws, must also be controlled and is a subject of societal and citizen oversight. Karl Marx emphasized that legally recognized freedom only exists within the state and under the form of law.

Additionally, reality shows that Montesquieu only discussed the independence of the three state powers as a tool to check the situation of power abuse, but he did not have views on how to control power within these three branches beyond hypothesizing about the establishment of a bicameral system: a Senate (nobility) and a House of Representatives (commoners). In other words, the operation of state machinery worldwide shows concerns about the corruption of uncontrolled power and abuse still being harmful phenomena to the survival of political regimes, often described as defects of the system like corruption, waste, cronyism, bureaucracy, degradation. These are issues being vigorously combated in most countries.

Returning to the issue of "separation of powers" and the theory of power control, using power to control power, and using counterbalancing powers to check power in

Montesquieu's rule-of-law state model, it can be said that when it was an ascending class, the bourgeoisie carrying out the bourgeois revolution, attacking the power of the despotic feudal class, "mercilessly destroying the traditional order" to pave the way for the development of capitalism, as Marx said: it greatly needed the theory of building a rule-of-law institution. This theory met the requirements for liberation, fulfilling the ideals of freedom that the bourgeoisie needed to liberate capitalist production forces, asserting its dominant position. It was also the theoretical support for the bourgeoisie to gather forces in society against despotic feudalism and the monarchical regime, establishing a bourgeois republic.

However, once in power, the bourgeoisie inevitably had to seize total state power. The separation and division of powers in reality often ended up as merely a legal declaration, formalized by the very power ambitions of the ruling bourgeoisie. Dividing power, controlling power, using power to counterbalance and check power are not easy to implement; moreover, due to conflicts of economic interests and fierce competition for economic benefits, the bourgeoisie had to concentrate strength to consolidate power. The power struggle with conflicts among interest groups within the bourgeoisie is a practical demonstration of the bourgeois nature in the bourgeois rule-of-law state.

Thus, Montesquieu's views were not thoroughly radical, still protecting the interests of the nobility and the implementation of separation of powers as he envisioned could lead to disconnection between government agencies, conflicts between them for the interests of political parties affecting the people who elected these powers. The ideas of rule-of-law and state, freedom, democracy, justice, and equality are often refracted through the lens of bourgeois interests and power, merely serving capitalism and the dominant bourgeoisie. Democracy and human rights, which are noble social values serving the development of individuals and communities, are measurements of historical progress and cannot be fully and genuinely realized in a bourgeois society - where injustices and polarization still prevail. Not to mention, in capitalist and imperialist countries, these noble values and ideals are often exploited by the dominant bourgeois forces as a pretext to intervene in internal affairs and infringe upon the sovereignty of other countries.

5. The Dialectical Inheritance of Montesquieu's Doctrine in Building the Socialist Rule-of-Law State in Vietnam

Born with the Democratic Republic of Vietnam, the revolutionary state of Vietnam

has continuously evolved, with law increasingly becoming a controlling factor in social life and democracy increasingly manifesting as a driving force for development and expansion. Particularly in the economic sector, the achievements in the political and social fields of Vietnam since the renovation process (1986-present) are significant and undeniable.

However, the socialist rule-of-law state - as termed and intended by the Constitution of Vietnam - and the capitalist rule-of-law state have very different points, reflecting the will and nature of each type of state. Nevertheless, there are common unified points, namely the separation of powers - which we refer to as the division of responsibilities and collaboration among the three branches: legislative, executive, and judiciary - the core of Political Philosophy in Montesquieu's work.

As is clear, dialectical inheritance is the inheritance that manifests in interruptions in the continuous development stream, from a previous progressive step to objective transformations or changes from subjective perceptions to objective changes, becoming a new totality of essence - phenomenon and content - form, in a new object, of a new era. Likewise, dialectical negation is not the complete negation of the old, and dialectical inheritance does not mean transferring the entirety of the old into the new wholesale. More precisely, dialectical negation inherently contains dialectical inheritance, and vice versa, dialectical inheritance contains dialectical negation. The case of Montesquieu's rule-of-law theory and the construction of the socialist rule-of-law state in Vietnam is also such.

With its realistic influences, progressive core, and scientific significance, Montesquieu's doctrine of separation of powers has also had certain influences on shaping and building the socialist rule-of-law state in Vietnam, whether in the form of spontaneous inheritance, through the natural objective process in the state evolution of the era, or in the form of subjective perception in the development direction of the new based on the inheritance of intellectual and realistic essence.

The rule-of-law state in Vietnam was initially inspired by the ideas of Nguyen Ai Quoc in his demand to replace "the regime of decrees with a regime of law" published in *L'Humanité* on August 2, 1919, and was more clearly established in the Declaration of Independence that gave birth to the Democratic Republic of Vietnam on September 2, 1945. In it, Ho Chi Minh took legal and humane support from the rights declared in the American Declaration of Independence, namely "the right to life, liberty, and the pursuit of happiness" which are "unalienable." With this legal and humane basis, from the realities of Vietnam, he once again affirmed the truth "all men are created equal in rights; and must always remain

free and equal in rights” (Ho, 2000, p. 555) as mentioned in the French Declaration of the Rights of Man and of the Citizen in 1789 (which Montesquieu had previously discussed), taking it as the goal of the Vietnamese people’s struggle to gain and preserve these truths. This reference was not only meaningful internationally when “solemnly declaring to the world” about the independence and freedom of the nation but also laid the foundation for building a new type of state, first appearing in the history of Vietnam - a rule-of-law state of the people, by the people, and for the people.

The next day, with the affirmation “we must have a democratic constitution,” he clearly expressed the will to build a rule-of-law state, considered one of the six urgent issues of the Democratic Republic of Vietnam that he - as the interim government chairman - demanded to be implemented. The first general election on January 6, 1946, was the starting event that clearly showed this will. Subsequently, the 1946 Constitution, directly drafted under the chairmanship of Ho Chi Minh, prominently displayed the nature and content of the spirit of a “state of the people, by the people, and for the people.” This idea continued to be affirmed in an article amidst the three-year war later (October 14, 1949): “Our country is a democracy. All benefits are for the people. All powers belong to the people. The task of renewal and construction is the responsibility of the people. The struggle for resistance and nation-building is the work of the people. The government, from the commune to the Central Government, is elected by the people. Associations, from the Central to the commune, are organized by the people. In short, the power and strength are in the hands of the people.” (Ho, 2011, p. 232)

The dialectical inheritance from Montesquieu’s doctrine for the revolutionary state of Vietnam, first and foremost, lies in the non-despotic core of the three-branch power division, although the deployment of state power will be based on the specific socialist characteristics according to the Vietnamese model. The universal and specific contents of socialist separation of powers have been encompassed in the general and specific nature of the socialist rule-of-law state of Vietnam. In reality, as a state of the working class and the laboring people of Vietnam, Vietnam also has a division of powers between legislative, executive, and judiciary. Besides, there is a combination of direct democracy and representative democracy. The documents of the ninth National Assembly of the Party completely affirmed this: “The people exercise democratic rights directly and through representatives who are state agencies, people’s deputies.” (Communist Party of Vietnam, 2001, p. 129)

Since the beginning of the comprehensive renovation of the country to the present, especially from the 1992 Constitution, amended in 2001 to the 2013 Constitution, the construction of the socialist rule-of-law state of the people, by the people, and for the people has become an urgent goal of Vietnam. The Socialist Republic of Vietnam has recognized the division of responsibilities within its organizational structure, with a clear distinction between legislative, executive, and judicial powers. The Constitution of the Socialist Republic of Vietnam has also made provisions that reflect the intermingling of powers among the state branches. For instance, the President has the authority to sign into law the bills passed by the National Assembly. Theoretically, this authority includes the potential veto power of the head of state against a law from the legislative body when deciding not to sign it into law. The government can propose bills for the National Assembly to discuss and pass, which is essentially a form of legislative control by the executive. Similarly, when the National Assembly monitors and questions the work of the Government, the Supreme People's Court, the Supreme People's Procuracy, it also means that the legislative body also has control over the activities of the executive and judicial bodies. Since July 1996, the operation of the two-tier administrative court is essentially an increase in the independence of the judiciary, giving the judicial body the power to control the local executive.

However, the socialist separation of powers in Vietnam always carries within it the nature of the working class. This is shown by the fact that although there is independence and mutual control, the branches of power must work for the economic and political interests of an exploiting class, a component, a political active group. This mechanism is to ensure that state power does not go beyond the control of the people, to transfer political power and state power back to the people, maintaining the socialist nature of the state as a state of the people, by the people, and for the people. Socialist separation of powers requires the leadership of the Communist Party as a factor to ensure its direction, this is a prerequisite condition to maintain the necessary unity not only in the market economy approach but also in the standpoint of building a socialist rule-of-law state of the people, by the people, and for the people.

6. “Separation of Powers” in the Vietnam’s Context

“Separation of Powers” is a theoretical exploration that provides meaningful suggestions for building legal institutions, a rule-of-law state, and implementing democracy

and human rights in modern society. However, its contradictions and limitations lie in the nature of the capitalist rule-of-law state, even within the theory of political pluralism and multi-party systems, in the struggle for power by capitalist political parties aiming to dominate state power. Therefore, the separation of powers is not the model for organizing state power in Vietnam.

Article 2 of the 2013 Constitution of Vietnam affirms: “All state power belongs to the People,” and “State power is unified, with delegation, coordination, and control among state bodies in exercising legislative, executive, and judicial powers.” The principles of organizing power in our country are also clearly stipulated in the 2013 Constitution, where:

- a) The Socialist Republic of Vietnam is a socialist rule-of-law state of the people, by the people, and for the people.
- b) The Socialist Republic of Vietnam is owned by the people, all power belongs to the people...
- c) State management is unified, with delegated coordination and control among state bodies in exercising legislative, executive, and judicial powers.

It can be seen that, compared to other republic regimes, Vietnam also has three branches of power: legislative, executive, and judiciary. However, according to the Constitution, these three branches in Vietnam are not separate, opposing, and operate on the principle that state power is unified. The unity of state power leads to the three branches of state power currently operating under the leadership of the Communist Party of Vietnam through party organizations within each power body. The Communist Party of Vietnam is the organization that functions to control the power of its members within the state apparatus. Party committees must be the primary, fundamental tool for controlling power.

However, all state management activities occur through the executive machinery or, in other words, the Government and local authorities. With its executive function, the Government creates, and the administrative machinery from the central to local levels operates in a form of governance, which is centralized administration with delegated coordination and control among state bodies in exercising the three powers of legislative, executive, and judiciary. This delegation, coordination, and control form a general system, where the Government manages overall, and ministries and localities perform functions assigned or delegated. “The National Assembly, People’s Councils at all levels within their duties and powers are responsible for supervising state bodies at local levels in carrying out the delegated tasks and powers.” Therefore, the organizational model of the rule-of-law state

in Vietnam cannot and should not be “separation of powers.” This choice is not due to the subjective will of any subject but due to the objective necessary regulations stemming from the nature of the political and economic regime of the socialist rule-of-law state and the socialist democracy that our people are building, under the leadership of the Communist Party of Vietnam.

Building and perfecting the rule-of-law state is Vietnam’s consensus and alignment with the common, universal trend of historical progress and social development in the modern and contemporary world. This universality is manifested in Vietnam through its particularities. Recognizing the universality of the world to better understand the particularities of the nation in renewal and development, international integration, and modernization. Accordingly, actively integrating and selectively absorbing values and experiences from other countries to ensure Vietnam is not outside the common development process of the world. On the other hand, with innovative thinking, promoting the spirit of initiative and creativity, it is necessary to independently solve its own development issues, not mechanically copying unsuitable external models. This perspective is illuminated and guided by practical experience. The socialist rule-of-law state performs unified power based on delegation, coordination, and control among state bodies in exercising legislative, executive, and judicial powers... is the correct, rational choice for the current organizational model of the state in Vietnam.

The novelty and difference of the socialist rule-of-law state in Vietnam - a state of the working class’s nature, is that the working class does not have private interests in the sense of private ownership. It only finds its interests when it realizes social interests. Therefore, once the working class becomes the ruling class in the state, its historical mission is to exercise the power of the people. The state of the working class is a state where all state power belongs to the people, unifying power to the people.

The socialist rule-of-law state of Vietnam is in the process of being built and perfected, as one of the characteristics of socialist Vietnam, and simultaneously one of the directions for building socialism in Vietnam and ensuring conditions for Vietnam’s international integration in a globalized world. The 13th Congress of the Communist Party of Vietnam affirmed: “Continuing to build and perfect the socialist rule-of-law state of Vietnam of the people, by the people, and for the people under the leadership of the Party is a central task of political system reform. Enhance the capacity, effectiveness, and efficiency of state activities. Clarify more the role, position, function, tasks, and powers of state bodies

in exercising legislative, executive, and judicial powers based on the principles of the rule-of-law, ensuring state power is unified, with clear delegation, tight coordination, and enhanced control of state power. Build a complete, timely, consistent, unified, feasible, transparent, stable legal system, focusing on the legitimate rights and interests of the people and businesses to promote innovation, ensuring fast, sustainable development requirements.” This is consistent with the principles of organizing state power as enshrined in the 2013 Constitution “State power is unified” because “all state power belongs to the people.” Therefore, the deep, essential issue of the rule-of-law state in Vietnam is to ensure democracy, promote the mastery of the people, develop the capacity to master and practice democracy of the people as the owners of the state and society. Not dividing power but must especially delineate and distinguish clearly the powers, based on delegation, coordination, and control among legislative, executive, and judicial powers.

Conclusion

Montesquieu’s theory of the separation of powers remains a cornerstone of political philosophy, significantly influencing the design and function of contemporary governments across the globe. By advocating for a clear division of government into legislative, executive, and judicial branches, Montesquieu’s framework seeks to prevent the concentration of authority and safeguard liberty against despotism. This system of checks and balances has been fundamental in promoting democratic governance and accountability within modern states.

The universal appeal and adaptability of Montesquieu’s theory are vividly illustrated by its implementation in various political contexts, including non-Western and socialist systems like Vietnam. Despite originating from an analysis of Western political structures, the principles underlying the separation of powers have found resonance in Vietnam’s governance model, which has been adapted to meet the unique requirements of its socialist ideology.

Vietnam’s approach to Montesquieu’s doctrine is distinct in that it does not strictly replicate the traditional model of separation of powers. Instead, it integrates these principles within a framework that emphasizes a unified state power under the overarching leadership of the Communist Party of Vietnam. This adaptation reflects a tailored interpretation that aligns with the country’s socio-political ideology and objectives, demonstrating the theory’s flexibility and relevance beyond its original context.

The Vietnamese model is characterized by a form of governance where legislative,

executive, and judicial powers are formally distinct yet operate under a unified political and administrative structure. This structure is designed to ensure that governance remains efficient and responsive to the developmental needs and welfare of the populace. The Communist Party plays a pivotal role in this system, guiding and influencing the functions of all branches of government to maintain the alignment of state actions with socialist principles and goals.

This unique configuration leverages the core ideals of Montesquieu's separation of powers—maintaining checks and balances while adapting them to the practical and ideological needs of a socialist state. By doing so, Vietnam seeks to prevent the abuse of power and ensure that each branch of government contributes effectively to national development and the welfare of its citizens. This synthesis of Montesquieu's ideas with socialist governance illustrates a dynamic interpretation of political theory, one that respects foundational principles while innovating to meet specific national requirements.

Furthermore, Vietnam's adaptation highlights a critical aspect of Montesquieu's theory: its application as a flexible tool for governance rather than a rigid blueprint. This adaptability allows for the accommodation of traditional values and contemporary challenges, making it possible for states with varying political ideologies to implement the essence of separation of powers in a manner that respects their historical, cultural, and political contexts.

7. Conclusion

In conclusion, Montesquieu's influence on the global landscape of governance is profound and enduring, with his separation of powers theory serving as a foundational element in the development of legal and constitutional frameworks worldwide. Vietnam's example serves as a testament to the theory's versatility and enduring relevance, showcasing how it can be creatively adapted to support governance structures that diverge from the original model yet remain committed to preventing tyranny and enhancing democratic governance. The ongoing application and adaptation of Montesquieu's principles in various governance contexts underscore their significant role in shaping modern political systems, ensuring that they remain responsive and accountable to the needs and aspirations of their citizens.

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