

# On the Concept of Governance and Rule of Law in the Strategy of Ruling the Country by Law

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## **Abstract:**

The key to the construction of a socialist country under the rule of law is to improve the socialist legal system; The key to realizing the modernization of governance ability is to unify the overall situation of socialist construction with law. The Governance View of the rule of law is of great significance to the practice of the rule of law in China. It is the rule of law basis for rebuilding social and political trust. It also provides an important theoretical tool for China's transformation to a democratic society and a society ruled by law. The Governance View of the rule of law also realizes the combination of the rule of man and the rule of law in the framework of modern system.

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**Key Words:** *Rule by law; National governance; Instrumental rationality*

China is building a socialist country under the rule of law, not a capitalist country under the rule of law. The fundamental difference between a socialist country under the rule of law and a capitalist country under the rule of law is that it adheres to the leadership of the Communist Party and people's democracy, rather than taking the road of capital control. In 2012, China proposed to basically build a socialist legal system with Chinese characteristics. The Fourth Plenary Session of the 18th CPC Central Committee proposed to build a socialist legal system with Chinese characteristics and a socialist country under the rule of law. The transformation from the legal system to the legal system reflects the progressive process of China's rule of law.

## **1. Instrumental rationalism and value rationalism**

Modern liberalism thought takes the separation of "purpose means" as the premise and transforms political behavior into a more neutral technical problem. The main task of modern institutional politics is to make people obey the compulsion of law by resorting to the established calculation of human nature, seeking advantages and avoiding disadvantages. Therefore, the ingenious use of human nature has become the premise of legal effectiveness, As an effective social system, law has become the best social control means to achieve the greatest good and prevent the greatest evil.

The legal view of instrumental rationalism is a kind of "legal world view and legal Epistemology on the essence and function of law. It emphasizes that in the social system, law is only a tool and means to achieve certain social goals". It [3] follows the means purpose logic, attaches importance to the value of legal instrumentalism, and its measurement standard is whether the law completes the predetermined purpose. In the process of building a contemporary socialist country ruled by law, the legal concept of instrumental rationalism and has played a role in promoting the rule of law in China to a certain extent. In the ruling mode of ancient Chinese society, law, as a rule, serves the needs of monarchy power at the cost of ignoring rights, which constitutes the basis of Chinese autocratic rule.

The legal view of value rationalism emphasizes the internality of the relationship between means and ends,

and holds that instrumental rationality should coincide with value rationality in the same space. The ultimate social function of law should pursue people's own development and reflect the ethical value, ideal value and emotional value in the practice of the rule of law, which should also be the starting point and destination of the rule of law. Berman, an American jurist, once said: "what can really prevent crime is the tradition of abiding by the law, which is rooted in a deep and warm belief that law is not only a tool of secular policy, but also a part of the ultimate purpose and significance of life".

The ultimate significance of law lies in its practical rationality. The value of law and rule of law culture is related to the improvement of human nature. Although it appeals to the established human nature to realize the effectiveness of law, it still needs to maintain its attention to the soul and guide the value orientation and value needs of social subjects through law, so as to make social subjects recognize, choose and believe in law and rule of law.

1.3 Legal axiology believes that we should use value rationality to guide instrumental rationality, maintain its sanctity with human itself as the purpose, place the practice of the rule of law itself in the space of good and evil, take the improvement of human nature as the fundamental purpose of practice, cultivate citizens' legal spirit, and make the realization of the rule of law possible. The legal view of value rationalism makes up for the defects of the legal view of instrumental rationality, but it overemphasizes the role of morality and ethics and regards law as a usable and unnecessary tool.

## **2. Interpretation of the concept of rule of law of governance**

2.1 The rule of law view of governance not only emphasizes institutional constraints, but also pays attention to social and citizen participation. To build a socialist country under the rule of law, we must rely not only on the Constitution and inner-party regulations, but also on citizen conventions, industry rules and group articles of association. These constitute the legal resources for maintaining social and political order. The importance of the Constitution and inner-party regulations goes without saying, which is the most important legal guarantee for building a country under the rule of law. However, the legal resources that a country under the rule of law depends on are not single, but diverse.

2.2 Today's national governance system in China is bred by China's cultural gene. The national world outlook, values and aesthetics inherited from generation to generation have become the most basic cultural gene of the Chinese nation. It is a unique symbol different from other nations gradually formed by the Chinese nation and the Chinese people in the process of repairing Qi, governing peace, realizing constant change and making achievements. "Law is a social product, one of the social systems and one of the social norms. It is closely related to customs and habits. It maintains the existing systems and values such as morality and ethics. It reflects the social structure of a certain period and a society. The relationship between law and society is very close.

## **3. The significance of Governance View of rule of law to the practice of rule of law in China**

3.1 The reconstruction of social and political trust in China depends on bringing social conflicts into the track of rule of law. The stability of power legitimacy rule can not only be based on the satisfaction of political transactions and interest preferences, nor can it only rely on the monopoly of military and violent resources. It is not enough to show the complexity and professionalism of the national governance system, but also rely on the rule of law, an effective social management tool. The transformation of national governance system from traditional to modern is the result of multiple forces and logical synthesis.

3.2 The Governance View of the rule of law provides an important theoretical tool for China's transformation to a democratic society and a society ruled by law. China's road to building a country under the rule of law is not the road of western style or violent dictatorship, but the road of rule of law with Chinese characteristics. This road is based on a deep insight into China's national conditions. It is a road of rule of law that not only

conforms to China's national conditions, but also surpasses the West and tradition. The social trust provided by rule of law can provide authoritative solutions to many social conflicts and create opportunities for social resistance and collective action to move towards the road of rule of law; Moreover, it can transcend the status differences of social strata and create a measurement standard of fairness and justice, so that legal belief can become the most stable cornerstone to support the country under the rule of law and the society under the rule of law.

3.3 The Governance View of rule of law realizes the combination of rule of man and rule of law in the framework of modern system. As a post modern country, the color of rule by man is difficult to get rid of because of its preference for political achievements. Rule by man provides a flexible driving force for rational bureaucracy; Although bureaucracy is essentially a kind of technological rule, the national management system is different from the enterprise bureaucracy. Moreover, the political control over administration and the significance of politics in saving individual freedom make political action bound to break through the rule of "technological inevitability" of bureaucracy. Therefore, any country should give full play to the power of charismatic authority and legitimate authority, not only pursue the political performance advantage of the rule of man, but also bring the rule of man into the structure of the rule of law. This is an important issue that all countries in the period of social transformation need to face in the transformation from political trust to the rule of law.

Since the separation of politics and administration, government officials and affairs officials have assumed different responsibilities. Government officials' personal decisions on value and their commitment to the consequences of political achievements make the human factor still play an important role in economic development and national governance, To a large extent, the performance management of the Chinese government is related to the ability of government officials to make self-determination and self responsibility. Therefore, the dialectical combination of "rule of man" and "rule of law" in political practice must be incorporated into the framework of rule of law, so as to achieve the purpose of not only preventing the abuse of power and the spread of corruption, but also producing high management performance and high development performance. The pure rule of law and the pure rule of man are difficult to reflect the real situation of China's political practice and national governance.

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