

MONTESQUIEU AND ROUSSEAU'S PHILOSOPHY OF THE RULE OF LAW: THEORETICAL BASIS AND APPLICATION IN BUILDING A SOCIALIST RULE OF LAW STATE IN VIETNAM

*A FILOSOFIA DO ESTADO DE DIREITO EM MONTESQUIEU E ROUSSEAU: BASE
TEÓRICA E APLICAÇÃO NA CONSTRUÇÃO DE UM ESTADO SOCIALISTA DE
DIREITO NO VIETNÃ*

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Abstract

Montesquieu and Rousseau's philosophy of the rule of law are two important theoretical foundations in the analysis of the relationship between law, the state and society, with their unique contributions to decentralization and people's sovereignty. This article explores the basic principles of Montesquieu and Rousseau's philosophy of the rule of law, and evaluates how their ideas are applied in building a socialist rule of law state in Vietnam today. The study uses qualitative analysis to examine the adaptation of these principles in the Vietnamese context, from the legal system to social management. The results show that Vietnam has absorbed some aspects such as the division of power and

the participation of the people, but still maintains its own characteristics under the socialist orientation. The article discusses the achievements, challenges and proposes directions to improve the rule of law model in Vietnam, harmoniously combining Western thought and local practice.

Keywords: Philosophy of the rule of law, Montesquieu, Rousseau, socialist rule of law state, Vietnam, decentralization, people's sovereignty.

Resumo:

A filosofia do estado de direito em Montesquieu e Rousseau constitui fundamentos teóricos importantes para analisar a relação entre lei, Estado e sociedade, com contribuições únicas sobre descentralização e soberania popular. Este artigo explora os princípios básicos da filosofia do estado de direito desses pensadores e avalia como suas ideias são aplicadas na construção de um estado socialista de direito no Vietnã contemporâneo. O estudo utiliza análise qualitativa para examinar a adaptação desses princípios no contexto vietnamita, desde o sistema legal até a gestão social. Os resultados mostram que o Vietnã absorveu aspectos como a divisão de poderes e a participação popular, mas mantém características próprias sob a orientação socialista. O artigo discute os avanços, desafios e propõe direções para aprimorar o modelo de estado de direito no Vietnã, combinando harmoniosamente o pensamento ocidental com práticas locais.

Palavras-chave: Filosofia do estado de direito, Montesquieu, Rousseau, estado socialista de direito, Vietnã, descentralização, soberania popular.

1. Introduction

Montesquieu and Rousseau's philosophy of the rule of law are two important pillars in the history of Western political and legal thought, each offering a unique approach to the relationship between law, the state, and society. Montesquieu, with his famous theory of decentralization, laid the foundation for the notion that state power should be divided into three branches - legislative, executive and judicial - to ensure mutual control,

prevent abuse of power, and protect human freedoms. He emphasized that a state can only operate efficiently and fairly when power is not concentrated in the hands of an individual or a small group, but must be divided and closely monitored. Rousseau, on the other hand, focuses on the concept of people's sovereignty, arguing that the supreme power belongs to the whole people, expressed through the common will - a unity of collective interests that transcends individual opinions. For Rousseau, the state is only legitimate when it reflects the will of the people, and the law must be a tool for protecting freedom, equality, and promoting social justice. Both ideas, though different in focus, have far-reaching influences on how states are organized and legal systems are built around the world, from Western democracies to developing countries.

In Vietnam, building a socialist rule of law state has become a strategic goal since the country entered the path of socialist-oriented development. The socialist rule of law state in Vietnam not only inherits the universal principles of the rule of law - such as respect for the law, equality before the law and protection of human rights - but also has its own characteristics, combining Marxist thought and legal values suitable to the cultural context. politics of the country. Despite being heavily influenced by Marxism, with the view that the law and the state are tools to serve the interests of the working class, Vietnam is not completely unfamiliar with the concepts of the rule of law of Montesquieu and Rousseau. In the context of international integration and the development of a socialist-oriented market economy, principles such as Montesquieu's decentralization and Rousseau's sovereignty have been selectively adopted and adjusted to suit the characteristics of a state under the leadership of the Communist Party.

Montesquieu proposed the division of power as a mechanism of control and balance, in order to prevent autocracy and guarantee individual freedom. This idea has become the foundation for many modern rule of law systems, especially in Western countries, where the three separate powers are thoroughly applied. However, in the context of Vietnam, this principle is not applied according to the Western model but is adapted into assignment and coordination between state agencies, under the unified orientation of the

Party. This reflects a flexible approach that both maintains centralized leadership and ensures efficiency in state management. Meanwhile, Rousseau emphasized that the source of all legitimate power is the people, and that the state must be the expression of the common will, defending freedom and equality for all. This idea has similarities with Vietnam's goal of building a state "of the people, by the people, for the people", where the people are seen as the center of all policies and laws. However, the way of expressing the common will in Vietnam bears the imprint of a centralized political system, with the Party's leadership role considered to represent the interests of the whole people.

The application of Montesquieu and Rousseau's ideas in Vietnam takes place in a special context, where the country has just undergone a transition from a centrally planned economy to a market economy, and is facing pressure from globalization and international integration. These changes require Vietnam to build a legal system that both meets the requirements of modern social management and maintains the socialist orientation. Montesquieu's idea of decentralization provides an approach to organizing the state apparatus more effectively, while Rousseau's idea of people's sovereignty emphasizes the role of the people in participating in governance and legislation - elements necessary to enhance the transparency and accountability of the state. However, this process is not without its challenges, from adapting Western principles to Vietnamese reality, to balancing centralized leadership and citizen participation.

This article aims to analyze the philosophy of the rule of law of Montesquieu and Rousseau, and to evaluate how their principles are applied in building a socialist rule of law state in Vietnam today. The study does not stop at describing the theory but also considers the practical application, from the successes achieved to the limitations that remain, in order to give a comprehensive picture of this process. The main questions that the article aims to include are: What principles of Montesquieu and Rousseau's philosophy of the rule of law can be applied in the Vietnamese context? What achievements and challenges does the application of these ideas reflect in building a socialist state under the rule of law? How does Vietnam combine these ideas with a

socialist orientation to perfect the rule of law model in the modern context? To answer these questions, this article will analyze the basic theoretical principles of the two thinkers, compare them with the state organization and legal system in Vietnam, thereby proposing feasible directions for the future. With this approach, the study hopes to contribute a scientific and practical perspective to the process of building the rule of law in Vietnam in the 21st century, both inheriting the progressive ideology of the West and affirming the country's own identity.

2. Research methods

This study uses qualitative analysis to explore Montesquieu and Rousseau's philosophy of the rule of law, and to evaluate how their ideas are applied in building a socialist rule of law state in Vietnam today. The qualitative method was chosen to focus on in-depth analysis of theoretical and practical aspects, rather than relying solely on statistics or quantitative measurements. The main goal is to clarify the intersection of the rule of law principles of the two Western thinkers and the socialist rule of law context in Vietnam, thereby making general observations about this application process. This approach allows the study to be flexible in interpreting complex phenomena, in accordance with the multidimensional nature of the topic.

The data of the study were collected through a review of the fundamental principles of Montesquieu and Rousseau's thought on the rule of law, focusing on the theory of decentralization and the concept of people's sovereignty. These ideas are drawn from their typical works, not relying on specific quotations but on a common understanding of the contributions of the two thinkers. For the context of Vietnam, research and analysis of important legal documents such as the Constitution, along with state management policies and the practice of organizing the state apparatus in the current period. In addition, Vietnam's economic, political and social trends, such as the development of the market economy, the process of international integration, and the role of the people in management, were also observed to assess the degree of application of Montesquieu and Rousseau's ideas in practice. The data is not based on specific official reports but is a synthesis from general practice, in order to reflect a comprehensive picture.

The analysis in the study focuses on three main aspects. First, the basic principles of Montesquieu and Rousseau's philosophy of the rule of law are considered to clarify their theoretical underpinnings. Second, how these principles are adapted and applied in Vietnam's legal system and state management is analyzed through practical examples, such as the mechanism of the division of power and the participation of the people. Thirdly, the current situation of building a socialist state under the rule of law in Vietnam is assessed through manifestations such as the effectiveness of law enforcement, transparency in management and the level of representation of the people's will. This method does not use quantitative tools but relies on logical reasoning and practical illustrations to draw conclusions, ensuring generality and applicability.

3. Research results

3.1. Montesquieu's philosophical principles of the rule of law

Montesquieu's philosophy of the rule of law, one of the key cornerstones of Western political and legal thought, revolves around the theory of decentralization - a revolutionary principle aimed at ensuring freedom and preventing the abuse of power in the management of the state. Montesquieu argued that state power should be divided into three distinct branches: legislative, executive, and judicial. The legislative branch is responsible for promulgating laws, the executive branch is responsible for enforcing those regulations, and the judicial branch is responsible for resolving legal disputes and ensuring that the law is applied fairly. This division is not only aimed at effectively organizing the state apparatus but also creates a mechanism of mutual control and balance between the branches of power. According to Montesquieu, when one branch of power exceeds its limits or tries to interfere with the functioning of another, the other branches will have the ability to prevent it, thereby protecting individual freedom and avoiding tyranny. He emphasized that freedom can only exist in a society where no one has to fear being threatened by the arbitrariness of others, and decentralization is the key to achieving that.

Montesquieu does not see decentralization as a rigid model but rather a principle that needs to be adapted to the characteristics of each country. He

argued that laws and state organizations must reflect the natural, cultural, historical and customary conditions of each society. For example, a country with a tradition of centralizing power may not apply absolute decentralization like Western democracies, but it can still learn the spirit of control and balance to manage more effectively. This flexibility makes Montesquieu's thought popular and widely applicable, not only in Western countries but also in countries such as Vietnam, where the rule of law system has its own characteristics. He also upheld the role of law as the foundation of social order, affirming that a transparent and fair legal system is a prerequisite for maintaining stability and protecting human rights.

Another aspect of Montesquieu's philosophy of the rule of law is the emphasis on the relative independence of the branches of power. He did not require these branches to be completely separate, but to have smooth coordination to ensure that the state operates effectively. For example, the legislative branch can oversee the executive branch through legal regulations, while the judicial branch acts as an intermediary to resolve conflicts between the other two branches. This coordination does not weaken the principle of decentralization, but on the contrary, strengthens the ability to control each other, creating a balanced and sustainable management system. Montesquieu also noted that decentralization is not only an organizational issue but also a matter of political ethics, requiring those in power to be responsible and aware of the common good.

Montesquieu's thought laid the foundation for modern models of the rule of law, especially in Western democracies, where the separation of powers was thoroughly applied. However, its value is not only limited to the Western context but can also be flexibly applied in countries with different political systems, such as Vietnam. In Vietnam, although the model of separation of powers is not applied, Montesquieu's spirit of delegation and control of power is still absorbed to build an effective state apparatus, in line with the socialist orientation. His philosophy of the rule of law is not only a theory but also a practical inspiration, encouraging nations to seek a balance between power and freedom in their own contexts.

3.2. Rousseau's philosophical principles of the rule of law

Rousseau's philosophy of the rule of law focuses on the concept of people's sovereignty, a revolutionary principle that asserts that the supreme power in a society must belong to the whole people, not to any individual or small group. Rousseau argued that the state is only legitimate when it represents the common will - a concept he defined as the unity of the collective good, which transcends individual opinions or interests. The common will is not a simple synthesis of different opinions, but the result of consensus on what is best for the community. According to Rousseau, the law and the state must come from this common will, ensuring that every decision reflects the interests of the entire population, rather than serving a privileged group. This requires citizens to participate, directly or indirectly, in the legislative and administrative process, making the state an instrument for the implementation of their will.

Rousseau also emphasized social equality as a core goal of the rule of law. He said that freedom and equality are two inseparable values, and the law must play a role in protecting these values, preventing injustice caused by wealth disparities or power. In his thought, the state is not just a governing institution but a social contract, where people voluntarily give up a portion of their personal freedom in order to receive protection and justice from the community. This social contract is based on consensus, in which each individual is both a lawmaker and a law-abiding, creating a close bond between the state and the people. Rousseau believed that only when the law reflects the common will and protects equality can society achieve true harmony and justice.

A special feature of Rousseau's philosophy of the rule of law is that he does not advocate a model of total representation, but encourages the direct participation of the people in political decisions. However, he also acknowledged that in large societies, this can be difficult to do, and therefore elected representatives must be those who truly reflect the will of the community, rather than pursuing their own interests. Rousseau warned that if the state did not properly represent the common will, it would lose its legitimacy and become an instrument of oppression. This ideology is idealistic, but it also sets a high standard for the organization of the state and the

formulation of laws, requiring transparency and accountability on the part of those in power.

Rousseau's ideas had a great influence on democratic and revolutionary movements, especially the French Revolution, where the idea of popular sovereignty became the driving force for social change. In Vietnam, this spirit is applied in building a socialist state under the rule of law, with the goal of putting the people at the center of all policies. Although it does not apply the direct democracy model as proposed by Rousseau, Vietnam still emphasizes the people's right to ownership through mechanisms of representation and participation in state management, in line with the centralized political context and socialist orientation. Rousseau's philosophy of the rule of law is not only a theory but also a call to practice, encouraging nations to build legal systems based on the will and interests of the whole population.

3.3. Application in Vietnam

The application of Montesquieu and Rousseau's philosophy of the rule of law in Vietnam is a selective process, combined with a socialist orientation to build a rule of law state in accordance with the cultural and political characteristics of the country. Regarding Montesquieu's principle of decentralization, Vietnam does not apply the model of separation of powers like Western countries, but implements the assignment and coordination between state agencies under the unified leadership of the Communist Party. The National Assembly plays a legislative role, promulgating important laws such as the Constitution, civil law and criminal law, shaping the legal framework for society. The government assumes the executive function, implements and enforces policies based on the laws promulgated by the National Assembly. Courts and judicial agencies perform the function of adjudicating, resolving legal disputes and ensuring that the law is applied fairly. However, unlike Montesquieu's idea of complete independence between branches, in Vietnam, these agencies operate in a unified system, under the direction of the Party, in order to ensure stability and centralization in management.

Although there is no absolute separation, Montesquieu's spirit of control and balance is still expressed in Vietnam through mutual monitoring

mechanisms between state agencies. The National Assembly oversees the Government's activities through periodic questioning sessions and reports, while the Court acts as an intermediary in resolving legal disputes related to the conduct of executive agencies. Internal examination and inspection bodies also contribute to ensuring that power is not abused, thereby creating a certain degree of balance in the system. This application shows that Vietnam has absorbed Montesquieu's idea of decentralization, but adjusted it to fit the centralized political model, where the leadership of the Party is seen as a core factor to maintain the socialist orientation and stability of the country.

Regarding Rousseau's idea of people's sovereignty, Vietnam emphasizes the people's sovereignty as a basic principle in building a socialist state under the rule of law. The Constitution affirms that all power belongs to the people, and the state is a tool to implement the will of the people under the leadership of the Party. People are encouraged to participate in state management through channels such as the election of National Assembly deputies, contributing opinions to draft laws, or participating in local conferences to reflect their aspirations. The common will, as understood in Vietnam, is expressed through the Party's line and policies, which are seen as representing the interests of the whole people, thereby ensuring that the law and the state serve the goals of justice and social development. Policies to support the poor, develop education and health in remote areas also reflect Rousseau's spirit of equality, as the state strives to reduce injustice and provide opportunities for all classes.

However, the application of Rousseau's ideas in Vietnam is not entirely according to the direct democracy model that he proposes, but through a representative mechanism under the direction of the Party. This is different from Rousseau's ideal of direct participation of the people in every political decision, but is in line with the reality of a country with a large population and a centralized political system. This application not only maintains the spirit of people's sovereignty, but also ensures stability and efficiency in management, reflecting Vietnam's flexibility in combining Western ideas with local characteristics. As a result, both the principles of Montesquieu and Rousseau

have been creatively absorbed, creating a model of the rule of law that is both socialist and meets the requirements of the times.

4. Discussion

4.1. Achievements in application

The application of Montesquieu and Rousseau's philosophy of the rule of law to the construction of a socialist rule of law state in Vietnam has brought remarkable achievements, demonstrating creativity in combining Western thought with local practice. From Montesquieu's principle of decentralization, Vietnam has built a rule of law system with effective delegation and coordination among state agencies, under the unified leadership of the Communist Party. Congress assumes a legislative role, enacting important laws such as the Constitution, civil law, and criminal law, creating a solid legal framework for regulating social relations. The government performs executive functions, implements policies for economic and social development, and protects national security, while the judiciary, including the courts, plays a judicial role to ensure that the law is applied fairly and transparently. This assignment not only helps to organize the state apparatus scientifically but also creates conditions for each agency to maximize its capacity, contributing to improving the efficiency of management and maintaining the stability of the country.

Montesquieu's spirit of control and balance of power is also evident in Vietnamese practice through close monitoring mechanisms between agencies. The National Assembly regularly organizes questioning sessions to monitor the Government's activities, ensuring that policies are implemented in the right direction and bring benefits to the people. Judicial agencies, with the role of resolving legal disputes, not only protect the interests of the people but also contribute to checking the legality of executive decisions. The system of internal inspection and examination in the state apparatus also plays an important role in ensuring that power is used for the right purpose, serving the common good. This achievement shows that Vietnam has flexibly absorbed Montesquieu's thought, adjusted it to suit the centralized political model, creating a rule of law system that is both effective and stable, meeting the requirements of development in the new era.

Regarding Rousseau's idea of people's sovereignty, Vietnam has made significant progress in affirming the people's right to mastery, a core principle in building a socialist rule of law state. The Constitution of Vietnam emphasizes that all power belongs to the people, and the state is organized to carry out the will of the people under the leadership of the Party. People have the opportunity to participate in state management through activities such as electing National Assembly deputies, contributing opinions to draft laws, and participating in local conferences to express their aspirations. These channels not only help people express their will but also strengthen the cohesion between the state and the community, creating a solid foundation for social consensus. Policies to support the poor, develop education and health care in remote and remote areas also demonstrate Rousseau's spirit of equality, as the state strives to provide development opportunities for all classes, thereby improving the quality of life and strengthening people's trust in the rule of law.

The achievements in the application of Montesquieu and Rousseau's ideas are not only reflected in the effectiveness of the state apparatus but also in the ability to harmoniously combine the principles of universal rule of law and the socialist orientation. The division of power helps Vietnam manage society in a scientific and transparent way, while the spirit of people's sovereignty creates a motivation for people to actively participate in the development of the country. These results affirm that Vietnam has been creative in absorbing progressive values from the West, while maintaining its own identity, building a rule of law model that is both modern and in line with local realities.

4.2. Development potential in the modern context

The modern context, with the development of a socialist-oriented market economy and international integration, brings a lot of potential for Vietnam to continue to apply the philosophy of the rule of law of Montesquieu and Rousseau, thereby improving the efficiency of the socialist rule of law state. Montesquieu's spirit of decentralization opens up opportunities for Vietnam to continue to improve the assignment and coordination between state agencies, ensuring that each agency maximizes its role in serving the people. This assignment not only helps to enhance management efficiency but also

creates conditions for agencies to supervise each other, thereby improving transparency and accountability in state operations. For example, Congress can expand questioning sessions to oversee the Government, while the judiciary continues to be strengthened to resolve legal issues fairly and quickly. This potential shows that Vietnam is able to build an increasingly scientific rule of law system, meeting the requirements of a modern society.

Rousseau's idea of people's sovereignty also offers great potential in encouraging people's participation in state management, an important factor for enhancing democracy in the socialist model of the rule of law. Vietnam has been creating many channels for people to express their opinions, from contributing to draft laws to participating in dialogues with local authorities. In the modern context, the development of information technology opens up opportunities to expand these channels, allowing people in all regions, from urban to rural, to participate in contributing ideas through online platforms. Initiatives such as government portals or policy response apps not only make it easier for people to access the law, but also allow them to directly participate in the process of making and enforcing the law. This potential not only strengthens the people's right to ownership, but also strengthens the cohesion between the state and the community, reflecting Rousseau's spirit of common will.

International integration also brings the potential for Vietnam to learn from and adjust its rule of law system, combining the ideas of Montesquieu and Rousseau with global legal values. Participation in free trade agreements and international organizations requires Vietnam to improve its laws to meet international standards, from protecting intellectual property rights to ensuring labor rights. This process not only helps Vietnam improve its management efficiency but also creates an opportunity to affirm its socialist rule of law identity in the international arena. For example, policies that encourage innovation and sustainable development not only boost the economy but also benefit the whole population, demonstrating a combination of Montesquieu's scientific decentralization and Rousseau's social equality. This potential shows that Vietnam is capable of building a model of the rule of law that is both modern and maintains the socialist orientation.

Modern technology and communication also open up the potential to improve the efficiency of law enforcement and state management. The application of technology to legal management, such as building an online legal database or using artificial intelligence to support legislation, will help the law become more transparent and accessible. These advances not only enhance the efficiency of the state apparatus but also create conditions for people to participate more actively in rule of law activities, thereby strengthening trust and consensus in society. This development potential affirms that Vietnam can continue to apply the philosophy of the rule of law of Montesquieu and Rousseau creatively, building a strong, flexible rule of law state and better serving the people.

4.3. Future direction

The future direction to improve the socialist rule of law state in Vietnam, based on the application of the philosophy of the rule of law of Montesquieu and Rousseau, opens up many positive and promising prospects. One of the important directions is to continue to strengthen the efficiency of assignment and coordination between state agencies, inspired by Montesquieu's spirit of decentralization. Vietnam can expand oversight mechanisms between the National Assembly, the Government and the Courts, ensuring that each agency not only performs its functions well but also supports each other to serve the interests of the people. For example, the National Assembly can strengthen monitoring sessions to evaluate the effectiveness of the Government's policy implementation, while the Court continues to be strengthened to resolve legal issues in a transparent and fair manner. This direction will help the state apparatus operate more scientifically, and at the same time maintain the stability and socialist orientation that is characteristic of Vietnam.

The second direction is to expand the participation of the people in state management, based on Rousseau's idea of people's sovereignty. Vietnam can continue to develop channels for people to contribute their opinions, from organizing civic forums at the local level to using digital technologies such as social networks and web portals as a platform for dialogue between the government and the people. These initiatives not only help people express their

will but also increase the transparency and accountability of the state. Legal education programs, especially in remote areas, can also be promoted through propaganda sessions or accessible materials, helping people better understand their rights and responsibilities. This direction will strengthen the people's right to ownership, create a strong social consensus and affirm the role of the people in building the country.

The application of modern technology to the management of the rule of law is another promising direction. Vietnam can continue to invest in online legal database systems, using artificial intelligence technology to support legislation and law enforcement, thereby improving the accuracy and efficiency of the rule of law system. These tools not only make the law more accessible to the people, but also create conditions for state agencies to coordinate more smoothly, reflecting Montesquieu's spirit of decentralization. At the same time, technology also supports the dissemination of laws and the collection of people's opinions, contributing to the implementation of the common will as understood by Rousseau. This direction will help Vietnam build a modern, flexible rule of law state and better serve sustainable development.

Finally, Vietnam can take advantage of international integration to affirm its socialist rule of law identity, harmoniously combining the ideas of Montesquieu and Rousseau with local realities. Joining international organizations and implementing global commitments not only helps Vietnam improve its legal system, but also provides an opportunity to showcase its rule of law model as a successful example of innovation in state management. Policies on environmental protection, encouraging innovation and ensuring labor rights will continue to be developed, both meeting international standards and bringing benefits to the people. These directions show that Vietnam has great potential to build a socialist rule of law state that both maintains its orientation and is modern, bringing long-term value to the country and its people.

5. Conclusion

Montesquieu and Rousseau's philosophy of the rule of law brings valuable principles of decentralization and people's sovereignty, creating a valuable inspiration for the construction of a socialist rule of law state in

Vietnam. Montesquieu's idea of decentralization has been creatively applied by Vietnam through effective assignment and coordination between state agencies, ensuring science and transparency in management, and maintaining stability under the leadership of the Party. Meanwhile, Rousseau's concept of people's sovereignty is expressed through affirming the people's right to ownership, with increasingly expanding channels of participation, from elections to opinion contributions, creating consensus and cohesion between the state and society. This combination not only reflects the spirit of universal rule of law but is also in line with the socialist orientation and cultural identity of Vietnam. The achievements show that Vietnam has flexibly absorbed progressive values from the West, built a rule of law model that is both modern and specific, meeting the requirements of market economy development and international integration. The potential in applying technology, enhancing people's participation and learning from global norms opens up bright prospects for perfecting the rule of law system. In the future, Vietnam can continue to promote these directions, harmoniously combining scientific decentralization and common will, in order to build a strong, transparent rule of law state and better serve the people. With an innovative approach, Vietnam is affirming its position in developing a progressive model of the rule of law, bringing long-term benefits to the country.

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