

CONDITIONS AND PREMISES FOR THE INTRODUCTION OF THE THOUGHT ON THE RULE OF LAW STATES OF MODERN WESTERN PHILOSOPHERS

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Abstract: Building a socialist rule of law state in Vietnam is currently one of the most important political tasks in our country. The situation of reality requires that it is necessary to deepen and study the ideas of the rule of law state of modern Western philosophy in association with the historical conditions for its birth in order to apply the system of rule of law ideology into building the rule of law in Vietnam in the current period. With that in mind, with a systematic research method of materialist dialectic, this article mainly clarifies the conditions and premise for the birth of the idea of the rule of law in Western philosophy during the pre-modern period.

Keywords: Preconditions, Ideology, Rule of Law, Western philosophy, modern period.

I. INTRODUCTION

Any ideology is born from the very ground of reality in which it is nurtured. As in the "preface" of the work "The principles of the philosophy of law", Hegel asserted: "Each individual is always a child of his time, so philosophy, too, is the understanding of one's own time with thought. It is foolish to think that a philosophy can be out of its time" [2, p.84]. According to that concept, the entire Western philosophical system, especially the ideas about the rule of law state, are the spiritual products of the times born from the social reality of Western Europe. Therefore, in order to be able to study and understand in a true and correct way the contents of the doctrine of the rule of law in the modern West, it is necessary to put these ideas in a specific historical context that it was born.

II. CONTENTS

1. Economic, political and social context in the modern West

It can be affirmed that the economic, political, social context and the revolutionary role of the thinkers themselves in the modern West have created the main and direct needs and motivations for the development of the birth of the ideology on the rule of law states in this period.

The outstanding economic feature in the West during this period was the strong formation and development of the capitalist mode of production associated with the great mechanical industry. In some typical Western European countries, such as: Britain, France, the Netherlands, etc., the capitalist mode of production gradually became the dominant mode of production to replace the small, outdated feudal production method, it was time to be negated. That practice gave wings to the development of experimental natural sciences culminating in the industrial revolution that shook Europe taking place in England starting in 1760. Accordingly, a series of great inventions were born, creating profound changes in the socio-economic life of European countries at that time, bringing about an unprecedented development of production in history in

terms of level, scale and quantity of goods produced. The development of the capitalist economy destroyed feudal production relations, giving rise to a new class - the bourgeoisie as a progressive social force representing the mode of capitalist production.

The strong development of the capitalist mode of production has also led to profound changes in politics and society, especially class conflicts to the climax in the hearts of Western countries. Although the capitalist economy has replaced feudal production, in terms of superstructure, European society is still dominated by feudalism with its basic characteristics as tyranny, backwardness, inhibition of development. The bourgeoisie, although possessing economic potential, has no real political power and is subject to the feudal class. Therefore, in order to meet the urgent requirements of history and affirm the position of their class, the bourgeoisie and the masses of the people have waged extremely fierce struggles to overthrow the domination of the feudalism and the church. Therefore, a series of bourgeois revolutions quickly took place in a number of Western European countries, first in the Netherlands and then the English bourgeois revolution (1642-1648). Although the British bourgeois revolution has won, it is an incomplete revolution because it has not fulfilled the historical task of eradicating the European feudalism. Next was the French bourgeois revolution (1789 - 1794) with the execution of King Louis XVI as a decisive blow to the destruction of feudalism in Europe, paving the way for capitalist production forces to develop and form the Western bourgeois countries and from here, the bourgeoisie officially stepped onto the political arena, gaining dominion in the countries.

It was during the bourgeois revolutions in England and France that radical, timeless thinkers were born as witnesses of history, who were directly involved in the revolutionary struggle, political and ideological to fight against European feudalism and take power back to the bourgeoisie. First of all, John Locke (1632 - 1704) was a philosopher and politician who directly participated in and made great contributions to the victory of the English bourgeois revolution. His thought "natural rule of law" is considered to be the origin of the British, French and American bourgeois democratic revolutions of the seventeenth and eighteenth centuries in Europe. Witnessing class conflicts to the climax between the bourgeoisie, the new aristocracy and the feudal forces in British society, John Locke was directly involved in the great political upheavals of England, especially the glorious revolution of 1688 aimed to completely abolish the absolutist monarchy and establish a constitutional monarchy in the United Kingdom. Accordingly, the supreme power was transferred from the monarch to the new aristocracy and bourgeoisie, fundamentally changing the British government and bringing England into an industrial revolution, creating a new civilization for the mankind. However, this was an incomplete revolution because of the conservative nature, compromise between the bourgeoisie, the new aristocracy and the feudal aristocracy in order to protect their rights and oppose the working people. It is this reality that makes the imprint of doctrine and religion still exist in the worldview of British materialist philosophers in general and the concept of John Locke in particular. In that context, works on religion and the state, especially the "second treatise on government - civil government" (1689) are the results of John Locke's own bloody experience and is a generalized truth from historical laws. His ideologies have inspired and greatly influenced many thinkers and subsequent bourgeois revolutions in history.

If in the British bourgeois revolution, thinkers went behind to reflect social reality, in the French bourgeois revolution, progressive bourgeois thinkers, such as: Montesquieu, Vonte, Rousseau, etc. stood up, in the name of the common will of the whole nation and gave birth to ideas upholding the spirit of democracy, human rights and the idea of state power, forming a philosophy of the French Enlightenment. It was their thought that created the theoretical premise that paved the way for the great French bourgeois revolution (1789) to victory, broke the chains and marked the end of the long-standing feudal system in France, opening a new era for French history. This is a political event of international stature, which has extremely important significance and profoundly influenced the thought of philosophers in later periods in history. It is the result of the revolutionary fighting spirit of progressive forces to reclaim basic human rights. Since then, the slogan "freedom, equality, fraternity" written on the flag of the French bourgeois revolution has had a strong influence and is an inspiration for socio-political problems of German philosophers.

The resounding victory of the English and French bourgeois revolutions became the torch that illuminated and awakened the revolutionary spirit of the bourgeoisie and progressive forces in German society. Before the stormy development of the industrial and commercial economy in Western European countries, Germany is sleeping in winter with a stagnant and low economy bound by feudal conservative and backward production relations. In addition, the decentralization of the monarchy has made Germany more confused, complicated and contains more contradictions than ever before. The court of Prussian King Friedrich Wilhelm II (1797 - 1840) still maintained its domination by an absolute monarchy, hindering the country's development along the capitalist path. Over Germany was an atmosphere of discontent and melancholy.

However, the German bourgeoisie and progressive forces existed sporadically, were weak in both numbers and economic potential, did not have the political courage to overthrow the Prussian feudal system by a revolution in practice but only ideological struggle. This has led to a spirit of compromise, reformation, denial of social reform by revolutionary violence. It is the above socio-economic context that has profoundly influenced the content and philosophical ideological stance of bourgeois thinkers in Germany such as Kant, Hegel. Since then, they have built your doctrine of the state to reflect the political aspirations, to be the loyal voice of the bourgeoisie and the German progressive forces against the weakness and compromise of the Prussian feudal monarchy.

Stemming from the above economic, political and social contexts, in Western European countries, there have appeared radical thinkers representing the interests of the bourgeoisie who are looking for an effective solution to secure and exercise the power of the people. Before that requirement, the idea of the rule of law state was born for an important and unique purpose that is to ensure the rights - natural rights of people. It can be affirmed that, besides the objective economic, political and social conditions in the three countries of England, France and Germany at this time, it is the natural ability and the unique subjective factors of the philosophers of this period also played a very important role and were the direct premise leading to the formation and development of the thought of the rule of modern Western philosophers.

2. Theoretical premise for the birth of ideas about the rule of law of modern Western philosophers

The philosophy of rule of law in general and the ideology of the rule of law state of modern Western philosophers in particular are not only the product of historical reality but also the inheritance and development of ideological achievements of the earlier history of philosophy. Therefore, in order to be able to perceive deeply, scientifically and fully the thought of the modern rule of law state, it is necessary to put it in a dialectical relationship with socio-political views, on state and law of the preceding philosophers in the history.

2.1. Thought on the rule of law state in ancient Western philosophy

One of the first sources of thought for the Western rule of law theory in modern times is the spiritual values of ancient Greek philosophy. The basic content of the ideas of this period mainly emphasized the role of law and the relationship between citizens and the state in establishing a common order. However, it is still rudimentary, lacks systematicity and has not yet become a complete theoretical theory. It is expressed most concentrated in the thought of ancient philosophers such as: Solon, Heraclitus, Socrates, Democritus, Plato, Aristotle, and Ciceron. And became the source of many later Western philosophical schools.

First of all, one of the first reformers to initiate the idea of state and democracy in Greece was Solon (638 - 559 BC). He was one of the thinkers who made a great contribution in bringing about the social reforms of the Athenian state (Greece). His thoughts are: I liberate all people by the power of law, by the combination of power with the law. He argued that in order to achieve freedom and justice, the power of the state must be equal to the law: "only law can establish order and create unity" [1, p.220]. In his political thought, he especially emphasized the role of law with the meaning that only law can establish order and create unity. Solon's ideas about the state and law have contributed to combating the childish, fallacious notions about the role of power in ancient times, laying the foundation for the birth of a series of political ideas - later society. Especially, the idea of respecting the law - one of the basic criteria of the rule of law state, has been deeply discussed by modern philosophers in their ideological system.

Next, we must mention the values in Socrates' thought on the role of law, classifying forms of state and contractual relationship between the state and citizens. Starting from supporting the principle of obeying the current law and considering it as a condition for maintaining order and prosperous development of the state, Socrates said that each citizen must respect and demonstrate absolute loyalty to the order and regulations of the state. He wrote: "Any law, however flawed, is more lifesaving than breaking the law. If all citizens obey the law, the state in which they live will become much more powerful and prosperous" [3, p.3]. With the above theses, he became the first person in the history of European thought to deal with the contractual relationship between the state and the citizens. Paving the way for the formation and development of concepts of social contract of later modern philosophers, typically the concept of social contract of Montesquie and Rousse.

Moreover, he was also the first to attempt to classify the forms of the state. According to him, the state has the following basic forms: Monarchy, tyrant, aristocracy, semi-nobility and democracy. Among them, the aristocracy he considered the most right and moral. This had a profound influence on the views of later philosophers, especially his student - Plato.

It is also necessary to affirm that, in the ancient period, the two pillars of thought that had the most important and direct influence on the concept of the rule of law of modern Western philosophers were the of Plato and Aristotle.

Plato (427 - 374 BC), one of the outstanding thinkers of ancient Greece. The outstanding contribution in his thought is the concept of law and the ideal state model which is clearly shown in some of his works such as: *State, Law, and Republic*.

In his work *The Republic*, Platon argues that the ruler must set aside personal will in order to comply with the will of the law. He made a thesis that affirmed the supremacy of the law and predicted the rapid collapse of the state, if in that state the law did not have supreme power. He wrote: "I see the destruction of the kind of state, where the law has no power and must be under someone else's power. But where the law is lord over the ruler, and they are its slaves, we see the salvation of the state and all the riches that only God can bestow upon it" [3 p.5].

Besides, Plato considered the universality of the law as one of the criteria for establishing the state. The state can only be built if there is justice and only the law is the standard measure of that justice. According to him, the state as an organic whole, spontaneously emerges from human needs on the basis of cooperation and towards the interests of the entire community. Therefore, he came to the conclusion, for that principle to be recognized, the state needs to serve the interests of the whole society, not for a certain group, not for the majority or the minority, but for all.

Pursuing the ideal state model, the state of justice, Plato pointed out that the state must be built on the basis of social positions, different capacities in each person and the division of human souls. From there, he divided society into three categories of people: Gold class, silver class and bronze class. Firstly, the golden caste included philosophers and wise men. They are talented people, comprehensive both mentally and physically. With their peaceful qualities, virtue, and wisdom, they are considered the head of the state with the mission of perfecting the ideal state. The people of the golden caste, both rulers of the country but also philosophers, play an important role in building the moral foundation and noble ideals to build the country. As for kings, it must be philosophers who are considered to be in this caste because only then can they bring justice and ideal order to the state. Secondly, the silver caste, are the soldiers on duty to protect the security of the state. Their souls are full of emotion, bravery, courage and know how to submit to emotional aspirations with reason and duty. Therefore, Plato said that they need to eat, live in moderation and exercise to force the body to follow the adjustment of the spirit. Moreover, soldiers should not possess a lot of wealth because it can lead to greed and create many evils in society. Thirdly, the bronze caste, which included laborers and traders such as farmers and craftsmen. They have the duty to submit to the established order, live by feelings, have virtue, endure, are suitable for manual labor and are the main force directly producing material wealth to feed the society.

From there, he came to affirm that in society there are many classes of people and there cannot be equal fairness. Justice lies in the fact that each class of people must live in accordance with their class and do their best. Thus, in his view, Plato acknowledged the class distinction and inequality in society, supported and stood on the position of the bourgeoisie to defend and defend the interests of the aristocrat class - whom he considered the most talented and virtuous. But in other points, Plato advocates that it is necessary to abolish private property and establish public property because that helps society to be less chaotic.

It can be seen that there are contradictions in Plato's socio-political conception. It was the contrast between the aspiration to build an ideal state model and the protection of the aristocracy. It is also the limitation brought about by the background and the era that most thinkers of this period are inevitably influenced. However, the positive values in Plato's conception are an important basis for later thinkers to inherit and develop in their political and philosophical theories.

On the basis of direct inheritance and development of the political-legal views of Plato, Aristotle (384 - 322 BC) deepened the view of the supremacy of law in the state and created a step A new advance in the history of political thought in antiquity as the first to introduce the term "polis" and to refer to the classification of organs of state power.

According to Aristotle, the state was born on the basis of a collection of individuals who differed in their positions, assets, educational attainment and practical political ability of the public. The state's mission is to ensure people's justice and happy life, directing people to noble moral values.

Like other thinkers before him, Aristotle emphasized the necessity of law in close connection with the concept of the state. Where there is no rule of law, he argues, there is no place for any form of state. Thanks to the law, man becomes noble and civilized, otherwise man is no different from a wild animal. This argument is the basis for Thomas Hobbes to later assert that man's use of law has created a step forward in human history and transformed people from a state of living instinctive

living to living according to reason. According to him, thanks to the common characteristic that law is separated from lust, it is a balanced reason that emotions, feelings, and aversion cannot be prevented. Therefore, the law needs to hold a dominant position in society, not people because people always let their self-interest and emotions interfere. It can be seen that Aristotle's view is very close to the legal thought, which is the expression of Rousseau's general will later. He wrote: "Thus, whoever demands the dominion of the law of the gods and reason, and he who demands human dominion, that is to say, introduces to his claim the element of the animal, for passion is a something animalistic, just as indignation also misguides the rulers, even though they are the best; on the contrary, the law - it is a balanced will" [5, p.33].

Agreeing with Plato, Aristotle said that the purpose of the law as well as of the state is the common good, so it is necessarily related to justice. Therefore, law is synonymous with fairness, a measure of fairness and a norm governing political communication. At this point, Aristotle has partly pointed out the inevitable relationship between law and the state - the basic relationship that forms the characteristics of the rule of law state mentioned in later legal doctrines. In addition to the progressive notion that "the law is equal for all", Aristotle demonstrated limitations in assuming that slavery existed predestinedly. This is a limitation stemming from the economic, political and social factors in which he lived.

Unlike Plato's political views, Aristotle classified the forms of the state based on several basic criteria such as: The number of rulers, their assets, and their political capacity. In his political work, he argues that there are three historically correct forms of state: monarchy (power is concentrated in the hands of one person), aristocracy (power belongs to an elite few) and republics (where power belongs to the majority). But if they do not serve the common good, these regimes will be turned into false forms of state, respectively tyranny (protecting the interests of one person), oligarchy (protecting the interests of the minority) and democracy (power belongs to the ignorant, poor and flatter few). Of these, the monarchy was praised by him as the most ideal, although it was not possible. The aristocratic state was possible, but he favored the middle class with a type of state that had a combination of monarchy, aristocracy and democracy.

One of Aristotle's great contributions to the history of political thought in antiquity was his early thought on the classification of state power. Accordingly, he divided state power into three parts: Legal advice on state councils, town halls and judicial bodies. And the difference of the state regime is due to the different organization of each of these parts. Although this is not the idea of decentralization, the silhouettes of the three branches, respectively legislative, executive and judicial, were initially sketched by Aristotle. For the latter, it was actually formed in the decentralization theory of modern Western thinkers.

The idea of the rule of law in antiquity continued to be developed in the ancient Roman state, especially by Siserong (104 - 44 BC), an emerging philosopher, political activist, and outstanding orator of the dominant slave class in Roman society. His own views and society are clearly expressed in a number of famous works, such as: About the state, about the law and about the obligations. These views are considered as the source for the formation of ideas about the bourgeois rule of law state in the future.

Siserong thinks that the state is a public legal community. In which, the people are related and attached to each other by the legal harmony, because the common interests and the law is the essential source of the state organization. The law in his conception is the natural law, derived from the rational nature of man and the entire natural world around it, which is considered to be the creation of the supreme divine reason. Natural law existed before state and written law. The source and foundation of the state is the natural law of the people, creating its legal institution in the form of the state. It can be seen that Siserong's thought contains both republican and people's sovereignty. This is a progressive concept, which is an important basis for natural law philosophers, such as: Spinoda, Hobbies inherit and develop in their doctrine.

According to Siserong, the state is governed by the rule of law not because it obeys laws and external conditions, but because it comes from the very origin and nature of the people's natural laws, agreed upon and institutionalization. Therefore, he said, state laws must be consistent with natural laws and only then are laws correct and obeyed by everyone. This is a very important legal principle. Although asserting that the state has the duty to protect property for the people, but in fact it is only the property of the slave-owner class, he denied the poor's participation in politics. Thus, Siserong still stood on the position of the slave-owner class to protect and justify them by natural law, acknowledging the distinction between rich and poor and inequality in class.

The equality of all citizens before the law of the state, according to him, can only be achieved in a mixed state with three elements: Monarchy, aristocracy and democracy. From there, he gave his view on the division of power and duties for those

who occupy the top and the people as follows: "Because, in the state, something must emerge and reign, and part of the power must be divided and given to the supremacy of those who occupy the top, and some of the work must be left to people judge and resolve" [5, p.37].

Thus, the thought of ancient philosophers mainly focused on explaining the basic issues of the purpose and role of law in the state, giving primitive ideas about classification, function, powers and duties of state agencies. Although they are still limited in their political positions due to the influence of the times, these ideas have great significance in opposing tyranny and authoritarianism, expressing the aspiration for a good ideal society and initially laid the foundation for the formation of the doctrine of separation of powers later. Just like Ph. Engels observed that without the basis of Greek and Roman civilization there would be no modern Europe.

2.2. Thoughts on the rule of law in Western philosophy in the Middle Ages

Following ancient times, the medieval night of thousands of years under the yoke of kingship and theocracy has created a different color in the development of the history of human thought. In this period, the long and backward existence of feudalism made the state little or no knowledge of the rule of law. The domination of theological darkness and draconian laws have taken away basic human rights, such as: Natural rights, liberties, equal rights. Stemming from that reality, the medieval progressive thinkers - who represented the voice of the masses fought against the old regime, expressed their desire to liberate themselves and build a fair and democratic society. These are theologians like: Augustine, Thomas Aquinas, etc.

First of all, the Christian theologian Augustine (354 - 430). He is considered the pinnacle of the philosophy of the patriarchal period with a treasure trove of valuable philosophical works containing many profound thoughts on the state and socio-political issues. One of them is his work *On The City of God*.

Christianity is considered the basis and truth on which Augustine's doctrine of the state is built. He believes that state power must be exercised as a service power. Standing on the position of slave owners, Augustine defended slavery by affirming the existence of slavery, private property, injustice, and rich and poor in society is due to the will of God. Therefore, he advised slaves to endure and serve the slave owners because if they resisted, they will be punished by God. Thus, according to Augustine's concept, God is the supreme force that governs all activities of the state, so the state must submit to the church. From here, he asserted that secular power was subordinated to that of religion. This clearly showed the divine nature and the intention to protect the exploitative regime in his thought.

To further clarify his service power, in the work *On The City of God*, Augustine solved socio-political issues by analyzing the relationship between the church and the state. He considered the world to have two cities: The "City of God" is the church and the "City of the Earth" is the state. In it, the church is the millennial kingdom of God and it is higher than the state - the earthly kingdom is full of evil. So the power of the state is lower and dependent on the church. According to this view of his, the spirit is higher than matter or the soul is higher than the body.

Moreover, he considers power to be a common property, a tool for the realization of love and justice. As a matter of course, people always want and need justice, so the person who represents the people who is given power by God must be the one who has authority. The criteria of the rulers, according to him, is to use power to serve the people, take justice as the root, take charity as the top, be moderate, dare to sacrifice for others, and know the limits of ordinary personal aspirations. At the same time, he asserted that it was the decline in the quality and status of the government that was the cause of the collapse of the state.

Equal rights of man in Augustine's conception also do not go beyond the will of God and the teachings of the church. He has shown contradictions in his thought when explaining the cause of inequality and disparity between rich and poor in society is due to material desires. But on the other hand, he acknowledged and defended the inequality of society in the mysterious guise of god. He advised the poor to remain in peace, to love God, to forget themselves, and to observe God's eternal laws. This is also the general limitation of medieval philosophers due to the influence of social conditions at that time.

Although shrouded in theological darkness, Augustine's conceptions of the state showed profound political thinking in directing people towards an ideal and peaceful society. It is this that has made the mark and typical of his philosophy in the Middle Ages, as the view of M. Gradman argued that the influence of the patriarchal period on medieval philosophy was synonymous with inheriting and developing the legacies of Augustine in the Middle Ages.

Next, was Thomas Aquinas (1225 - 1274), who contributed many important political and social views to the fight against feudalism in medieval Western Europe. Standing on a theological stance, he asserted that the social order and the domination of the state originate from God. The state according to him is not the form of nature, but the necessity of human life. He propagated the domination of the church over civil society, that earthly life was merely a preparation for life in heaven.

In his conception of the state, Thomas Aquinas showed strong influence from Aristotle. This is reflected in the fact that, while explaining the origin of the state, both men said that human nature is a social being, cannot live alone but must live in community. Living in a human community requires reason and it allows people to make creativity and discover the laws of life. In community life, problems will arise and in order to maintain order there needs to be a common law, implemented from family to village, from tribe to state, that cohesion forms the state.

According to him, the supreme purpose of the state is to bring good ideals and happiness with God to everyone. The state must create conditions for citizens to assume religious responsibilities, and thus the state not only fulfills its earthly purposes, but also fulfills its supramundane purposes. That view represents the theologian Thomas Aquinas' intention to defend the dominance of ecclesiastical laws.

He also distinguishes between different social institutions: monarchy, aristocracy, oligarchy, and despotic deformities are democracy. He considered the monarchy as the highest form and gave priority to the state with the form of a combination of monarchy, aristocracy and democracy. As a monarchist, he believed that the earthly emperor was not only the ruler but also the creator of the nation.

Surpassing medieval theologians, Thomas Aquinas showed his advance, when he conceived of law as an order established by reason to serve the interests of all citizens and to govern the society. He distinguishes laws into four categories: 1. The eternal law is the law of God, the basis of nature - society and the whole world; 2. The natural law reflects the eternal law by human will, including the law of race preservation and human coexistence; 3. Human law is the current feudal law, reflecting the natural law drawn from God's wisdom, it was born as punishment to punish people with distorted moral will. 4. Divine law is the biblical law that guides people to truth and justice. In particular, human law must not be anti-natural, that is, the rulers must not forbid their subjects to live, marry and give birth, while for the military service, labor and tax collection, they are still subject to the decision of the feudatory kings.

It can be seen that, among medieval philosophers, Thomas Aquinas is the most progressive thinker when affirming the role of law for the management of society and citizens. The above distinction between natural law and written law has created an important theoretical premise for the formation and development of later currents of legal thought.

In general, during the medieval period in the West, theological thought covered and dominated all areas of social life, including politics. Stemming from the need to explain socio-political issues, such as: About the people's sovereignty, about freedom, about the law... Theologians have looked to God and consider it the supreme power, the key to solving all problems in the society. F. Engels asserted that, in the hands of the clergy, politics, law, like all the branches of the other sciences, are still branches of theology, and that the principles of theological validity apply to politics and theology. But the theocratic ideas of this period also had profound implications for creating the needs and motivations that spurred the birth of Renaissance philosophical ideas, bringing a new face to the philosophy in its development.

2.3. Thought on the rule of law in Western philosophy in the Renaissance period

The transition from the Middle Ages to the Renaissance marked the great breakthroughs of mankind in all aspects, especially in the field of thought. Accordingly, the model of the theocratic state that reigned all night in the Middle Ages was abolished, the cultural values of the ancient period were restored, and new streams of thought towards theory building on the rule of law state, initiated by pioneer political thinkers representing the worldview of the bourgeoisie of that period such as: Makiaveli, John Bodal.

The person who made a political breakthrough, removed the teachings from the state, out of people's lives and restored and developed the values of human thought in the Renaissance period was Makiaveli (1469 - 1527). He was the one who laid the foundation for ideas about the rule of law when feudalism began to disintegrate in Europe. In particular, the imprint of Makiaveli can be clearly seen in the later works of Hobbes and Locke.

In the famous work "The Prince", he completely rejected the domination of the theocracy over social reality and people, outlined strategic ideas to help the ruler strengthen his political position and appreciate the important role of the people in

the relationship with the state. These ideologies of his had a certain influence on the formation of legal philosophy thought in the later period.

Unlike the medieval philosophers, Makiaveli pointed out that the origin of the state from the basis of reality is man-made. The purpose of the state's existence, he said, was to ensure the freedom of safe use of property for everyone. This was inherited and developed by Locke in his "Second Treatise on Government".

Inheriting and developing the concept of state form in history, he distinguished the state into three basic forms as monarchy, aristocratic and people's state and its deformation is tyranny government, the dominant corporation, and the government of the masses. In which, the monarchy is the first form of state and easily becomes a tyrant, so to get rid of that distortion, it is necessary to destroy the tyrant. The next form of state is the aristocratic state corresponding to its deformation and finally the people's government is established. When considering the superiority of the state, he said, the republican state has the most advantages because it abolishes the prerogatives of the feudal monarchy state and can meet the equal rights and freedoms for the people. He appreciated the republic because it had the unification of state power and was supported by the masses.

When discussing the relationship between the ruler and the people, he emphasized the role of the people. He said that "the people are higher than the king" because "the people are always smarter, more consistent and more rational than the king". From then on, he advised monarchs who wanted to be popular with the people to live in harmony with their people, not to make the people hate them, not to greedily appropriate property, wives and children of their subjects. Otherwise, the fortified citadel could not hold a king who was hated by the people. This concept of his was inherited by Locke and affirmed the people's rights to equality, freedom and ownership in the state.

The art of rulers, according to Makiaveli, must be to combine rewards and punishments. Rewards should be commensurate with punishments. He also emphasized that the ruler must combine in himself the qualities of the lion (strength and honesty) combined with the qualities of the fox (mysticism, lies); It is necessary to know how to wisely apply human nature to wild animals. These qualities are forged and trained through the actual activities of the ruler himself to become a monarch with all five elements: Tolerant, loyal, benevolent, trustworthy and pious.

Next, Makiaveli asserted the independence of politics in relation to religion. According to him, the object of politics is a matter of power, and the object of morality and religion is the responsibility of citizens to each other in society, but they are fundamentally different. However, he still did not deny the role of religion when he considered it necessary in establishing social order and discipline. Therefore, he advised the authorities to use religion as a weapon to help strengthen the secular government. This view was inherited by Montesquieu and confirmed in his conception of the relationship between politics and religion. Those are two separate fields, not sharing the same object but having a relationship with each other. Therefore, the authorities must know how to combine the two areas in harmony to perform their tasks.

Thus, Makiaveli's political doctrine was of great significance in the struggle against feudalism and medieval theocracy. In particular, his progressive ideas about the state, political power, and the relationship between the people and the authorities on the atheist stance created a new turning point for the development of Western philosophy. West, worthy of the legacy for philosophers of the modern period to continue to inherit and develop.

Following Makiaveli, was John Bodal (1530 -1596), who founded the theory of state sovereignty with the notion that a people's state is a state in which the people command sovereignty by collective and by individual. In "The Six Books on Republican Government" ("Les six livres de la Republique"), he established the first modern formulation of a theory of the state. He defined the state as the administration by law exercised by the supreme power over the collection of households and over the commons. Accordingly, the autonomous power of the state is permanent, absolute, not limited by any conditions. Moreover, it was unified and therefore could not belong to the king, the aristocracy, and the people at the same time. The existence of the state is explained by John Bodal from the purpose to ensure the rights and freedoms for people in the face of social conflicts caused by unequal distribution of property. Next, John Bodal introduced the concept of forms of state and advocated monarchy. Because he believes that this is the best type of state that can overcome political and religious crises and is consistent with the nature and indivisible unity of autonomous power. This has led to people viewing, wrongly, John Bodal as a theorist of absolute monarchism, which he rejects. He also developed ideas, which Montesquieu would repeat later, about the influence of climate on forms of government, theocracy in the South, the military in the North, and freedom in the countries within space between the two upper poles.

His thought laid the foundation for the birth of individual authoritarianism, created the evolutionary step of totalitarianism, and ideologically prepared for the renaissance rule of law revolution.

III. CONCLUSION

The thought of the rule of law in modern Western philosophy was formed in the landmark period of the bourgeois revolution in Europe in the 16th - 18th centuries, the transition period from the feudal mode of production. to the capitalist mode of production, when the feudal system, which had revealed its inherent contradictions to the climax, became obsolete and was negated by a series of epoch-making bourgeois revolutions in many parts of the world such as in the Netherlands, England, and France. In addition, the development of science and technology along with geographical discoveries have created the seeds and conditions for economic development for the capitalist mode of production. Moreover, the thought of the rule of law in modern Western philosophy was crystallized mainly from the great sources of thought in the West in the ancient and medieval period. It can be seen that the ideas about man, the state, freedom and human rights in the ancient and medieval period were a direct and important premise for the formation and development of theories. the rule of law in later modern Western philosophy.

Thus, it can be asserted that the birth of the idea of a modern Western rule of law state is the product of the times determined by economic, political, social conditions and theoretical premises in the history, it is a necessity to meet the requirements of history, a cultural, ideological and scholarly reaction to the current social order.

REFERENCES

- [1] Le Ton Nghiem (2000), History of Western philosophy, 3-volume set, Ho Chi Minh City Publishing House.
- [2] Bui Van Nam Son (2010), Some introductions and translator's notes, introductory notes in GWFHegel, Principles of the philosophy of law, Knowledge Publishing House, Hanoi.
- [3] Tran Hau Thanh (2000), "Relation between the state and the law", Journal of Political Theory (2), pp. 47-51:
- [4] Tran Hau Thanh (2000), "Thought of the rule of law in Europe in ancient times", Journal of European Studies (1).
- [5] Tran Hau Thanh (2005), Theoretical and practical basis for building a socialist rule of law state of the people, by the people, for the people, Political Theory Publishing House, Hanoi.