

*Natural Law Theories Under The Sun*

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Tyranny, in western political philosophy, is the primary subject of inquiry. Western political philosophy developed remedies for the evil of tyranny because it is considered unnatural. By the time of John Locke, there was a consensus developed in Europe that living under tyranny is the same as living in the state of nature. The natural law theory lays the foundation for law, such as positive law, under the premise that no law can violate natural law. This dictum laid the foundation for republicanism in the West to counterbalance tyranny. The mechanism for such endeavor is the separation of law from authority to the degree that law is above the authority. My research is to trace the similar thought, if any, in the Iranian context beginning with its ancient time.

The question in this research is about how tyranny conceived in Iranian political thought as opposed to the western concept of tyranny. This question requires a similar view of tyranny as the precursor for the comparative argument based on a historical account of western political thought regarding natural law.

I consider the Indo-Iranian cults and their gods for their potential political aspirations. The roles of gods named *Varuna* and *Mithra* as the guardians of righteousness and covenant are significant forces early in history. They are responsible for generating a sense of political community in prehistoric times.

Then, later, *Zarathuštra* (the Prophet) introduced *Ahura Mazda* as the God (Lord of Wisdom). Zoroastrianism consolidated the cultic gods into one omnipotent God. This lone God is in charge of creating the universe, man, and good laws. All the legitimacy of man and law comes down from Ahura Mazda. The question for government is the question of God's authority on earth. Therefore, any King is the representative of God. Tyranny does not become the centerpiece of the political ethos. The king gets his legitimacy for governing from God. Ahura Mazda gives his blessing to the king called *Fær-e Izadi*. There is no notion of law to

be apart from God's Law. Divine Law is absolute. However, there are no sub-categorizations of law under Divine Law, as opposed to the development of Western thought. The Priests play a crucial role in developing the political system, especially since the Sasanian dynasty that there was a political and official religion of the state, as Zoroastrianism. The king is in charge of enacting those laws and enforcing them. Tyranny becomes obedient to the king, as he obeys God's law. Therefore, tyranny is not unnatural or unholy.

On the Western front, it is helpful to mention Sophocles' *Antigone* as the counterargument. Kings' authority was not absolute, and it was never considered the same as gods'.

For Greeks, nothing happens without a reason to complete the tragedy. Tragedy considers the law of compensation as justice for human affairs. It is the Greek response to injustice, or how to restore justice. There must be something to pay. That is the Law. Robinson believes, in Anaximander, that this law of compensation works not only in human affairs but throughout the world order. "Thus, the law of compensation becomes the law of nature" [p.38].

Plato in *Laws* agrees with *Statesman* on the importance of the rule of law, despite the inferiority of law to expertise, but doubtful in prospects for expertise ever coming to be in a human *polity*. In marked contrast to *Statesman*, however, *Laws* considers the possibility of improving laws even in the absence of political expertise.

It is a common view that the early Stoic scholars advanced the theory of natural law to a new level. In its traditional meaning, the term *nomos*, *lex naturalis* (natural law) designates as law, discernible by reason, determining what is right or wrong by nature. Therefore, it holds valid everywhere, always, and for everyone, independent of circumstances and local customs. Cicero defines natural Law in *De Legibus*. It is the entire account of the theory to survive from antiquity: "Law is the highest reason, implanted in nature, which commands what ought to be done, and forbids the opposite. This reason, when firmly fixed and perfected in the human mind, is the law."

Scholars like Waerdt claim that this definition recalls the early Stoic position that *telos* (man's end) as a rational animal consists of living according to nature, refraining from every action prohibited by *koinos nomos* (the common law), which is identified with the sage's right reason, and patterning his conduct on the divine order and harmony evident in the rational ordering of the cosmos. However, this is what Plato and then Aristotle say. That City is to make men live by virtues. Moreover, virtues are defined by the cosmos (inherited from the pre-Socratic philosophers).

Aquinas elevates the argument to a whole new level. He distinguishes between *actus humani* (human acts) and *actus hominis* (acts of a man). It is only the former which is the free-willed act of man. This is the act that aims at an end. This process requires reason, hence the moral world and the moral value of Good and Bad. A purely reflexive act is not

considered a human act in Aquinas' terminology. "Moral acts and human acts are the same" (*S.T., Ia, Ilae, I, 3*). On this account comes Aquinas' definition of law and the sub-divisions of law. Aquinas shares the view with Aristotle that it is the reason which distinguishes man from animal. Thus, it is the reason that enables him to act according to comprehension of an end, consciously. An act for an end is an act for good. Now it is not clear that every act of man for good is necessarily compatible with the objective interest of man. It is the filter Aquinas implies to distinguish between man's rational acts. He raises the concept of 'right reason'—the reason for directing man's act to attain the objective good for man.

The impact of the Franciscans in the early 14th century is crucial because it triggered a backlash and response from the Papacy. According to the poverty of the Apostles, the Franciscans were supposed to be living a natural or innocent life. This innocent and anti-social movement gained popularity; thus, it posed a threat to Christianity's norms. To oppose the Franciscan case, it was necessary to clarify the assumptions about *dominium* implicit (for instance, Aquinas' opinion of *dominium naturale*) and to develop a rival account of the Franciscans about man's life under the laws of nature, or God, hence, the creation of the idea that a man could have property as an individual and that it was not purely a feature of social life. The pinnacle of John XXII's campaign reached in 1329, with the declaration of his decree. In this, he met the Franciscan argument at its roots, claiming that God's dominium over the earth was conceptually the same as man's dominium over his possessions and that Adam "in the state of innocence had by himself dominium over temporal things," even when he had no one to exchange with commodities. The property was thus natural to man, sustained by Divine Law. For John, all the relationships between men and their material world were examples of dominium.

Moreover, Richard Tuck believes this was what happened when the Papacy began to move against the Franciscans in the 1320s, alarmed by the radical conclusions which could have drawn from the doctrine of poverty [p.22].

## The Comparison

How to read the ancient Persian texts is the key here. The core concern is the implementation of reason into law to contribute to the supremacy of law. Iranian gods play a crucial and epistemic role in this quest in the cult format or the religion format.

*aša* means truth or order. To Iranians, *aša* manages human conduct, hence the ethical implication of *aša*, which attributes to the natural law in the Iranian context. Truth, honesty, loyalty, and courage attribute to *aša* as the nature of human conduct. Then, there is the principle of falsehood and disorder in the world. It is called *drūj*. It is considered the opposite

force or principle to *aša*. The natural order is a virtue, and the natural disorder is vice. The Iranian ethos acknowledges both. Therefore, the righteous man is the one who upholds and honors *aša*, and the evil man or the wrongdoer is the one who follows *drūj*.

Among the Iranian orthodoxy, lawgiving is the theological process that laws are made in heaven and given down to the people. To Zoroastrians, God is the source of wisdom, virtue, and good. Therefore, laws must be given and issued by God. Mary Boyce believes this mode of thought sustained itself throughout ancient times. Moreover, I add that this continuity exhibits itself as the barrier for distinguishing “law” from “authority.” Meaning that law and authority are embodied into one. Ahura Mazda or God and then Kings could issue laws. Kings represent God on earth. Therefore, the king could not be subject to the law. This is the point of departure among the two political traditions of the West and Iran. This attribution to the law also implied some sanctions to the law. Because laws were God-given, this sacredness of laws made them immune to critique or any modification. Those acts of critique were heretics.

There are two continuities (or traditions) in this regard: Iranian and western. Tyranny in the Iranian context was not the opposite of Natural Law. Ahura Mazda was the creator of the cosmos, hence its laws. Only God had the authority to issue laws. The king enjoys God’s exclusive support as the privilege for the ruling. The Persian term for it is *Fær-e Izadi*.

## Conclusion

These two narratives of law developed two different political ethos. Tyranny in the Iranian world took shape and form of representation of God because the law was viewed holistically (holistic) and issued from only one source. In the West, they did not sanction tyranny, and the law was not viewed holistic, except for Divine Law. Thus, the door for the critique of law was open in the West. Republicanism, due to the effect of natural law, opposes tyranny.

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