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Natural Law Theory Under the Sun

How Iranian Political Thought Viewed Tyranny as Opposed to The West

By

Shahram Arshadnejad

Claremont Graduate University

2023

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Approval of the Dissertation Committee

This dissertation has undergone a thorough review and critique by the Committee members listed below, who hereby grant their approval to the manuscript of Shahram Arshadnejad. The work fulfills the scope and quality requirements deserving of the degree of Doctor of Philosophy in Political Science with a concentration in political philosophy and American Government.

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Abstract

Natural Law Theory Under The Sun

How Iranian Political Thought Viewed Tyranny as Opposed to The West
By

Shahram Arshadnejad

Claremont Graduate University: 2023

This qualitative research aims to explore and unravel the theory of natural law within its Greek context and its influence on political thought, particularly addressing the need to counteract the damages of tyranny and the cyclical succession of regimes, as articulated by Plato. This study reveals that the concept of natural law predates Stoics and it is rooted within the pre-Socratic natural philosophy. The study exposes that Aristotelian ethics and politics are rooted in the concept of natural law, ultimately giving rise to the Aristotelian "mixed form of government" and laying the groundwork for republicanism.

In extending this inquiry, I attempt to identify a parallel argument in ancient Iran, investigating the presence of natural law and its impact on the political landscape. The concept of natural law, emphasizing the alignment of social and political affairs with nature's rules, played a significant role in shaping the Indo-Iranian communities. The Sanskrit term *rta* and its Avestan equivalent, *Aša*, denote this foundational concept. However, the ascendancy of Zoroastrianism and its new theology led to the consolidation of all Indo-Iranian gods into the singular omnipotent deity, *Ahura Mazdā*.

Ahura Mazdā, along with its prophet *Zarathuštra*, possessed the authority to govern both earthly life and the afterlife. The exclusive attributes of *Ahu* and *Ratu* empowered God and its

messenger to formulate and enact laws ensuring a place in heaven. Consequently, Divine Law and positive law became intricately intertwined within a unified legal framework. This divine law, sanctioned by God and enforced by the King, diverges from the Greek perspective, particularly that of Aristotle, where tyranny is seen as a deviation from the ideal political order. In the Iranian context, tyranny is synonymous with God's representation, sharing the holiness and regal attributes of a King, who, in the Iranian and Avestan sense, enjoys God's blessing as *Xvarənah* or *Faer-e Izadi*. The intertwining of law and authority of the King precludes the possibility of an independent legal sovereignty apart from the King's authority.

The monotheistic tenets of *Zarathuštra*'s religion, officially established in the 4th century AD as the Religion of the State, solidify this integrated system. Consequently, the coexistence of republicanism or any mixed form of government within Iran becomes unattainable under the influence of this monotheistic doctrine.

Dedication:

To *Parisa Khosropour* who is the North Star in the sky of my life. I have always found my way by looking up to her!

Acknowledgment

There are many people to express my gratitude to, so rightfully. They contributed, significantly, to my academic and intellectual life.

My professors at the dismantled “philosophy” department to whom I owe, immensely. Professor Patricia Easton, professor Charles Young (Emeritus), and professor Masahiro Yamada. They patiently taught me philosophy that I ended up writing my Capstone project on “The social contract theory, according to Socrates.”

That development led me to study politics through philosophic perspective in the school of social science, policy & evaluation, division of “politics and policy,” as a black sheep. I had the privilege to attend the classes of many scholars who patiently walked me through the American political life, its political history and the foundation of its laws which has led to the novel development of law as the “Constitutional Law.” This American contribution to the history of law is the result of a history of political thought, initiated by the pre-Socratic philosophers and enhanced by the Stoics from Ionia, and Athens to Rome. I could see how the Founding Fathers ushered that legacy to develop *The US Constitution*, and defending it through *The Federalist Papers*. I refer to the American government as an "Aristotelian Government," acknowledging the significant influence of Aristotle's political philosophy and ethics on its foundation.

I am incredibly grateful to Dr. Melissa Rogers for accepting my request to be the Chair of my committee. Without her invaluable support, my committee would not have come to fruition.

I am deeply indebted to my departed professor, Michael Ulmann, whose memory I hold dear. Beyond his remarkable sense of humor, he possessed a profound understanding of the law, making him an exceptional mentor. Moreover, his prowess as a historian further enriched my learning experience. It was through his support and encouragement that I found my way to the department. I am also in debt to professor Jean Schroedel (Emerita), and to associate professor Javier Rodriguez, all from Claremont Graduate University.

I am immensely grateful to professor James Nichols who taught me Hobbes, Locke, and Rousseau; to professor Joseph Bessette (Emeritus) who effectively guided me how to prepare myself for my qualifying exams; and to professor Charles Kessler that I studied *The Federalist Papers* with him. I am honored that Professor Mark Blitz

graciously joined my committee upon my request. His presence and input have added great value to my academic research.

Last but not least, I am in debt to Dr. Touraj Daryaei, the esteemed history professor at the University of California, Irvine, for his invaluable support and guidance throughout my studies and research on Indo-Iranian studies and Zoroastrian studies from my political perspective, particularly focused on natural law. His contribution was so significant that without it, completing half of my project would have been a daunting task.

The inspiration for this research came unexpectedly, sparked by a beautiful accident. One of my philosophy professors at the end of his career before retiring decided to part some of his library. He used to put a box of books (most of them out of print which I considered them as precious jewels) out of his office with a “Free” sign. I used to grab the whole boxes multiple times, since I am a natural bookworm. After passing my qualifying exams, I began thinking about the subject for my research. I had many ideas. But I grabbed one of those free books and began reading it. I read about the Greek tragedy and the “laws of compensation” to be considered as the Greek natural law. This single line has captivated me to this day: “Thus, the law of compensation becomes the law of nature.” The single book which enhanced my academic life was *An Introduction To Early Greek Philosophy*, written by John Mansley Robinson. His book was published in 1968 when I was two years old. Life is a fascinating thing if ignoring the daily basis politics.

I am also in debt to my scholar friend Akbar Moarefy for our countless conversations on Iran’s political history and traditional political thought. My friend, Dr. Arya Moknat, a young, passionate, and multifaceted Iranian scholar was instrumental in helping me to develop my project.

Without the help and support of these people and many more, I could not have been here. So, the story which says, “It takes a village to raise a child,” holds true even for a 47-year-old “kid” when he walked on the campus for the first time, ten years ago.

And above all, to my beloved wife, friend, and companion, Parisa Khosropour, who believed in me when I had doubts about me!

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Introduction

In Western political philosophy, tyranny has been a central subject of inquiry, and various remedies have been developed to counteract its evils, considering it “unnatural.” By the time of John Locke, a consensus had emerged in Europe that living under tyranny was akin to living in “the state of nature.” The natural law theory played a pivotal role in shaping the foundation of law, including positive law, with the premise that no law should violate natural law. This principle laid the groundwork for the development of republicanism in the Western world, aiming to provide a counterbalance to tyranny. A key mechanism in this endeavor was the separation of law from authority to the extent that the law stood above authority. I intend to address and prove this claim in chapter two.

The evolution of republicanism in the West can be traced back to the roots of natural law theories since Hesiod. In my research, I seek to explore if there were similar lines of thought in the Iranian context, starting from ancient times. I aim to uncover any parallels or shared ideologies that may have shaped the concept of governance and the prevention of tyranny in the protohistoric and historic development of Iran. By tracing these ideas, I endeavor to highlight the rich intellectual heritage of ancient Iran and its potential contributions to the discourse on countering tyranny and promoting just governance. This claim will be addressed in the third chapter.

This research delves into the conception of tyranny in Iranian political thought, juxtaposed against the Western notion of tyranny. The primary question revolves around

understanding how tyranny was perceived in the Iranian context, requiring a parallel understanding of tyranny as a precursor to facilitate a comparative analysis. To address this inquiry effectively, a historical account of Western political thought concerning natural law serves as a foundational basis for establishing the groundwork for the comparative argument, specifically presented in chapter two. By examining both perspectives on tyranny, this study aims to uncover the similarities and differences between the two traditions, thereby contributing to a deeper understanding of political thought in both Iranian and Western contexts in regard to natural law and republicanism.

In my research, I explore the Indo-Iranian cults and their gods, mainly *Varunā* and *Mitra*, with a keen interest in their potential political implications. These deities held pivotal roles as guardians of righteousness and covenant, exerting significant influence during early historical periods. Their presence and influence were instrumental in fostering a sense of political community in the protohistoric era. By studying the roles and attributes of *Varunā* and *Mitra*, I seek to uncover the ways in which these ancient beliefs and religious practices contributed to shaping early political structures and fostering a sense of collective identity and responsibility within their respective societies. Understanding the political aspirations associated with these gods is vital in unraveling the complex tapestry of early human governance and societal development.

Later, *Zarathuštra*, the Prophet, introduced *Ahura Mazdā* as the supreme God, the Lord of Wisdom, consolidating the diverse cultic gods into a singular omnipotent deity. Zoroastrianism, with its belief in this lone God, attributes the creation of the universe, mankind, and good laws to *Ahura Mazdā*. All legitimacy, whether for individuals or laws, derives from this divine source. The question of government, therefore, revolves around the authority of God on earth, and as

such, any King is considered the representative of God. In this framework, tyranny does not become the central focus of the political ethos, as the king gains legitimacy for governing directly from God. *Ahura Mazdā* bestows his blessing on the king, known as *Fær-e Izadi* in the Middle Persian or *Xvarənah* in Old Persian.

A notable distinction in Zoroastrianism lies in the absence of sub-categorizations of law under Divine Law, unlike the development seen in Western legal thought. Divine Law is viewed as absolute, and there is no notion of law existing independently from God's Law. Priests play a crucial role in shaping the political system, particularly during the Sasanian dynasty when Zoroastrianism became the State's official religion. The king, as the enactor and enforcer of laws, is obedient to Divine Law, thereby aligning tyranny with the divine will and rendering it neither unnatural nor unholy.

In summary, Zoroastrianism's focus on a single omnipotent God, the King's legitimacy derived from God, and the absence of independent sub-categorizations of law under Divine Law created a unique perspective on governance and political authority in contrast to Western political thought, which I call it "monolithic perspective." The alignment of tyranny with God's law differentiates this perspective from the notion of tyranny as commonly understood in the Western context.

In contrast to the perspective presented in the Iranian context, it is essential to consider the Western counterargument found in Sophocles' *Antigone*. In this literary work, the idea of kings' authority is not portrayed as absolute, nor is it equated to the authority of gods or carried out on their behalf.

The body of the work

The first chapter will review the whole argument and develops the questions for this research. The following chapter two will investigate natural law in Greek political history. This review will produce two outcomes: (i) it exhibits that republicanism directly resulted from the natural law theory. (ii) it provides the foundation for a comparative argument between ancient Persian and Greek literature.

The third chapter discusses the Indo-Iranian cults and their gods for their potential political aspirations. The roles of gods named *Varunā* and *Mitra* as the guardians of righteousness and covenant are significant forces in pre-historic Iran. They are responsible for generating a sense of political community. And then this chapter will discuss on Zoroastrianism and the evolution of the gods. *Zarathuštra*, the prophet, introduced *Ahura Mazdā* as the God. 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 Mazdā*. The question of government is the same as the question of God's authority on earth. This chapter will explore the landscape of transformation of authority based on Zoroastrianism.

This study leads to the concept of subjugation to law. What is law? How far is law considered supreme? Does law get embodied into the King's sovereignty or not? King is the sole representative of God. This is the foundation of different attitudes towards tyranny in the Persian context. Tyranny does not become the centerpiece of political concern in the Iranian context. There is a tendency to consider tyranny natural or holy. This research will draw a clear picture of two different narratives of law and authority. The Western (Greek based) narrative which has divided law from authority and considered law above authority. There is a sense of plurality regarding law and authority in the West. The Persian narrative considers one source for law, and

that is God. The authority is a representation of God. Hence there is a singularity about law and authority. This singularity is the main barrier for exploring any sense of republicanism in the Persian context.

Chapter One

General Perspective

Abstract

This qualitative research is about natural law in the Iranian context in antiquity. The argument is developed by comparatively applying the Western literature on natural law to the case of Iran. This study aims to initiate a historical investigation of the concept of tyranny in the Iranian context. There is significant literature in the West on tyranny and its relationship with justice in antiquity. This project investigates the same topic in ancient Iranian literature to see whether tyranny was observed in any shape or form and whether its relationship with justice was discussed. Furthermore, it will discover on what basis law was defined and how law interacted with authority in the Iranian context. The scope of this research is limited to the pre-historic up to the pre-Islamic era of Iran, and the Greek and Roman literature prior to Christianity.

Introduction

The Greek attitude towards tyranny was complicated. It was not always viewed as negative. It is fair to say that there is a pre-Aristotelian attitude and an Aristotelian attitude towards tyranny. Tyranny as the form of corruptive rule is Aristotelian. It has become the core concern in Western political philosophy concerning justice and law since Aristotle. In fact, the argument predates Aristotle but the significance of it is owed to Aristotle. As Striker says, “In fifth century accounts of the development of civilization we are told that ‘law and justice’ were introduced to ensure the peaceful and prosperous existence of human communities that would otherwise degenerate into a

state of war.”¹ There are some notices by Plato in *Republic* and *Gorgias* presenting Socrates a negative position about tyranny. However, tyranny was a quite common practice in most part of the Hellenic world. Nevertheless, Western political philosophy developed remedies for the evil of tyranny. The essential ingredient to the solution of tyranny is natural law. Although, the term natural law was coined by the Stoics, not by the pre-Socratic philosophers and nature observers, Plato, or Aristotle.

I believe the concept of natural law is the core principle of “shared governance under the law” to avoid or curb tyranny. We observe this in oligarchies and democracies in Greek terms. This is later called “republicanism.” This research will investigate the roots of natural law in Greek literature by finding its traces of thought in Hesiod’s literature, hence dating the age of natural law (the concept) theory back to the pre-Socratic era to the age of Hesiod. Conventional thinking attributes the theory to the Stoics. I believe we should investigate Hesiod’s *Theogony* and *Works and Days* before considering Stoic literature. This will exhibit the path for natural law to republicanism in Plato’s *Republic* and *Laws* and Aristotle’s *Politics* and *Nicomachean Ethics*. Plato and Aristotle, nevertheless, speak of justice in accordance with nature. The importance of this literature from the 6th century B.C. to the 3rd Century B.C. is about the birth of republicanism. I extend this search to the Stoics’ and to Cicero’s literature to the end of the Roman republic. After establishing the argument in the Western tradition, I will conduct the same type of research in Persian and Vedic literature of antiquity for the same purpose. The last phase of research is to discover whether republicanism was developed in ancient Iran or not.

¹ Striker, Gisela. 1986. “Chapter Four: Origins of the Concept of Natural Law.” *Proceedings of the Boston Area Colloquium in Ancient Philosophy* 2(1): 79–94.

The texts to be examined are the religious texts about Indo-Iranian cults and Zoroastrianism. This is because there are not any exclusive political Persian texts left from antiquity. Whatever is left for us is a religious text. The intention is to ascertain any political ideas or ramifications from any surviving texts. In addition to the canonical Avestan and Vedic texts, the focus is also historical and archeological studies. Ultimately, this research is going to discover the reasons for the fact that republicanism is a Western product. And why has it not existed elsewhere?

Natural law lays the foundation for law, such as positive law, under the premise that no law can or should violate natural law. This dictum laid the foundation for republicanism in the West² to counterbalance tyranny. Republicanism is the antidote to tyranny. The Greeks developed the concept of “the mixed form of government.” We will observe its development in Plato’s *Republic* and Aristotle’s *Nichomachean Ethics* and *Politics*. Plato and Aristotle consider the city’s goodness should be based on virtue ethics. Aristotle makes the life of the citizen and the government intertwined so that the citizens as the political animals could fulfill their natural potentials in their political lives to be happy.

Sovereignty is a subject deeply intertwined with the potential for tyranny. Throughout antiquity, many sovereigns easily descended into tyranny, raising the critical question of who should hold sovereignty: the king or the people. In the ancient world, sovereignty was traditionally associated with gods and was typically bestowed upon kings, not the people.

² It needs to be made clear here that the argument of the West is limited to the Hellenic and Roman worlds. To narrow down the scope of this research, I have not included the developments and contributions of Christian world to the natural law argument.

However, the concept of sovereignty underwent a transformative journey in the West through the development of natural law, eventually leading to the attribution of sovereignty to the people. This shift empowered individuals to have a say in their governance and laid the foundation for republicanism.

Yet, the intriguing question remains whether a similar transformation occurred in ancient Iran. Did the notion of sovereignty shift from being solely vested in gods and kings to a more inclusive system that recognized the role of the people? Examining the historical and cultural context of ancient Iran is essential to shed light on this matter and understand how power and authority were structured in that society.

The Questions

I develop a few questions in this research. 1) Is the concept of natural law in Greek literature older than conventional thinking and does it begin with Hesiod? The conventional thinking attributes the theory to the Stoics. 2) Is republicanism the direct result of natural law to counterbalance tyranny? 3) How was tyranny conceived as opposed to natural law in ancient Persian literature? 4) How was sovereignty viewed in the eyes of the Greeks? 5) How was sovereignty perceived in the Iranian context? 6) Does sovereignty belong to the people in the ancient Persian texts? These questions require uncovering the concept of natural law with respect to tyranny and its relation with law and sovereignty in the ancient Iranian context.

Terminology

Natural Law, Natural Right, Tyranny, Positive Law, Republicanism, State, Virtue Ethics, *Politeia*, City, God, gods, King, Power (authority), Mithraism, Zoroastrianism, *Avestā*³, *ašā* (Truth, order), *rtá*, *drūj* and *dhraugh* (Lie, evil), *Yasnā*⁴, *Gāthā*⁵

Literature Review

The themes I will explore in this review are about the concept of natural law in the 6th century B.C. Greek literature. There is a chronological basis for this research because it intends to exhibit the process of developing the idea of natural law and the notion of shared governance throughout time, which I intend to call republicanism (the distribution of power from the hands of “one” to “many”). The concept of republicanism grows in this process. The historicity is embedded within the argument, which requires a chronological perspective. Thus, the texts I consider reading in the Western literature are Greek⁶ and Roman.⁷

Natural law (as the first theme) begins with Hesiod. He was the first Greek thinker who created a new way of thinking for observing nature. Hesiod contributes to the transformation of gods’ responsibility for everything in nature to man’s responsibility by moving away from Homer and his heroic world. This transformation is fundamental because it lays out the foundation for Greek natural philosophy a century later. In his *Theogony*, Hesiod is concerned with the birth of gods; in *Works and Days*, he is involved with man. Man becomes responsible

³ The holy book of Zoroastrians

⁴ The name for the central ritual in Zoroastrianism and for the long liturgical text recited during the daily performance of the ritual. <https://iranicaonline.org/articles/yasna>

⁵ the core of the great Mazdayasnian liturgy, the *Yasnā*, consisting of five *gāthās*, <https://iranicaonline.org/articles/gathas>

⁶ The term “Greek” is not monolithic. There were several communities or societies in the Hellenic world. The most advanced ones were in Ionia or Asia Minor which had a direct access to the Near East’s civilizations. There were important differences between Athens, Sparta, Ephesus &etc.

⁷ Many Greek thinkers directly or indirectly have contributed to the development of natural law. Hence, they are mentioned here chronologically.

for fending for himself instead of expecting gods' interventions. Consequently, I am looking for Hesiod's concerns about justice in *Theogony* and *Works and Days*.

Justice is instrumental to this argument because it is directly associated with judgment. Judgment was intertwined with ruling and the ruler's authority in antiquity. As MacDowell elaborates so brilliantly, "The most primitive method of settling a dispute is for one of the disputants to overpower the other by force or intimidation. The civilized method is to refer the dispute to a third party."⁸ This third party is the key to talking about justice which makes it relevant to our argument in relation to natural law. Kings used to be judges, too, the ones who knew more and better than anyone else (with the help of gods) in the ancient political communities.

Moreover, in ancient Greek philosophy, Anaximander and his contemporaries made significant contributions by developing the notions of the "infinite" and "world order." They posited that the universe had an underlying, boundless principle from which all things originated. Additionally, they recognized the dynamic interactions between the four elements—earth, air, fire, and water—which possessed the power to combine and generate new entities.

The Greeks also delved into the concept of "the opposite," which they associated with "injustice." However, this notion of opposition was not seen as purely destructive but rather as potentially constructive. They believed that opposing forces could interact and create new things, leading to a more comprehensive understanding of the world and its workings.

Hippocrates, *The Nature of Man*, explored man's body and his constitution. He proposed that the human body was composed of multiple elements, rather than just one. According to his

⁸ MacDowell, Douglas M. 1978. *The Law in Classical Athens*. Ithaca, New York: Cornell University Press, 10.

theory, maintaining a balance among these elements was crucial for a person's health, while an imbalance could lead to pain or illness.

For the Greeks, nothing happens without a reason, which is viewed as completing a 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. This is the Law. To Anaximander, this law of compensation works not only in human affairs but throughout the world order. Robinson writes, "Thus, the law of compensation becomes the law of nature."⁹

First, one should note that neither Plato nor Aristotle wrote explicitly about the natural law. They did not use the term. Nevertheless, the foundation of such thinking, which is the embodiment of reason into law, does exist in their literature under the influences of pre-Socratic natural philosophy. Furthermore, the discussions of justice, according to nature, by philosophers such as Plato and Aristotle, offer insights that hint at the emergence of what could be termed "natural law."

Republicanism as a mixed form of government is the second notable theme explored in this review. This concept finds its roots in the works of Plato and is further expanded and articulated by Aristotle.

Plato, in his dialogue *Laws*, acknowledges the significance of the rule of law, even though he considers it inferior to rule by experts. He expresses doubts about the likelihood of expertise ever being fully realized within a human political system. However, what sets *Laws* apart from his earlier work, *Statesman*, is its consideration of the potential for enhancing laws even in the absence of political expertise. In *Laws*, Plato delves into the idea of a mixed form of

⁹ Robinson, John Mansley. 1968. *An Introduction to Early Greek Philosophy*, 38.

government, which involves a balance between different elements of governance, such as monarchy, aristocracy, and democracy.

Aristotle, building upon Plato's ideas, further develops the concept of republicanism as a mixed form of government. In his influential work *Politics*, Aristotle extensively discusses various forms of government and their potential strengths and weaknesses. He argues that a well-organized republic, with a mix of elements from monarchy, aristocracy, and democracy, can provide a more balanced and effective system of governance. By examining historical examples, Aristotle seeks to identify the conditions that contribute to the stability and success of such a mixed form of government.

It is the third century B.C. that the early Stoic scholars advanced the theory of natural law to a new level. In its traditional meaning, the term natural law (*nomos, lex naturalis*) designates a law discernable 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 as the formula¹⁰. (It needs to be strongly noted here that Stoics invented none of these ideas. The pre-Socratic intellectual era was remarkably substantial throughout its development.)

Cicero defines Natural Law in *De Legibus*. It is the fullest account of the theory to survive from antiquity. Cicero considers rationality and wisdom as the means to distinguish right from wrong given to man by nature. This human capacity must exhibit itself in law: "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." This

¹⁰ This formula appears in a variety of early Stoic texts, including Zeno's *On the Nature of Man* and Chrysippus' *On Ends* (D. L. 7.87-89), as well as the exordium of Chrysippus' *On Law* (Marcian *Inst. 1=SVF 3.314*), which treat *koinos nomos* and *orthos logos* as equivalent ways of referring to the canon or standard that human beings follow in living according to nature. Cf. also Arius Didymus *ap. Stob.Excl. 2.96.10-12, 102.5-6 ...* (Robinson).

position is the same as Aristotle's position and all the Stoics. And the Greek natural philosophy (pre-Socratic) is the foundation for this kind of wisdom. Further in chapter two I will establish this argument.

Scholars like Waerdt¹¹ claim that this definition recalls the early Stoic position that man's end (*telos*) as a rational animal consists of living according to nature, refraining from every action prohibited by the common law (*koinos nomos*), 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 all along, that the city (*politeia*) is to make men live by their virtue (a view inherited from the pre-Socratic philosophers).

In Cicero, we read that the universe is a system run by a rational providence (*The Laws*, I. 21). That Mankind stands between God and animals. Man is a part of the animal kingdom because of his physical needs, appetites, and mortality. However, unlike other animals, he has been given the power of reason. This enables him to work the land and use animals for his own purposes (L. I. 25). Once again, we can look back at Hesiod's *Works and Days* and Aristotle's *Politics* and *Nicomachean Ethics* for this argument, as I have mentioned earlier.

On Tyranny in the Greek context

Tyranny is the third theme in this review. As I mentioned in the introduction, the Greek attitude towards tyranny was complex. It was a common practice among them even in Aristotle's time. There were some examples of agreeable good tyrants among the Greeks, although few. My

¹¹ Waerdt, Paul A. Vander. 1994. "Zeno's Republic and the Origins of Natural Law." In *The Socratic Movement*, Ithaca: Cornell University Press.

judgment to consider tyranny as a theme in this research is due to Aristotle's position on the subject.

Aristotle gives us a definition of *tyrannos* that has survived throughout time in Western history. He is critical of tyrants and considers their rulings by decree and not based on laws. Aristotle's *politeia*, a mixed form of government of oligarchy and democracy, has no place for a tyrant who singlehandedly oversees the government. This is where oligarchy and democracy could be considered as forms of republicanism in antiquity if combined.

Aristotle in *Politics* 1295a2-4 distinguishes three kinds of tyranny. The key is that a tyrant rules according to his fancy. The two first forms of tyranny are according to law. And are similar to royalty. There are elected monarchs who rule despotically and are despotic rulers. Aristotle differentiates between a monarch and a ruler. The third kind is just the sheer arbitrary power of an individual that promotes the advantage of no one but himself. Moreover, he considers this tyranny the worst kind, and no freeman shall succumb to that.

The Athenian Constitution is a great source to discover Aristotle's views on tyranny. This book is about the structure of power and its evolution. It shows that it was a tyranny that led the way to democracy itself. This book documented the facts that some of the tyrants changed the oligarchic system in favor of the populace before democracy had become an Athenian tradition. It is a history of the practical development of distributing wealth and power. The importance of distribution of wealth to a degree that makes it tolerable for everyone is structurally needed in a society to maintain its order and peace, and such distribution is tied with power. This combination highlights the importance of Solon's law, as the precursor for the development of Athenian democracy.

Solon wrote a constitution for Athens, the most democratic features of which appear to be: i) the prohibition of loans on the security of the debtor's person; ii) the right of every person who so willed to claim compensation on behalf of anyone to whom the wrong was done; iii) the institution of the appeal to the courts with the jury.

After Solon withdrew to Egypt, Pisistratus came into power among the mountain men. He manipulated the people and seized power, and became a tyrant. However, his personality and attitude were far milder than a despot. He devised a new approach to the political economy to manage his dominion quite effectively and peacefully by delicately distributing wealth.

Pisistratus, on some occasions, exempted some farmers from taxation. His moderation in ruling created peace and calmness in his country. As a result, his tyranny was called "the age of gold." However, his type of tyranny remained unique after his death; and it became much harsher on the part of his two sons. This is an example that not all tyrants were terrible and had a negative impact on Greek societies. Nevertheless, Aristotle considers that the unruly tyrants who think only for themselves are the worst kind.

Lewis¹² believes that the word *tyrannos* was initially considered someone who was not a king in the archaic era but managed to get power in a particular situation within a state. Such a person seizes absolute power. This is different from a monarch who exerts their authority within the bounds of the law (a quite Aristotelian definition). The Greek tyrant or *tyrannos* could choose to abide by the state's laws or not. A monarch does not have such a choice. It is important to note that the archaic Greeks considered no difference between a king (*basileus*) and a tyrant

¹² Lewis, Sian. *Greek Tyranny*, 2.

(*tyrannos*). It was a pretty common practice of ruling.¹³ They created laws, and their ruling was also beneficial to the public.

Strauss's insights serve as a reminder of the contrasting perspectives on tyranny between the ancient world and modern times. His observation tells us that while the term "tyranny" remains constant across different historical periods, its understanding and application have undergone significant shifts. Recognizing this difference in perspective helps us to contextualize discussions on tyranny and appreciate how political thought and societal values have evolved over time. It also underscores the importance of understanding historical contexts when analyzing political concepts and applying them to contemporary discussions of governance and power.

Strauss re-introduces Xenophon's forgotten dialogue, called *Hiero The Tyrant*. It is about Syracuse's ruler in the most parts of Sicily. The whole dialogue is about advising the tyrant on becoming a good ruler. This is entirely different from Aristotle's position on tyranny. According to Strauss, "Xenophon was not against tyranny."¹⁴ Simonides, the poet in the dialogue, gave his advice to Hiero to be a good tyrant so that the people would love him. Xenophon intended to improve the tyrannical rule. However, in chapter five of the dialogue, Xenophon, on behalf of the tyrant (Hiero), explains a situation that seems irredeemable, "Here is another hardship a tyrant experiences, Simonides. He is just [1] as capable as any citizen of recognizing bravery, cleverness, and moral rectitude in people, but instead of admiring such qualities, he is afraid of them."¹⁵

¹³ Ibid. 10.

¹⁴ Strauss, Leo. *On Tyranny*, 31.

¹⁵ Xenophon. *Hiero The Tyrant*, Chapter 5.

A tyrant is naturally afraid of those qualities; thus, we get to Aristotle's point of view that tyranny is a ruler by decree, and nothing good comes out of it. And yet Xenophon ignores this fact and tries to advise Hiero on how to become a good tyrant.

So his fear makes him do away with such people, [2] but then whom is he left with? Only people who are without morality, lack self-discipline, and are servile. He puts his trust in immoral people because they share his fear about the state someday winning its freedom and getting them in its power, in weak-willed people because of their laissez-faire attitude towards whatever is going on, and in servile people because they do not even value freedom.¹⁶

This is Hiero's testimony to Simonides in the dialogue. One cannot expect any good systematic results. This is because a tyrannical system cannot be devised in antiquity to develop a systematic remedy against this natural evil within a tyrannical rule. It would be exceptional if we had a good tyrant, not common. Once again, we get to Aristotle's point of view, tyranny as the worst kind of ruling.

Ferrill¹⁷, contrary to the modern argument, claims that Herodotus distinguished between *tyrannos*, *basileus*, and *monarchos*. He did not use these terms interchangeably. According to Ferrill, Herodotus is more in compliance with Aristotle's use of the term *tyrannos*, as the unruly king or ruler, hence is there the substantial need to devise a model by Aristotle to avoid tyranny. The mixed form of government is Aristotle's solution that no one should have the complete authority to rule on his own wit and interests.

Tyranny in the Persian context

¹⁶ Ibid. ch.5

¹⁷ Ferrill, Arther. "Herodotus on Tyranny." *Historia: Zeitschrift Für Alte Geschichte* 27, no. 3

We can consider two significant sources in our quest for the Iranian perception of tyranny. One is *Avesta*, and the other is Achaemenid inscriptions carved on the mountains as the official proclamations of King Darius I, or we could say the official government proclamations. The fourth theme focuses on natural law in Persian context, and the fifth theme is on tyranny and the possibility of republicanism in the ancient Persian context. Scholars consider that Darius and Xerxes, the Achaemenid great kings, are not positively known as Zoroastrians.¹⁸ Thus the concept of tyranny predates *Avesta*, as we will observe that the notion of absolute authority of the kings in Mesopotamia directly connected to gods was not solely invented by the Persians. It was quite a common practice. The Persian royal inscriptions relay the kings' ideology, an image of the country, and their rule.¹⁹ For these reasons, it is essential for understanding the Achaemenid Empire.

The Achaemenid inscriptions are a unique primary source of information regarding the Old Iranian religion. It links to the Iranian style of ruling, synonymous with tyranny. *Ahura Mazdā* is the sole and omnipotent God. The king is chosen as the representative of God on earth.²⁰ *Ahura Mazdā* is the enemy of Lie (the source of moral, social, and political decay in society.) Thus, the King is commissioned to rid the country of Lie. The Old Persian word for Lie is “*dhraugh*,” and its Avestan word is *Drūj*. King Darius I ruled from 521-486 B.C. In King Darius I's inscription, we read “Rule by Divine authority.”²¹

Darius, the king, says: By the will of Ahura Mazdā I am king. Ahura Mazdā delivered the kingship to me.

¹⁸ Malandra, William W. *Introduction to Ancient Iranian Religion*, 4.

¹⁹ Waters, Matt. 2014. *Ancient Persia - A Concise History of the Achaemenid Empire, 550–330 B.C.*

²⁰ Malandra, William W. *Introduction to Ancient Iranian Religion*. 47.

²¹ *Ibid.* 48.

Darius the King says: These are the countries which came to me. By the will of Ahura Mazdā I have become king over them: Persis, ... (there follows a list of satrapies.)

Darius the King says: These are the countries which came to me. By the will of Ahura Mazdā they became my subjects, they bore me tribute. Day and night they did what I told them.²²

The inscription continues in which King Darius I explains what he has done. As I have indicated, in Mesopotamia and Persia, there is one single attitude towards authority and law, hence shaping the government. That is the unification of God and the king. The king's authority comes from above, from God. The authority of law is directly associated with the King's authority. The lineage of authority is descending and not ascending, meaning not from the people.

The Platform for the natural law theory comparison

A study of the history of Western political thought highlights the importance of natural law as its cornerstone to mend the evil of tyranny. Hence, a comparative study of Persia and the West [Greeks and Romans] regarding tyranny and natural law will pursue the question of whether a similar argument is present; and if it is, I will compare the two in detail; and if not, I will reflect on the consequences. How to read the Old Persian texts is the key here. How is law viewed and perceived? The core concern is implementing reason into law to contribute to the supremacy of law (a Western tradition). The nature of this "reason" is the mark of the difference between the Greek world and the Persian world. The word "tyranny" may not exist in the Persian texts; however, the concept of tyranny or the absolute rule of the monarch under God almighty (Ahura Mazdā) may signify the subject.

²² Ibid. 48.

The terms like “just,” “justice,” and “law” got their objective meaning and legitimacy under God’s authority through the King. This was different from the Western tradition, according to natural law, because the law in the context of the West got its legitimacy from God and nature (cosmos), not through the King. If we did not find the word tyranny in the Persian texts, it does not mean the concept of absolute rule in its singularity does not exist, either. This contrasts with the Aristotelian position on *tyrannos* because it is about one man ruling all by himself. In the Persian context, however, it is one man’s rule, as well, but according to God’s will and authority bestowed upon the King. The King’s rule is holy as well as God’s rule. This holiness trickles down from God to the King. While in the Greek context, there is nothing sacred associated with the *tyrannos* rule.

The Ancient Persian Literature on Natural Law Theory

We find a unique attitude towards law in the region at the dawn of history, before the Iranian tribes populating the Iranian plateau. In fact, before anyone, all those Sumerian gods had certain functions. The original attitude towards law, nature, and gods in the Sumerian world and culture come from deities. The structure of authority looks like a pyramid. “The Sumerian pantheon was conceived as functioning as an assembly with a king at its head.”²³

In the Sumerian world, law and authority are embodied into one and directly linked to deities. The same structure persists throughout the Iranian plateau among the Persians and non-Persians. One needs to consider that “the Sumerian and Babylonian code is with their stress on

²³ Kramer, Samuel Noah. 1981. *History Begins at Sumer: Thirty--Nine Firsts in Recorded History*, 78.

unquestioned obedience to the law that is legitimized as the edict of the sovereign backed by the threat of punishment.”²⁴ We observe the same attitude in the Persian contexts in history.

The Indo-Iranians

There are a few deities or gods shared among the Iranians and the Indians prior to their southward migration to Indian subcontinent and Iranian plateau. *Varunā*, *Mitra*,²⁵ and *Aryamān*, and *Rašnu* (deity for justice)²⁶ are the gods that are important to this research. *Varunā* was the god of the sky, water, and ocean. It was the master of destiny, supporter, and promoter of order and law. *Mitra* was the god of friendship, contract, and the defender of the cosmic order.²⁷

The Vedic *Mitra* is about moral obligation, which guarantees social order. *Mitra* has two sets of meanings. First, it means oath and covenant, and also it means to love and friendship. Vakili believes *Mitra* is for judging and justice between things and tribes. Thus, *Mitra* should be considered as the judge. *Mitra* is associated with the Sun and light to shine a light on the truth (reality) in this role. *Mitra* is the guardian of contracts, political agreements, and pacts in the ancient Indo-Iranian texts in their common protohistory.

There is a special understanding of “Truth” in the Indo-Iranian tradition. According to (Haudry 2014)²⁸, the ancient word *arta/rtá* corresponds to “Truth” and *dhraugh* to falsehood among the Indo-Iranians. There is an association between “Truth” and “order” in the society, which is supported by the gods. The gods of “religion of truth” are three: *Varunā* (Oath), *Mitra*

²⁴ Gabriel, Richard A. 2002. *Gods of our fathers: the memory of Egypt in Judaism and Christianity*, 87.

²⁵ Mithra is in the Old Persian language. In Sanskrit, it is Mitra. In modern Persian, it is Mihr.

²⁶ See chapter 3.

²⁷ The Rigveda, 2, 3, 10, 27, 59.

²⁸ Haudry, Jean. 2014. “VÉRITÉ, FAUSSETÉ ET MENSONGE DANS LE MONDE INDO-IRANIEN.” (Truth, falsehood, and lies in the Indo-Iranian world.) *Journal Asiatique* 302(2): 394–364.

(Contract or friendship), and *Aryamān*, who presides over marriage and hospitality. Haudry also claims that in the Indo-Iranian religion, “Truth” is designated as “Reality.” Haudry quotes Dumézil²⁹, “It is possible that the magical use of Truth is very old. ‘Sometimes oriented towards the oath (‘as true as...’), sometimes towards the ordeal (‘if it is true that...’), sometimes towards the prelogical proof (‘since it is true that...’), sometimes towards action (‘since I possess such and such a truth...’), Truth very early appeared to men as one of the most effective verbal weapons, and of the most prolific seeds of power, one of the most solid foundations for their institutions.’”

Fravahar or *Fravashim* is part of the human soul that connects humans to *Ahura Mazdā* and other deities. *Ašā* is another key term that sheds light on the correspondence of “Truth” among the Indo-Iranians. Moreover, the word is compatible with the concept of natural law in Western literature. It seems *Fravahar* is a godly aspect of the soul which occurs by following *ašā*. Humans, like gods, possess that power. In the cosmos, the compatibility with natural law (*ašā*) matters and appears in *Ahura Mazdā*.³⁰ Thus, the King’s compatible authority concerning law with God’s comes to the fore.

As mentioned earlier, *ašā* means truth or order. To Iranians, *ašā* manages human conduct, hence the ethical implication of *ašā*, which attributes to the natural law in the Iranian context. Truth, honesty, loyalty, and courage are attributes to *ašā* 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 *ašā*. The natural order is a virtue, and the natural disorder is a vice. The Iranian *ethos* acknowledges both. Therefore, the righteous man is the one who upholds and

²⁹ Servius et la Fortune. *Essai sur la fonction sociale de louange et de blâme et sur les éléments indo-européens du «cens» romain*, Paris, Gallimard, 1943, 244.

³⁰ Vakili, Sherwin. 2016. *The Mythology of Persian Deities*, 46.

honors *ašā*, and the evil man or the wrongdoer is the one who follows *drūj*. There is a dualism in the shape and form of conflict between these two opposite forces in man's life.

Zoroaster, who seems to have adopted this fundamental duality, described himself as a true enemy of the followers of *drūj* and a powerful supporter of the followers of *ašā* (*Yasnā* 43.8). Nigosian considers these concepts of order and disorder, or truth and falsehood, belonged to the realm of nature and cultic rites and moral law (Nigosian 1993).³¹ “Good Thought and Good Deed and Good Speech” are Zoroastrian ethics' three principal dicta.

The Kings through the Achaemenid era enjoyed a religious affiliation as the protector of the faith. For example, Xerxes became the King after Darius, and he was considered religiously justified.³² In this perspective, the king's legitimacy to govern is derived from God, and the concept of justice and just rule is understood within this framework. *Ahura Mazda* bestows his blessing known as *Xvarənah* upon the king, signifying the divine sanction given by *Ahura Mazda*. As long as the king adheres to the principles of godly rule, he embodies justice and upholds the righteous order. However, if the king deviates from the path of godly rule, he commits injustices, thus becoming unworthy of his position. The understanding is that the king's authority is contingent upon his adherence to God's will, and any departure from this divine mandate results in a loss of the legitimacy.

In this framework, there is no separate notion of law apart from God's Law. The divine law governs the king's actions, guiding him in administering justice and ensuring the well-being of his subjects. The concept of justice is deeply intertwined with religious principles, and the

³¹ Nigosian, S. A. 1993. *The Zoroastrian Faith - Tradition & Modern Research*. p.20.

³² *Ibid.*, 314.

king's role is to serve as an earthly representative of God's will, ensuring a just and harmonious society.

Divine Law is absolute. However, there are no sub-categorizations of law under Divine Law, as opposed to the development of Western thought about law (St. Aquinas' subdivisions of law concerning positive law, for instance.) In the case of ruling and its compatibility with God's Law, the priests come to the fore to aid the king. The priests played 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 oversees enacting those laws and enforces them. King's ruling is the legitimate authority as long as he obeys God's law. If we equated the King's absolute authority with tyranny in the Iranian context, then tyranny could not be "unnatural" as opposed to the Aristotelian understanding. According to the Greeks' perspective and beliefs, "The Persians were ruled by a king who represented the epitome of absolute monarchy."³³ Daryaee points out the fact that authority in the Persian context is central and absolute. The center of this epitome is the king, not a group of people. The image of God makes this possible. Because God is singular in Zoroastrianism since the prophet developed his pantheon.

In the Western literature, the ultimate development which directly led to republicanism is the consensus that man-made laws must not be contrary to natural law. However, the supremacy of law remains intact. Thus, kings are not above the law. But this development never took place in Iran. God (Ahura Mazdā) is the ultimate lawgiver. He is the initiator of good laws. And Kings enforce God's good laws. They do not need to be subject to the law. If they are, good! In other

³³ Touraj Daryaee, Shapur Shahbazi, and Prods Oktor Skjærvø. 2012. *The Oxford Handbook of Iranian History*, 4.

words, there is nothing to punish a king if he violates the law. There is, however, a condition in the Text about the king's legitimacy. That a king can become illegitimate by losing the *Xvarənah*.

According to *Avesta*, learning about the importance of laws and contracts is essential. I mentioned *Mithra* earlier. The god is responsible for protecting contracts, and he punishes those who break them. *Yasht 10* of *Avesta* is about *Mithra*. The contracts mutually were agreed upon by the parties but enforced by *Mithra*.

During the Achaemenid empire, the Persians stressed law and order throughout the country. The Iranian religion taught that *Ahura Mazdā* created this world and managed it based on *Arta*, the order based on Truth (also interpreted as reality)³⁴. As the representative of *Ahura Mazdā*, the Persian king was obligated to maintain *Arta* throughout his reign. The Lie was considered an evil that destroyed everything, including the country.

The Old Persian term for law is *Dāta* (Schmitt)³⁵. The word is used in two contexts. In the Achaemenid Royal inscriptions, the word refers to the King's law. The King's law establishes the order of the Empire and manages the affairs of the country. The royal decrees have the force of law. The second context is religious. It means God's law or Ahura Mazdā's law. It is essential for us to understand that *Dāta* corresponds to the Positive Law (for the lack of a better term) and to God's Law together. These meanings do not cancel each other out. The Old Iranian conception of *Dāta* bears both meanings and carries them out, simultaneously. The Old Iranian compilation of the two contexts is fundamentally different from their Greek separation. Diodorus of Sicily

³⁴ Haudry.

³⁵ Schmitt, Rüdiger. *Dāta*. *Encyclopædia Iranica*. <https://iranicaonline.org/articles/data>. *Print*: Vol. VII, Fasc. 1, pp. 114-115.

lists the six Egyptian lawgivers. Darius I is among them. Olmstead considers evidence (Egyptian Papyrus) to trace the word *Dāta* as law and its significance of the time (Olmstead 1935).

Darius I declares in his epitaph: “What is right, that is my desire. I am not a friend of the Lie-follower . . . What a man says against a man, that does not convince me until he satisfies the Ordinance of Good Regulations” [i.e., proves it according to the law]. The solemnity of the Persian legal system was that this (*dāta*) word entered Aramaic, Hebrew, and many other languages. Plato did not doubt that it was the good laws established by Darius that had held the Persian Empire together until the writer’s time.³⁶

The unique position of the King implies the super-human importance, although he is not considered holy. King Darius administers the government and the whole country. He calls *Ahura Mazdā* by the same name. It seems that he nominates this deity to be supreme, and he has the power to do so (calling this god supreme). Therefore, it appears that the King is part of the divine. “Generally, the Near Eastern king was always considered responsible for law and order on behalf of gods. He is the one who interprets gods’ will, as well as represents their people.”³⁷

The latest development in antiquity of Iran regarding law happened during the Sasanian dynasty, in which the new codification based on Zoroastrianism came into play. For the first time, we have an official religion in the country. It means that laws must be based on the official, hence the political religion of the land. “The Church and the State began working hand in hand for the first time in Iran in the third century C.E.”³⁸

³⁶ Ibid. Shahbazi. p.135. (Epistles 7, 332b.)

³⁷ Almagor, Eran. 2017. “The Political and the Divine in Achaemenid Royal Inscriptions.” In *Ancient Historiography on War and Empire*.

³⁸ Daryaeae, Touraj. *The Oxford Handbook of Iranian History*, 189.

We have Zoroastrianism as the Church and the government. It means that laws need to be understood through the lens of religion, hence the priest as the lawgiver (or the interpreter of the law, at least). This vision of law does not necessarily need to correlate with nature (reason). Instead, it correlates with the Canonical Texts. This is another point of departure between the Greek world and the Persians.

Two prominent priests in that era established this view, *Tosar* (Tansar) and *Kerdir*. *Kerdir*, (in particular), managed to establish the Zoroastrian Church to make a body of laws. He canonized *Avesta*. He created a common ritual doctrine and tied the Church to the State. This marriage of the Church and State, early in the third century C.E., shaped a unique view of the law. Law (any law) was considered sacred, including positive law. It strengthened the sovereign's hand that his edict or decree is the law and the law is edict. Thus, the rule of law is the same as the rule of the sovereign, endorsed by God. *Fær-e Izadi* plays a crucial role in this context. Everything (Law and God) embodies in the King. Positive law receives the same attention as Divine Law in the Zoroastrian context. This development is one of the turning points of difference between the two systems (Western and Iranian) in our consideration.

It is helpful to mention Sophocles' *Antigone* to provide a comparative context at this point. The king's authority was not absolute, and it was never considered the same as the gods' authority. Indeed, there were exceptions in Western political history about kings' absolute authority, but they were all short-lived. The thought of tyranny was never successfully condoned or supported in the West. However, in the East, particularly Iran, the question was never raised.

Lawgiving is the theological process of making laws in heaven and giving them down to the people among the Iranian orthodoxy. 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.³⁹ Boyce also claims that *Ahura Mazda* is the ultimate Creator of all things in Zoroastrian theology.⁴⁰ The authorities of *Varunā* and *Mithra* were mainly transferred to *Ahura Mazda* to consolidate all powers into one God by the prophet *Zarathuštra*.

As exhibited, *Ahura Mazda* and the Kings could issue laws. Kings represent God on earth. “The Persian King was considered the upholder of justice.”⁴¹ Therefore, the king could not be subject to the law. Moreover, I add that this continuity exhibited itself as the barrier to distinguishing “law” from “authority.” Meaning that law and authority are embodied into one. This is another point of departure among the two political traditions of the West and Iran. This attribution to law also implied some sanctions on law. Because laws were God-given, this sacredness of laws made them immune to critique or any modification. Those acts of critique were nonconformist. Therefore, laws even sub-divided were considered one. There is a holistic view of law. One needs to understand the singularity of law in the Iranian context as opposed to the plurality of law in the western tradition. This is another point of departure.

In the Iranian context, the king’s authority enjoys the status of representation of “holiness.” It is the turning point where the Iranian approach to law differs from the Greek’s. Henceforth, there are two continuities (or traditions) in this regard: the Iranian and the Western. Tyranny in the Iranian context is not the opposite pole of Natural Law. *Ahura Mazda* is the Creator of the cosmos hence its laws. Therefore, only God has the authority to issue laws and the

³⁹ Boyce, Mary. 1979. *Zoroastrians, Their Religious Beliefs and Practices*. Routledge & Kegan Paul Ltd., 11.

⁴⁰ Boyce, Mary. “On Varunā’s Part in Zoroastrianism.”

⁴¹ Kuhrt, Amelie. 2007. *The Persian Empire*, 11.

king just follows God's rule. The Western continuity has sub-divided law. Only Divine Law belongs to God; the rest belongs to man (positive law, subjected to criticism).

Conclusion

These two narratives of law developed two different political ethos. First, tyranny (for the lack of a Persian word) in the Iranian world took shape and form of representation of God because the law was viewed as holistic and issued from only one source. In the West, tyranny was not sanctioned, and the law was not viewed as holistic, except for Divine Law. Therefore, Divine Law is kept apart from positive law in the West. Consequently, Law is sub-divided into positive law and all other laws that could not negate Divine Law (as the only condition for law).

Therefore, the separation of State and Church is possible in the West but impossible in Iran.

This partitioning of law between Divine Law and positive law made sovereignty shared between the king and the people, ultimately bestowing upon the people in the West, hence, a sense of republicanism. In Iran, the interpretation of law was the privilege of the elite (the king and the priests), not the people. Therefore, republicanism was never established in Iran to oppose tyranny of the absolute rule of the holistic monarchy.

Chapter Two

From the Pre-Socratic Era to the Conception of Natural Law

Our concern is with the notion of natural law, its development, and its impact on *politeia* in the Greek world and on the Roman Republic. I mean *politeia* as “constitution,” and I refer to a system of laws and practices in the civic community that manages persons’ citizenship. Therefore, to Aristotle, it means the “form of life of the city (*polis*)” [*Pol.* 4.II 1295a40]. In my view, this development has been derived from the notion of natural law (in the making since the Hesiodic literature to the natural philosophy and to the Stoics). This research attempts to directly connect natural law theory to the concept of republicanism in the Hellenic and Roman worlds. We will observe how Hesiod’s advice to his brother *Perses* laid the foundation for reasoning apart from gods by considering man responsible for his actions as the foundation of new questions and answers. Anaximander, a century later, begins inquiring into natural phenomena by observing nature instead of attributing things to gods, hence the early signs of scientific observation of nature, its laws, and its overwhelming dominance over man. The discovery of harmony between the living man and the cosmos led to the notion of cosmic order being embedded in man’s social life. The concept of law based on the cosmos is a fundamental discovery of pre-Socratic philosophy that was later incorporated into Aristotelian ethics and politics. Aristotle, on this basis, developed his *politeia* (a mixed form of government). It is prior to the Stoics developing their natural law theory and establishing it as the foundation of law for the Roman Republic.

In this chapter, we examine early Greek literature, as early as Hesiod (750-650 B.C.), in search of some building blocks of what is called natural law theory. There is evidence that shines a light on the notion of natural law in early Greek literature, unlike conventional thinking, which gives credit to the Stoics as the first developers of natural law theory. It is Hesiod who begins to move away from the Homeric heroic world to the natural and real world, considering man responsible for his actions and deeds. We will also observe that Stoicism is constructed on the basis of Greek natural philosophy (pre-Socratic), as well because there is a continuity in Greek thought in this regard. Hesiod, Anaximander, Xenophanes, Pythagoras, Heraclitus, Democritus, and Parmenides

are as important to this project (the foundation of republicanism) as are Plato, Aristotle, Zeno of Citium⁴², and Cicero.

Hesiod, in his poems, transforms the conception of gods as the original source for everything in the world (*Theogony*) to man as a responsible agent for his deeds (*Works and Days*). In his *Theogony*, Hesiod is concerned with the birth of gods and the origin of the world; in *Works and Days*, he is concerned about Man and his relationship with social order. Robinson believes, “Man becomes responsible for looking for answers to natural phenomena. It is believed that the Homeric world is such that man is moved by considering honor, while in the Hesiodic world, the motif for man to make his move is self-interest.”⁴³

We will be looking for Hesiod’s concerns about justice in *Theogony* and *Works and Days*. Because if Hesiod has specifically written about justice, then he must have spoken about injustice, hence the necessity of laws. The concept of law could not have been generated in Hesiod without thinking of justice because the motive behind law is justice or the concern about justice. He embarks on a sermon to develop a theme or concept of justice, perhaps uniquely for the first time (with respect to Western literature). The concept of evil follows by justice violation as a consequence.

Justice is one of Zeus’s daughters. Thus, justice is followed and honored as a god-given thing (order) to man. Hesiod is clear about the triumphant justice in lines 213-285 of his *Works and Days*.⁴⁴

To Justice; Justice triumphs in the end (218)
But when men deal in justice straight and fair (224-230)
Alike to citizen and foreigner,

⁴² All references to Zeno pertain to Zeno of Citium, not to Zeno of Elea.

⁴³ Robinson, *An Introduction to Early Greek Philosophy*.

⁴⁴ Hesiod, *Works and Days*.

And do not overstep law or presume,
Their city flourishes, their people bloom,
Then Peace, who rears young men, on earth holds sway,
And Zeus, far-seer, keeps cruel War at bay.

In *Theogony*, Hesiod gives a proper place to justice, as well. *Dike* (Justice) is Zeus's daughter of his marriage with *Themis* (Established Custom), and *Dike* is the sister of *Eirene* (Peace) and *Eunomia* (Good Law). These are the elements needed to establish a civilized world for man. Man needs order that is concomitant with the rule of Zeus. *Dike* and her two sisters watch over the works of mortal man (*Theogony*, line 901-3)⁴⁵. The point is that some elements are needed for the good life of man. These elements are justice, custom (or social order to be followed by everyone), peace, and good laws to keep peace and order in place. All are godly. Nevertheless, in *Works and Days*, man is on his own and responsible for his deeds.

Lines 275-278 of *Works and Days* account for a seminal concept of natural law. It is unnatural for men to contravene justice through brute force and natural for beasts to devour one another.

Obey the voice of justice and always refrain from violence.

This is the law Zeus laid down for men,

But fish and wild beasts and winged birds

know not of justice and so eat one another.⁴⁶

However, what is natural in human society coincides with the order imposed by Zeus. The idea seems to be that since justice and, for that matter, good law (*Eunomia*) come from Zeus, such "Laws" governing proper conduct also come from Zeus.

⁴⁵ Hesiod, *Theogony*, *Works and Days*, *Shield*.

⁴⁶ *Ibid.*, 112.

Hesiod's *Works and Days* provides an exhortation while addressing his brother Perses to revere justice and work hard. He indicates how success in agriculture, sailing, and other forms of economic, social, and religious behavior can be achieved by observing specific rules, including the right and wrong days for various activities.⁴⁷

Glenn W. Most interprets Hesiod on the human condition that justice and work are directly related to each other. Man needs and must work for a living. Gods do not need work, but man does. At the same time, this very same justice must make it possible for a man to work so that he can support himself. Divine justice demands man to work. This is an obligation of man. Man's humanity is to acknowledge his place in the scheme of things that the divine justice has assigned for him. Gods will reward this order if a man works and keeps such an order. The attempt to avoid work is to rebel, in vain, against the divine apportionment that has imposed work upon human beings, and he who avoids work will inevitably be punished.

It is believed that Hesiod considers Earth, Sky, and Sea as gods, not elements. Similarly, Hesiod considers justice and peace as not merely abstract forces but divinities. So, in *Theogony*, Hesiod gives us an account of the birth of the *Cosmos* and all divinities that move within it in addition to Homeric Olympian gods.⁴⁸ In *Theogony*, Zeus becomes triumphant and dominant as the male-sky god. Hesiod equates that with law and order. Zeus oversees man on earth to honor order and law as the main two building blocks for the natural law theory, later developed in Greece. Indeed, Zeus's children of his second wife, law *Eunomia*, *Dike*, and *Eirene*, are the enforcers for man to live in order. Athanassakis explains that the genealogy in *Theogony* begins

⁴⁷ Hesiod, *Theogony, Works, and Days, Testimonia*, trans. Glenn W. Most, Loeb Classical Library (Harvard University Press, 2006), xxxvi.

⁴⁸ Hesiod. *Theogony, Works and Days, Shield*. Translated by Apostolos N. Athanassakis. 2nd ed., 18.

in line 901, where Zeus marries *Themis* (Established Custom). He believes the poem begins with chaos but ends with the law.⁴⁹

By establishing order by replacing chaos in the world, Zeus makes room for a man to understand that his life has a point and is meaningful. Athanassakis writes, “From the amorphousness of chaos and the unruliness of the elements, the world graduates to a three-tiered pyramid in which man has a definite place within a framework that does not make his life a meaningless accident.”⁵⁰

After this development, Hesiod writes *Works and Days* on advising his unruly and irresponsible brother Perses. Therefore, this second work is more on human affairs regarding his relationship and association with others. Hesiod advises his brother on many moral values.

In *Works and Days*, men are categorized in different ages, and people through ages deteriorate in moral perspective. The first is the golden age. Hesiod considers himself to belong to the iron age as the lowest. Violence is one of the primary reasons for this deterioration. Violence is the result of injustice and the reason man’s condition has worsened through the ages. Hesiod is nostalgic for the golden age:

Earlier, human tribes lived on this earth
without suffering and toilsome hardship
and without painful illnesses that bring death to men—
(Lines 91-93)⁵¹

⁴⁹ Ibid., 21.

⁵⁰ Ibid., 23.

⁵¹ Ibid., 107.

Hesiod tries to teach his brother about justice (lines 213-85). This is a long sermon on justice. Athanassakis believes that Hesiod looks upon justice “as a moral force of a higher order.” He claims that by considering justice as having a divine origin (*Theogony*), Hesiod has elevated it above any established custom to have the force of law. Therefore, by violating justice, one does not hurt justice but himself and the civic order. Hesiod also preaches to his brother at work. That man must work and must produce. Zeus also orders work. Meaning work is in accordance with Zeus. Hesiod advises his brother, Perses:

The gods have decreed work for men! (Line 398)⁵²

Work is also considered a religious duty. To produce and to provide is good. Good for self, for the family, and ultimately for the community.

In *Works and Days*, verses 252 – 255, we read,

Upon this earth that nurtures many Zeus can levy
thirty thousand deathless guardians of mortal men,
who keep a watchful eye over verdicts and cruel acts
as they rove the whole earth, clothed in mist. (Lines 252-55)⁵³

The idea of invisible divine watchers is found both in the *Avesta* and the *Vedas* and must be of Indo-European origin. In *Odyssey* 17.485–87, we are told that the gods wander through the cities of men in the likeness of strangers to spy on law-and-order violations.⁵⁴

⁵² *Ibid.*, 115.

⁵³ *Ibid.*, 111.

⁵⁴ In the *Iliad*, Agamemnon prays thus: “Father Zeus, ruling from Ida, most glorious and greatest/and you all-hearing and all-seeing Sun” (3.276–77). Also, in *Odyssey* 11.109 and 12.323, we are told that the sun sees all and hears all. Omniscience cast in similar terms is attributed to certain gods in Indian and Iranian literature. We are doubtless dealing with a common Indo-European tradition for which the Greek lines quoted above preserve some valuable evidence. It is the sun that courses the heavens and sees, and therefore knows, all, and it is a rather small step to transport this attribute of the sun to the ruling sky-god. Yet, as we know from the *Iliad*, Zeus is not, strictly speaking, omniscient (Athanassakis, 99). I will return to this development in the following chapter when I will be discussing about the ancient Iranian religions and their political ramifications.

Anaximander (610-546 B.C.)

In this era, almost beginning with Anaximander, there is a general and common approach to nature (physeos⁵⁵). There is a transition from the Homeric world to observing nature. There is a sense of “inquiry” that becomes fashionable. The question “what is” becomes a centerpiece of a new piece of literature that is traced back to Parmenides’ poem.⁵⁶ There is a basic presupposition of epistemological optimism that indicates that the events take place in nature on a fixed set of general principles and are hence discoverable. Anaximander’s role in this endeavor is critical and essential. He states, “Things happen according to necessity, for they [presumably the opposites] pay the penalty to each other for their injustice according to the assessment of Time” (DK 12 A9).⁵⁷

Conventionally, Anaximenes’ twin forces of condensation and rarefaction, Heraclitus’ Justice, Parmenides’ Justice and Necessity, Empedocles’ Love and Strife, Philolaus’ harmonizing power, Anaxagoras’ ordering cosmic mind, and Democritus’ Necessity all represent variations on an original Milesian theme: nature operates in a regular, and therefore understandable, manner.⁵⁸

There is a scholarly opinion that philosophy begins with Anaximander and not with Thales, as Aristotle has claimed. This is because it was Anaximander who initiated the inquiry into nature. Anaximander developed a historical account of how the present world came to be in its current state. Thales did not have an account of any cosmogony, or at least we do not know

⁵⁵ φύσεως (Genitive Singular Feminine)

⁵⁶ Long, *Early Greek Philosophy*. J. H. Leshner. “Early Interest in Knowledge.”

⁵⁷ Most of the materials relevant to early Greek philosophy have been collected in H. Diels’s great work *Die Fragmente der Vorsokratiker* (Berlin, 1903), now in its eleventh edition, and edited since Diels’s death by W. Kranz. This is the work referred to in the References as “DK.” Diels assigned a number to each of the early philosophers, and divided the materials relating to each into “B-materials” (the fragments) and “A-materials” (the ancient testimony). Thus, “DK 28 B 8” means that the passage in question will be found in Diels-Kranz under “Parmenides” as fragment 8 (Robinson, 312).

⁵⁸ Long, 228.

yet of any such thing. Anaximander's account is not a genealogy of gods like Hesiod's but a naturalistic account to explain the external physical world. He clearly distanced himself from the old traditional thinking of explaining natural phenomena according to the gods. He developed his methods based on observation. Anaximander developed a concept of a starting point for his concept of the world as "boundless"⁵⁹ or *Apeiron*. That all animals, including humans, came out of the sea. Anaximander offers explanations for elemental bodies and natural events. He is the founder of a new kind of literature called *On Nature*. One century later, this type of writing became the standard for philosophical writing. Anaximander is responsible for introducing the concept of order in the world and that natural processes can be normative. According to Kahn (1960, Ch. 3), Anaximander grasped the basic principle of a universe that is governed by law. He is responsible for the idea of the earth remaining at rest in the center of the cosmos by equilibrium.⁶⁰

Regarding Anaximander's philosophy, Theophrastus reports, "Of those who say the source is one and in motion and boundless, Anaximander, the son of Praxiades, of Miletus, the successor, and student of Thales said the source and element of existing things were boundless, being the first one to apply this term to the source. Furthermore, he says it is neither water nor any other of the so-called elements. However, some other boundless nature, from which come to be all the heavens, and the world orders in them: [F1] From what things existing objects come to be, into them too does their destruction take place, according to what must be: for they give recompense and pay restitution to each other for their injustice according to the ordering of time, expressing it in these rather poetic terms."⁶¹

⁵⁹ Simplicius Physics 24.13-25, Theophrastus fr. 226A Fortenbaugh (A9, B1)

⁶⁰ Graham, *The Texts of Early Greek Philosophy*.

⁶¹ Graham, 51.

This principle of the universe governed by law is the cornerstone of our inquiry because it will lay the foundation for natural philosophy and entices Plato to write *Timaeus*, which is one of the sources to establish the idea of governing laws based on nature in the city-state. We will observe that Aristotelian Virtue Ethics is founded on this principle, as is his Politics. The purpose of the acorn is to become an oak tree. This development has nothing to do with Zeus. The purpose of a city-state is to make a man live according to his virtues, not according to Zeus's will. We are showing how these ideas came to be and served as the building blocks of political construction based on natural law. Then we can establish our thesis regarding where a sense of the mixed form of government has arisen, hence the notion of republicanism. This development required a departure from the Homeric and Hesiodic Theogony. Anaximander's cosmology is the key to our inquiry here.

In Greek thought, there is a duality concerning the beginning and end of things. Even the world order is limited at both ends. It comes into existence and passes away. However, the act which comes into being and then dies is limitless. The cycle of being and death is permanent or infinite. "It will be evident that when Anaximander speaks of the source of existing things as 'infinite,' he is thinking in temporal rather than spatial terms. No doubt he thought of it as vast by Hesiodic standards; for it is that in which the world order arises as well as that out of which it arises [Hippolytus *Ref.* i. 6. 1 (DK 12 A 11)] (Sprague's English translation)⁶². Nevertheless, the problem Anaximander was trying to solve did not require it to be infinite in extent."⁶³

The Formation of the World Order

⁶² Diels and Sprague, *The Older Sophists*.

⁶³ Robinson, *An Introduction to Early Greek Philosophy*, 25.

There are four fundamental concepts: the hot, the cold, the wet, and the dry. The Greeks (Milesians) did not distinguish between a thing and the power which affects another. Therefore, what is later called the “elements” (earth, air, fire, and water) have the power to interact with each other to create other things, hence the world. There is a different measure of a mixture of these elements for each thing in the world. There is an order that has created this world. Now this ‘order’ does not necessarily correlate with the concept of God. One needs to be alert about this because, in Mesopotamian mythology, gods are responsible for making the world. In the Zoroastrian world, God (Ahura Mazdā) is the only source of creation. Zoroaster unified all the Indo-Iranian gods. There is a tendency to unity in the East, but in the Greek world the tendency is to multiplicity. Therefore, when the Greeks talk about the order in the universe, that order is not about gods or a single God. The concept of a holistic omnipotent God does not exist in the Greek world. In my view, this is another key to considering the concept of natural law in the Greek context.

The Injustice of the Opposites

There is an early Greek thought about the meaning or the notion of “the opposite.” It is constructive, not deconstructive. It is the opposite of things that create new things. The opposites are for reparation. The point is important here; according to the ordinance of time, the opposite things make reparation to one another for justice, to do the wrong right. In *The Nature of Man*, Hippocrates believes that the body is constituted of multiple elements, not a single one. Health and pain are derived from maintaining the balance between them or lack thereof. “The human body contains blood, phlegm, yellow bile, and black bile. These are the things that make up its constitution and cause its pain and health. Health is primarily that state where these constituent substances are in the correct proportion to each other, both in strength and quantity, and are well

mixed. Pain occurs when one of the substances presents either a deficiency or an excess or is separated in the body and not mixed with the others.”⁶⁴ The opposites, he says, are to be found in the body as well as outside it.

As Hippocrates points out, the same situation prevails in the world order. It is also comprised of the same concept of the opposites. It is clear how the first one and then the other dominate as the seasons change and succeed one another. It is important to note that the succession of the seasons is orderly; each of the opposites sets reparation for the wrongs it has done “according to the ordinance of time” as the year progresses or involves.

The Law of Compensation

There is a natural tendency in man to pursue reparation. Although, for the Greeks, this notion of reparation is not just for men and their relationships. It is in nature itself. The opposites make reparation to one another for their injustices. When an earthquake, for instance, hits the bottom of the ocean. It creates waves, but before hitting the shoreline, they suck the water back into the sea. Water goes away (or is forced away) but comes back for vengeance. Although *Poseidon* was the god of the sea and the patron of a Greek *polis* called *Helike*⁶⁵, which was destroyed and submerged due to earthquake and tsunami, any Greek word for this natural phenomenon might have been attributed to the fate of *Helike* and *Poseidon*.

This is the root of the concept of tragedy invented by the Greeks. The same law of compensation is at work when the reversal of a fortune overwhelms the tragic hero. For the Greeks, nothing happens without a reason to complete the tragedy. According to Graham⁶⁶,

⁶⁴ LLoyd, *Hippocratic Writings*.

⁶⁵ <https://en.wikipedia.org/wiki/Helike>

⁶⁶ Graham, 11-18.

“Anaximander seems to draw a notion of cosmic justice that parallels nascent democratic practice; see Vlastos 1947⁶⁷.” This emphasis on justice in the cosmos is crucial because this idea will be picked up and elaborated by succeeding Greek philosophers, including the Stoics, hence justice’s connection with the natural law concept.

Tragedy

Tragedy considers the law of compensation as justice for human affairs. It is the Greek response to injustice or how to do justice. There must be something to pay for. That is the law. In this moralized format, the law is already implicit in Hesiod [*Works and Days* 225-247]⁶⁸, where its operation depends upon the will of Zeus. Robinson writes about Anaximander, “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.”⁶⁹ Anaximander introduces the idea that the orderliness that Zeus sponsors is no longer contingent upon the will of Zeus; thus, it is grounded in the nature of things. The discovery of orderliness associated with the nature of things is substantive and profound because this notion becomes the fabric of Greek thought. This association of orderliness with the nature of things may entice men to consider responsibility on their shoulders to discover such order in their environment and stop attributing them to gods. If men learned that they were on their own, they would take things into their hands, and their collaboration may contribute to their politics.

Moreover, seeking order concerning the nature of *politeia* leads to Aristotelian thought on a “mixed form of government” based on his ethics. This development is profoundly essential. It

⁶⁷ Vlastos, Gregory. *Plato’s Theory of Man*. 1947.

⁶⁸ Athanassakis, 83

⁶⁹ Robinson, 38.

was initiated by Hesiod, who observed that Zeus was responsible for maintaining order in the world, but then Anaximander made nature sustain itself without the help of gods. I believe this development singlehandedly lays the foundation for Greek natural philosophy.

To Anaximander, the gods as individuals have disappeared; the opposites, in the concrete form they assume as earth, sea, and sky, have taken their place. Furthermore, the order threatened by their injustice is the order of nature itself, free of dependence upon the will of individuals.⁷⁰

The disappearance of gods is no accident; it is the result of investigating the natural order itself. So, we can see the process at work in Anaximander's explanation of thunder and lightning... According to tradition, these things are the work of the Olympian Zeus. It is Zeus who gathers the storm clouds, Zeus who hurls down the fiery thunderbolts on those who provoke his anger. However, for Anaximander, they are not the work of Zeus but the operation of purely natural causes.⁷¹

This development, however, raises a critical question. If the gods are not responsible for justice to maintain the world order, then what or who is? The Greeks invented the concept of the infinite. Anaximander planted the seed of this thought. The notion of the infinite is comprehensive and inclusive. It includes everything and orders everything. It holds order in the world. That is the critical source for justice. It is the ultimate source of existing things; justice that prevails among them (the existing things) is supported by the infinite. It "encompasses all things' and 'steers all things'" [Aristotle *Physics* iii. 4. 203 b 6]. We need to acknowledge this

⁷⁰ Ibid., 38.

⁷¹ Ibid., 39.

fundamental development as the pre-Socratic principle for our quest to establish the concept of natural law in *politeia*. We will see this development and how it leads to republicanism.

The Death of the World Order

Going back to the fundamental Greek thought that everything has a beginning and an end, the life of the world order, like that of the body, is limited. “Having come into existence, it must necessarily pass away, returning into the infinite from which it sprang.”⁷²

For from this, all things came into being, and into it, all things pass away. In this way, innumerable world-orders arise and perish again into that from which they came.⁷³

The birth of another follows the death of the current world order. The Infinite has no beginning and end, and all the existing things, including the world order, arise from the infinite. There is always a replacement. However, the succession process of the world order requires to be without beginning and end, like infinite itself. It is the result of the unending process of change. “It covers everything in the world” [Aristotle *Physics* viii 1. 250 b 11].

Microcosm and Macrocosm

The whole argument is based on the analogy between microcosm and macrocosm. What is true of living creatures is true of the world order at large. The living creature is a world order in miniature.⁷⁴ This development is reflected in Aristotle’s *Politics* when he considers man and city

⁷² Robinson, 39.

⁷³ Aetius i. 3. 3 (DK 12 A 14).

⁷⁴ Robinson, 48.

are parts of the cosmos. Therefore, their laws must be according to the cosmos. The crux of the argument is this:

Where there is order, there must be intelligence. It lies in the analogy between microcosm and macrocosm [Simplicius *Phys.* 152,18] (DK 64 B 4).

Intelligence is the source of all order when it comes to living creatures. This is the world order, as a whole. Due to the microcosm and macrocosm relationship, it is true for the living creatures as the world orders in miniature [Galen *De usu Pratt.* iii. 10] (DK 68 B 34).

Robinson believes the religious implication of this was developed by Xenophanes. However, the order that the Milesians saw in the world order around them was a moral order.⁷⁵ As the life of the city can endure only as long as men observe justice, so the world order, as a whole, can endure only as long as the opposites “make reparation to one another for their injustice according to the ordinance of time” [Simplicius *Phys.* 24, 18] (DK 12 B 1).

Cosmos and Harmony

Nature is an ordered thing, and this notion has been essential to Greek thought from the beginning. Nevertheless, the word “cosmos” has a sharper focus than the implications that “order” had for the Greek mind. Robinson believes that the corresponding verb means not merely “to set in order” but “to set in an order which is fitting” and which is, therefore, beautiful. Nevertheless, in Greek, there is no sharp distinction between “beautiful” and “good,” and “cosmos” suggests them both. It is also associated with the divine. This conception was part of the Ionian tradition from the first, but it is made explicit in Pythagoreanism.⁷⁶

⁷⁵ *Ibid.*, 54.

⁷⁶ *Ibid.*, 77.

There is a harmony between body and soul, hence the association of the world order to the soul. The Greeks saw the city as a cosmos in miniature, following the microcosm and macrocosm relationship argument. Henceforth, the order in the City is as the world order consists of harmony of the diverse elements. This requires the art of ruling. Such art is to preserve this harmony. Pythagoras had a profound impact on his followers' minds in this respect. Plato, in *Gorgias* 507, talks about Pythagorean politics.

The doctrine of harmony is to provide the social order as part of the cosmos. The principle of the social order is justice. However, justice is founded upon reciprocity [Aristotle *Nicomachean Ethics* v.8 1132b 21], [Aristotle *Magna Moralia* i. 33.1194a 29].

Pythagorean Thought

Understanding social justice can be approached as a mathematical problem, as it involves the organization and arrangement of elements in a just and equitable manner. At the core of all order lies the concept of number—the means of assigning limits to what would otherwise be vague and chaotic. The Pythagoreans recognized reason as the tool for achieving this order, serving as the source of harmony in both the cosmos and human society. They viewed this process as fundamentally mathematical, uniting the individual, the city, and the cosmos. The belief in the collective mathematical nature of reality leads to the notion that the order of reason, represented by numbers, underlies, and reflects the structure of reality. This idea forms the foundation of Greek philosophy as a whole, which seeks to comprehend the world through the lens of reason and logical inquiry.

In essence, Greek philosophy's pursuit of understanding reality as a reflection of rational order, conveyed through mathematical principles, underscores the profound interconnection

between reason, order, and justice. By appreciating this fundamental mathematical aspect of social justice, one gains insight into the philosophical framework that underpins the ancient Greek approach to comprehending the cosmos and human existence.

It is believed that the Ionians took the initiative in their inquiry to understanding the visible world. They were adamant about discovering the roots and origin of the world and its laws [Diogenes Laertius ix. 1 (DK 22 B 40)]. However, there is something that causes all these natural events, and that is understood as “wisdom.”

The wisdom of which Heraclitus speaks about is the “totality of mind and thought,” which Xenophanes calls “god” [Diogenes Laertius ix. 19 (DK 21 A 1)]. This intelligence steers all things through all things, and hence is the prime cause. This is divine, and it is customary for the Greeks to call it Zeus. We see that reason or wisdom is considered the observer of order, hence justice in the cosmos, *polis*, and man’s body.

Measure and Justice

It is understood that the sea is transformed into the earth in a balanced interrelation of equal and opposite transformation of the earth into the sea. This equilibrium is preserved by means of the equity of these exchanges. “It is essential for the Greeks to observe the measures for maintaining equilibrium” [Plutarch *De exil.* 11, p.604 A (DK 22 B 94)].⁷⁷

Nevertheless, Parmenides created an essential question for his pupils and future generations, which challenged the Ionian natural philosophy based on senses and observation. It is about the paradox of “one and many.” They cannot exist at the same time. He says it is impossible to hold that the world, in any real sense, is one and, at the same time, many. By

⁷⁷ Ibid., 91.

“many,” he means the opposite elements and forces interacting with each other and making different things. If the world is one at all, then the possibility of the “many” is ruled out; and if the world is one, then motion and change cannot exist.

To the Parmenides’ question, “Is reality one or many?” Heraclitus would respond: it is both one and many. Of the senses, the reality is clearly many. Because it is made up of the opposites which we see about us, meaning the hot, the cold, the wet, and the dry. They go under transformation, constantly. But the reason is responsible for correcting the senses, for reason exhibits that in changing it remains the same. Though we cannot step into the same waters twice, but rivers remain the same, and we can step into them multiple times. Freshwaters are always flowing on, and they replace the old waters in the same measure as the old passed away. It is true that what is, is one, and it is the reason that tells us this. But also, reason tells us that if what is, is one, it cannot be many.

Atomism: The Microcosm

Among some Greeks, it is believed that the principles at work in the world order at large are also at work in man; for “the living creature is a world order in miniature” (attributed to Democritus). Man is also considered atoms and void, just like the world order, and like the world order, he comes into being not by design but by necessity through the operation of the vortex. The impact of Democritus on Aristotle is sensed when Aristotle follows the same path when he considers the city natural (as part of nature); hence its governance must be in accordance with nature and its order to follow the world order.

Conflicts of Interests

Democritus makes a fundamental leap forward concerning law. He believes all laws are manufactured. Hence, justice is not something that Zeus has given to man, as Hesiod teaches. Democritus departs from Hesiod. Man is responsible for the invention and establishment of laws for himself. Democritus distinguishes between qualities of bodies that exist in nature from those which exist only for man. He does so by saying that the bodies are real, whereas the bodies exclusively for men exist only by convention. He concludes that laws are not just derived from nature and are governed by nature. They are also the result of the convention among men and concerning men. Therefore, Democritus provides a sort of cost-benefit analysis of law for man. “The law wants to benefit the life of men; it achieves its end when men want to be benefited by it. When they obey it, it reveals its own virtue” [Stobaeus *Flor.* iv. i. 33 (DK 68 B 248)].⁷⁸

Democritus also provides the principle dictating that natural is somehow better than what is artificial. Thus, the sense of “self-preservation” becomes superior to any manufactured law. Moreover, self-preservation as the supreme law leads to other naturally driven laws. This is another building block of thought and ideas developed by the Greek natural philosophers that later were incorporated by the Stoics to finalize the development of natural law.

Indeed, it is essential to recognize that neither Plato nor Aristotle explicitly wrote about the concept of natural law in their works. However, the foundation of such thinking, the embodiment of reason into law to coordinate with the cosmos as the world order, does exist in their literature. Further, there is a connection and a continuity between Plato and Aristotle with respect to the pre-Socratic philosophers, notably Heraclitus, Parmenides, and Anaxagoras. This lineage of the Greek natural philosophers to Platonic literature is important because it leads to

⁷⁸ Ibid., 236.

Timaeus and then to the virtue ethics and the concept of Aristotelian *politeia* as his preferred form of government.

Plato in *Timaeus*⁷⁹ reflects on the heritage of the Greek natural philosophy. The mission assigned to Timaeus is to talk about the universe's origin and human nature as part of the universe [27a]. Where Plato talks about reason and wisdom in the world hence bestowed in our laws, which seems to be coming from this logic of reasoning that god is good and the source of creating the cosmos and prefers order over disorder. It is expected of god, which is the supreme good, to do everything at its best. Plato continues that anything intelligent is better than unintelligent, and further, anything possessing intelligence comes from the soul [30b]. They believed the world was a living thing endowed with soul and intelligence [30c]. Cosmos has intelligence because it was caused by divine providence. Plato, in *Timaeus*, claims that we are the creation of the supreme good, which is god. The god gave us sight, so we might see and observe the orbits of intelligence in the universe so that we could apply them (those orbits of intelligence) to our own understanding. In Plato's terms: "Apply them to the revolutions of our own understanding" [47b]. He further explains that these orbits of intelligence in the universe are not disturbed, even though ours may be disturbed. Our knowledge of those orbits will help us to correct our calculations according to nature. We should be able to stabilize our straying revolutions within ourselves by observing and copying completely unstraying revolutions (orbits of intelligence in the cosmos) of god [47c].

Law and Reason

⁷⁹ Plato, *Plato - Complete Works*, ed. John M. Cooper and D. S. Hutchinson, 1 vol. (Hackett Publishing Company, Inc. Kindle Edition., 1997).

Even though legislators do not need esoteric knowledge to legislate properly, the Athenian in *The Laws* insists that the laws they produce exemplify the excellence of reason. Since wisdom (*phronesis, nous*) informs all the virtues, the legislator who is supposed to make the citizens virtuous must inculcate in them some wisdom. To the Athenian, the law is an expression of reason, even though laws are only imperfect approximations of political expertise. To live, according to laws, is to live in obedience to what little spark of immortality lives in us. This spark of immortality is reason or intelligence (*nous*), which we dignify with the name of law (*nomos*). Laws, in this view, are expressions (albeit imperfect ones) of divine reason. They are also expressions of human reason: the ability to discriminate between better and worse objects of pursuit, which, when it becomes the standard dogma of the city, is called law (*nomos*). The exceptionless regularity of law embodies order (*taxis*). Moreover, order is the defining characteristic of the ultimate intelligible reality that governs the cosmos in Plato's view.

Plato's *Republic* deals with the structural analogy between the state and the individual soul. *Timaeus* intends to base the conception of human life, whether in social or individual order, on the foundation of the order of the universe. In other words, man is a part of the universe. Hence, he follows the order of the universe in his individual and social life. Everything is according to the cosmos. The parallel between the macrocosm and microcosm is apparent throughout this discourse. Accordingly, true morality is not the result of human evolution nor the arbitrary consequence of his will. Man's soul is a miniature of the soul of the world. Furthermore, the soul of the world is eternal and harmonic, instituted by reason. "This order was revealed to every soul before its birth" [41e].

Plato asserts that human morality is based on the cosmic order in other parts of his literature, but *Timaeus* adds something more like a demonstration, although in a mythical form.⁸⁰ We will observe this line of thinking regarding law and reason as the two intertwine objective necessities that follow through the critical lineage of Western political thought. This establishment will serve as the platform for our comparative study.

However, Callicles in *Gorgias*⁸¹ refutes Socrates' argument about doing injustice is worse than suffering injustice. And Socrates would rather suffer injustice than doing it. Callicles claims that there are two measures for discovering justice, one is law and the other is nature. He means that they are not the same. Rather they oppose each other [482e].

It seems that Plato's position toward the law of nature is not favorable. This is because he believes in egalitarian distribution of wealth, and nature acts in opposition to this kind of distribution and sharing. Callicles (on behalf of Plato) says, "I believe that the people who institute our laws are the weak and the many. So they institute laws and assign praise and blame with themselves and their own advantage in mind. As a way of frightening the more powerful among men, the ones who are capable of having a greater share, out of getting a greater share than they, they say that getting more than one's share is 'shameful' and 'unjust,' and that doing what's unjust is nothing but trying to get more than one's share. I think they like getting an equal share, since they are inferior" [483bc].

According to Callicles, if the law is formulated by the *demos*, a distinction arises in the nature of laws between aristocrats and the common people (*demos*). A dichotomy exists between adhering to the law of nature, advocated by aristocrats or the 'more capable men,' and following

⁸⁰ Plato, *Timaeus*.

⁸¹ Plato, *Gorgias*.

the laws established by the weak and the many. The principle of equal sharing, endorsed by the weaker faction, clashes with the natural order, which aligns with a distribution based on individual contributions. Plato promotes an egalitarian distribution of wealth, emphasizing equal sharing. In contrast, Aristotle opposes his teacher's position, advocating for a proportionate distribution and sharing as just. Calicles asserts that, based on the laws created by the weak and the many, obtaining a greater share than others is deemed unjust. Nature “reveals that the more powerful or capable man can get a greater share and that is just” [483d].

On the Aristotelian contribution to this quest of law, one needs to consider the most important text for understanding Aristotle’s political philosophy is *Politics*. However, reading *Nicomachean Ethics* is also essential to fully understand Aristotle’s political project. Aristotle believed that ethics and politics were closely linked and that an ethical and virtuous life is only available to someone who participates in politics, while moral education is the primary purpose of the political community. As he says in *Nicomachean Ethics*, “The end of politics is the best of ends, and the main concern of politics is to engender a certain character in the citizens and to make them good and disposed to perform noble actions” [1099b30].

Now there is a logical question that begs our attention. What law or *nomos* is to be considered legitimate to follow and obey? To answer this question, there is a need to attribute command to law. Before Aristotle, Xenophon also reports a conversation between Pericles and Alcibiades. In that conversation, according to Kelly, two central problems of jurisprudence appear, “One is the relation of law to the expression of a political superior’s command; the other

being whether the existence of a political superior's command is enough to confer the character of law on what he decrees.”⁸²

Pericles has a compelling opinion about law. “Everything, in my opinion, that one compels someone to do without persuading him, whether he writes it or not, is violence rather than law (*Memorabilia*, I. 2. 45).”⁸³ This is in correlation with *nomos* based on reason extracted from the cosmos. Persuasion, in my view, has a foundation which is the cosmos. Not any law should be called law. Not any law must be obeyed. We see this in *Antigone*.

Further, the word *nomos* has some connection with commanding, as it is evident in Greek literature. Aristotle attributes a character of order to law, “Law (*nomos*) is a system of order (*taxis*), and good government (*Eunomia*) must therefore involve a general system of orderliness (*eutaxia*)” [1326a25].⁸⁴

Aristotle, in his *Ethics*, reiterates the same notion when he says, “This is why we do not allow a *man* to rule, but *rational principle*, because a man behaves thus in his own interests and becomes a tyrant [1134a32].”⁸⁵ In *Athenian Constitution*, he praises Solon for ruling according to the law and not taking personal advantage.

Aristotle says, "For justice exists only between men whose mutual relations are governed by law; and law exists for men between whom there is injustice; for legal justice is the discrimination of the just and unjust” [1134a29-34]⁸⁶.

⁸² Kelly, J. M., *A Short History Of Western Legal Theory*.

⁸³ Xenophon, *Memorabilia*.

⁸⁴ Aristotle, *Politics*.

⁸⁵ Aristotle, *The Nicomachean Ethics*.

⁸⁶ *Ibid.* Bk. III. Ch. 6

He is expressing a relationship between justice and law, emphasizing that justice only comes into play in the interactions between individuals whose relationships are regulated by laws. The author contends that the existence of justice is contingent upon the presence of legal frameworks that govern the behavior and interactions of individuals.

Furthermore, the statement suggests a reciprocal relationship between justice and law. It posits that the purpose of law is to address situations of injustice among individuals. Legal justice, as described here, is framed as the act of distinguishing between what is just and unjust within the parameters set by the law.

In essence, the passage underscores the idea that justice is a concept that manifests itself within the context of legal systems and their application. It implies that justice is a product of and is realized through the structures and regulations established by law, and that the function of legal justice is to discern and rectify instances of injustice within a societal framework.

Aristotle in *Rhetoric*⁸⁷ establishes the classification of just and unjust acts. They are defined relatively by two kinds of laws (just like Callicles' division in the *Gorgias*), but he connects them to two different persons. Aristotle considers "particular law" and "universal law." Particular law is the one for each community which lays down their laws whether they are written or not. Universal law is the law of nature. Law of nature applies to everyone including Kings. Therefore, a natural justice and injustice are common to all even among different communities. Aristotle cites *Antigone* to claim that the justness of law of nature is different than the justness of the law enacted by the King about the burial of Polyneices. And the justness of the law of nature is above the law of man [1373b1-11].

⁸⁷ Aristotle, *Rhetoric*. p. 2187. Princeton University Press.

On the question of equity (and the equitable) Aristotle explores the concept and its relationship to justice (the just). He notes that, upon examination, equity and justice are not entirely identical but also not entirely different in terms of their essential nature. At times, people praise what is equitable and the equitable person, even using the term as a form of praise for instances of virtues other than justice. However, upon closer examination, it may seem peculiar that the equitable, if considered different from the just, is still praiseworthy. This raises the question of whether justice and equity are truly distinct or if they are essentially the same.

These considerations give rise to a dilemma because, although the equitable is considered better than one type of justice, it is still just. The crux of the matter lies in the idea that the equitable is not a different class of thing from the just; rather, it is an improvement upon legal justice. The equitable is just but not the legally just; it is a correction of legal justice. The reason for this lies in the fact that not all situations can be universally addressed by the law with absolute correctness. In cases where it is necessary to speak universally but the law falls short due to oversimplification, the equitable comes into play. It corrects the deficiencies in the law by addressing what the legislator would have included if aware of the specific case.

The equitable, therefore, is considered just and superior to one type of justice, not because it is better than absolute justice, but because it rectifies errors arising from the rigid universality of legal statements. The equitable functions as a correction of law where it is deficient due to its overly general nature. The passage concludes by emphasizing that not all matters can be determined by law, and in situations where the law is indefinite, a decree or judgment is needed to adapt to the specific circumstances. The equitable, in this context, acts as a

flexible and corrective force, ensuring a more just outcome where the law might fall short [1137b1-30].⁸⁸

The importance of *telos*

The concept that clearly links politics and ethics together is what Aristotle calls *telos*. The word *telos* means something like purpose, goal, or final end. According to Aristotle, everything has a purpose or final end. If we want to understand what something is, it must be understood in terms of its end. What concerns us is the *telos* of the human being. What is it, then, that human beings are meant by nature to become in the way that knives are meant to cut, and acorns are meant to become oak trees? According to Aristotle, we are meant to become happy. Living happily requires living a life of virtue. Someone who is living a life that is not virtuous or morally good is not living a happy life, no matter what they might think. They are like a knife that does not cut.

Someone who does live according to virtues, who chooses to do the right thing because it is the right thing to do, is living a life that flourishes; to borrow a phrase, they are being all that they can be by using all of their human capacities to their fullest. The most important of these capacities is *logos* – the word that means “speech” and also means “reason.” Human beings alone have the ability to speak, and Aristotle says that we have been given the ability by nature so that we can speak and reason with each other to discover what is right or wrong, what is good or bad, and what is just or unjust.

⁸⁸ *Nicomachean Ethics*: Bk. V. Ch. 10

Aristotle talks about the soul and bases his ethical argument on that. His view is different from Plato's. Aristotle has a book on the subject, *De Anima* (On the Soul)⁸⁹. *De Anima* criticizes his predecessors' views, including Plato's on the soul in Book I. In Books II and III, he describes his understanding of the soul. His views clearly reflect on his ethical thinking and writings.

Aristotle, at the beginning of *De Anima*, writes, "The knowledge of the soul admittedly contributes greatly to the advance of truth in general, and, above all, to our understanding of nature, for the soul is in some sense the principle of animal life" [402a5-7]. As we see, Aristotle considers the soul in nature as the principle of life. He means the soul causes life. There is an actuality in the soul. This is different from the Platonic definition of the soul. Moreover, we will see how this view of the soul shapes Aristotle's ethics.

First, Aristotle explains substance. "Substance is one kind of what is, and that in several senses: in the sense of matter or that which in itself is not a this, and in the sense of form or essence, which is that precisely in virtue of which a thing is called a this, and thirdly, in the sense that which is compounded of both. Now, 'matter' is potentiality, 'form' actuality; and actuality is of two kinds, one as, e.g., knowledge, the other as, e.g., reflecting" [412a6-10].

Simplifying his remarkable statement, one should note that substance is a thing (being) of several kinds, or according to Aristotle, senses: matter and essence are two different kinds of substance. Matter in itself is not a thing. It depends on something else. Furthermore, the essence is the constructive and fundamental ingredient of a thing that causes a thing to be. The third piece is the compound of the two: matter + essence (or form) = a particular thing.

⁸⁹ Aristotle, *De Anima* (On The Soul).

Aristotle concludes that matter is the potential outcome of actuality. It depends on something. Matter can be or can have a thing. More importantly, Aristotle calls the actuality of being two kinds. He considers knowledge as an actuality. This is the key for us to read his ethics. He continues talking about bodies of different kinds. The soul cannot be a body because the body is the subject or matter. It is different than what is attributed to it. He means that the body is the same, but the soul makes different things of it. There is one body, but different souls make different forms or essence. The soul of “cat” and “body” makes the cat which is different from a mouse because “another soul” makes that body a mouse, hence the potentiality of body as matter; different souls make different live creatures as mouse and cat. Tom and Jerry have different souls. “Body” as a matter is unique (or singular). It is the soul which makes different animals. Thus, according to Aristotle, the soul must be a substance that, in the sense of the form (or essence) of a natural body, has life potentially within it [412a20].

Aristotle claims that substance is actuality; therefore, the soul is the actuality of a body. There are two kinds of actuality: knowledge, and reflection. So then, he concludes that the soul is an actuality-like knowledge [412a25]. It means we, through knowledge or reflection, give our bodies actuality. Our morality is directly affected by this act of knowledge caused by the soul.

If the soul is a substance, it must have form and matter (compound) to exert itself from potentiality to actuality; hence knowledge results directly and positively from the soul. This development is crucial because Aristotle later concludes that knowledge leads to “movement.” The soul is the cause of the movement. His ethics⁹⁰ and then politics are the direct results of this movement.

⁹⁰ Whether *Nicomachean Ethics*, *Magna Moralia*, *Virtues and Vices*, or *Eudemian Ethics*.

Aristotle, clearly, answers his first question, what is the soul? “It is the substance in the sense which corresponds to the account of a thing. That means it is what it is to be for a body of the character just assigned” [412b10].

There are two different things. One has the soul, and the other does not. The thing which has the soul, consequently, has growth and decay. It means it has a life-like plant, animal, and human. If we look at the Judeo-Christian conception of the soul, we shall observe the differences. It is also true that, later, Christianity incorporated some Greek conceptions of the soul.

The soul in the original languages is *nēphesh* in Hebrew and *psyche* in Greek. However, the Greek term in the New Testament connotes with the Christian understanding of the soul and not the pagan Greek. “Those words in the Scriptures show ‘soul’ to be a person, an animal, or the life that a person or an animal enjoys.”⁹¹ In the indirect contrast with the Greek teaching of the *psyche* (soul) as being immaterial, intangible, invisible, and immortal, the Scriptures show that both *psyche* and *nēphesh*, as used with reference to earthly creatures, refer to that which is material, tangible, visible, and mortal.

On the Human Soul, precisely the exact Hebrew phrase used of the animal creation, namely *nēphesh chayah* (living soul), is applied to Adam, when, after God formed man out of dust from the ground and blew into his nostrils, the breath of life, “the man came to be a living soul” (Ge:27).

⁹¹ *Insight On The Scriptures* 1988, 1004.

As stated, man “came to be living soul;” hence man was a soul, and he did not have a soul as something immaterial, invisible, and intangible residing inside him⁹². This is in contrast with the Greek conception of the soul.

The three Aristotelian components all possess individual characteristics. The understanding of *Arête*, *Eudaimonia*, and *Phronesis* all vary from agent to agent. Is there any universal definition of rules derived from *Arête*, for instance? Excellence in what we do will have specific results that may and more likely will differ from another individual’s (agent) act. Moreover, these two agencies may conflict with each other. Any agent can uniquely define *Arête*. This raises a question for us. Can we develop any rule applicable to all based on *Arête*? It seems we will require implementing selection among the traits concerning *Arête*. Al Capone was the best in what he did.

The second component (*Eudaimonia*) also bears an individual trait or characteristic; hence there is subjectivity in this concept. There is a problem in generalizing this component to make a universal law. Whose happiness is to be considered, and whose happiness is more just than the others’? However, “*Phronesis*” is about moral or practical wisdom. It provides somewhat of a groundwork on the goodness in a social platform because the practical wisdom of doing good or doing the right thing implies avoiding harm. This could be considered an objective component in virtue ethics for constructing a universal principle. *Phronesis* makes the process of constructing universal rules vibrant and organic. It will grow and evolve as the society of humankind evolves. We will be connecting Aristotelian *Phronesis* to the concept of the “mixed form of government,” which is also an Aristotelian term. This development serves the *telos* of the *polis* to Aristotle, hence, the direct connection of his ethics to his politics.

⁹² Ibid., 1005.

In my inquiry, I am concerned about human *telos*. It should be connected with *politeia*. Aristotle would articulate this concept of human *telos* in his *Politics* to establish a balanced and sustainable political community. Happiness requires virtues, and a person needs them for his or her happiness. He further articulates that human happiness is possible only in a *politeia*, hence the connection between his ethics and politics.

There is also another key concept, which is *logos*. It means both speech and reason. I believe Aristotle considers both meanings of the word simultaneously. *Logos* is the sole ability that makes us unique in nature. No other animal possesses this power. We can discover what is right and what is wrong. This *logos* defines and shapes our *telos*. It helps us to discover virtues and become virtuous. Moreover, it helps us incorporate our *telos* into the *politeia* that Aristotle advocates. Aristotle believes certain conditions are required for things in nature to fulfill their *telos*.

We observe in the *Ethics* [1103a30]: “We become just by the practice of just actions, self-controlled by exercising self-control, and courageous by performing acts of courage ... Lawgivers make the citizens good by inculcating [good] habits in them, and this is the aim of every lawgiver; if he does not succeed in doing that, his legislation is a failure. It is in this that a good constitution differs from a bad one.” We can see how his ethics and politics are connected or perhaps intertwined, meaning they necessitate each other. Virtue ethics teaches and prepares people to act in the political community in a way to be virtuous to build such a political community or *politeia*. Establishing a constructive connection with Aristotle’s ethics is vital to understand his special *politeia*.

Aristotle begins *Politics* by defining its subject, the city or political partnership. Doing so requires him to explain the purpose of the city. Aristotle says, “It is clear that all partnerships aim

at some good, and that the partnership that is most authoritative of all and embraces all the others does so particularly, and aims at the most authoritative good of all. This is what is called the city or the political partnership” [1252a3].

The purpose of the city (*polis*)

Aristotle defines the political community as a partnership, and as partners, citizens seek the common good. The most authoritative and highest good of all, for Aristotle, is the citizens’ virtue and happiness and the city’s purpose.⁹³ In the city, each individual as a citizen achieves excellence. Each one fulfills his *telos*, and collectively they help to fulfill the city’s *telos*, as well. This is the partnership.

Aristotle further distinguishes people from each other, “One who is incapable of participating or who is in need of nothing through being self-sufficient is no part of a city, and so is either a beast or a god” [1253a27]. We cannot be gods, but indeed, we can become beasts: “For just as man is the best of the animals when completed, when separated from law and adjudication he is the worst of all” [1253a30]. There are two conditions that aid us to avoid becoming beasts. One is the law, and the other is adjudication. Moreover, these two means are only available in the city (*polis*).

Aristotle makes an analogy. Our relationship with the city is comparable to the relationship of a part of the body to the whole body. Death or destruction of the body would also mean the destruction of each of its parts. Aristotle says, “If the whole body is destroyed, there will not be a foot or a hand” [1253a20]. It means if the city is destroyed, all its citizens will be

⁹³ Clayton, Edward. “Aristotle: Politics.” *Internet Encyclopedia Of Philosophy*. Accessed November 27, 2022. <https://iep.utm.edu/aristotle-politics/>.

destroyed or ruined but not the other way around. The city can survive without some of its citizens.

Aristotle believes the city is natural. He gives a history of how cities come into being, by individuals pairing and making families. Families out of natural necessities and needs get together for their betterment, hence the creation of villages. Moreover, the collection of some villages makes cities provide for man whatever he needs. He says, “Every city, therefore, exists by nature, if such also are the first partnerships. For the city is their end.... [T]he city belongs among the things that exist by nature, and ...man is by nature a political animal” [1252b30-1253a3]. If the history that he has described is correct, Aristotle points out, and then the city is natural and not purely an artificial human construction, since we have established that the first partnerships which make up the family are driven by natural impulses.

Logos is the natural means given to us to make a living together (family, village, city) possible, and the key to such purpose is the partnership. *Logos* helps us to make laws. Aristotle writes, “[The virtue of] justice is a thing belonging to the city. For adjudication is an arrangement of the political partnership, and adjudication is judgment as to what is just” [1253a38]. We make the right laws. We act with justice and exercise the virtues that allow human society to function.

Cities are preserved not by complete unity and similarity but by “reciprocal equality.” In such cities, “all cannot rule at the same time, but each rule for a year or according to some other arrangement or period of time. In this way, then, it results that all rule...” [1261a30]. This topic, the alternation of rule in cities where the citizens are free and equal, is an integral part of Aristotle’s thought (Clayton).

In order to observe a sense of the concept of Republic, one needs to consider the notion of the citizen to Aristotle, “The citizen in an unqualified sense is defined by no other thing so much as by sharing in decision and office” [1275a22]. Later he said that “whoever is entitled to participate in an office involving deliberation or decision is, we can now say, a citizen in this city; and the city is the multitude of such persons that is adequate with a view to a self-sufficient life, to speak simply” [1275b17]. Aristotle then claims a citizen is more likely in a democracy, “above all in a democracy; he may, but will not necessarily, be a citizen in the others” [1275b4]. This participation is direct in the assembly. Just voting for representatives is not enough. Citizenship, to Aristotle, requires direct involvement in politics. All citizens are responsible for upholding the laws by serving on juries and also by holding offices.

Aristotle claims there are several different types of regimes (six), hence several different types of good citizens. Therefore, good citizens must have the type of virtue that preserves the partnership and the regime: “[A]lthough citizens are dissimilar, preservation of the partnership is their task, and the regime is [this] partnership; hence the virtue of the citizen must necessarily be with a view to the regime. If, then, there are indeed several forms of the regime, it is clear that it is not possible for the virtue of the excellent citizen to be single or complete virtue” [1276b27]. Here, we again observe the direct connection between his ethics and politics.

Of the hallmark of Aristotle’s most important points: “[W]hen [the regime] is established in accordance with equality and similarity among the citizens, [the citizens] claim to merit ruling in turn” [1279a8]. This rotation of holding offices by the citizens and the mixed groups of people of all walks of life shape and form his desired *politeia*, which in essence, is the mixed form of government, and that is the foundation of republicanism.

To Aristotle, the correct regimes are monarchy, aristocracy, and polity. All these regimes have a purpose or *telos*: the common good. On the other hand, flawed or deviant regimes are tyranny, oligarchy, and democracy because they are for the interests of one, the few, or the many by violating the interests of others. It is interesting to note that “the common good” is different from the “interest;” even the interest of the many does not correlate with the common good necessarily because the nature of interest is exclusive. Even in a democracy, the interests of the many are considered exclusive, hence not the common good.

Aristotle says the oligarch and democrats offer judgments about justice, but they are not correct because “the judgment concerns themselves, and most people are bad judges concerning their own things” [1280a14]. We see now that the common good is different from the interest to Aristotle.

Another crucial point that Aristotle makes is about the law. He invests heavily in the notion of the rule of law. “One who asks the law to rule, therefore, is held to be asking god and intellect alone to rule, while one who asks man adds the beast. Desire is the thing of this sort and spiritedness pervert rulers and the best men. Hence law is intellect without appetite” [1287a28]. Thus, whatever regime is in power should, to an extent possible, allow the laws to rule. He emphasizes law and the rule of law to the degree that without laws, we do not have a regime or *politeia*. “For where the laws do not rule, there is no regime” [1292b30]. Without laws and government, all we have is the master and slave relationship. There is no citizen, either.

Aristotle explains and emphasizes polity as a desired form of widely attainable government, “Simply speaking, the polity is a mixture of oligarchy and democracy” [1293a32]. Polity is one of the correct regimes, and it occurs when the many rules are in the interest of the common good of the political community as a whole. Aristotle believes the problem with

democracy as the rule of the many is that they rule in their own interest regardless of the common good. They exploit the wealthy and deny them political power. Nevertheless, a kind of democracy in which the interests of the wealthy were considered and protected by the laws, as well as the many, would be ruling in the interest of the community as a whole, and it is this that Aristotle believes is the best practical regime.

As one of the essential elements of creating a polity, Aristotle's advice is to combine the institutions of a democracy with those of an oligarchy. It is the mixed form of government he is after. "The defining principle of a good mixture of democracy and oligarchy is that it should be possible for the same polity to be spoken of as either a democracy or an oligarchy" [1294b14]. The regime must be said to be both, and neither, a democracy and an oligarchy, and it will be preserved "because none of the parts of the city generally would wish to have another regime" [1294b38].

Aristotle relies on the middle class as the middle of the two extremes (extreme wealth of the few and abject poverty of the many). He hopes that the middle class either rules or, in conjunction with other groups, shapes a regime that may last because their excesses could be moderated: "Where the multitude of middling persons predominates either over both of the extremities together or over one alone, there a lasting polity is capable of existing" [1296b38]. Democracy is closer to polity than oligarchy.

Notice that Aristotle does not define the political community in a way that we generally would, by the laws it follows, by the group that holds power, or as an entity controlling a particular territory. Instead, he defines it as a partnership. The citizens of a political community are partners, and as with any other partnership, they pursue a common good. In the city's case, it is the most authoritative or highest good. The most authoritative and highest good of all, for

Aristotle, is the virtue and happiness of the citizens and the purpose of the city, he says “[A] city is excellent, at any rate, by its citizens’ – those sharing in the regime – being excellent; and in our case, all the citizens share in the regime” [1332a34]. His *politeia* is to implement and represent such happiness.

The extension of the argument by the Stoics

It is the early Stoic scholars who advanced the theory of natural law to a new level. In its traditional meaning, the term *natural law* (*nomos physeos*⁹⁴, *lex naturalis*) designates law, discernable by reason, which determines what is right or wrong by nature, and which therefore holds valid everywhere, always, and for everyone, independent of circumstances and local customs.

Zeno’s central message was that everything in nature must be explained by reason, and every act must be justified. Therefore, the wise man must live according to reason; his conduct in accordance with the principle will enable him to rise superior to the application of any force or temptation.⁹⁵

Thus, when Cicero defines natural law in *De Legibus*,⁹⁶ the fullest account of the theory to survive from antiquity, he employs a formula whose Stoic paternity is well attested: “Law is

⁹⁴ *Nomos* as custom, and law is related to justice. By obeying the law or the custom of the society we are doing justice. However, there is a leap forward in the Greek thought that they considered nature as the source of law (just law) in a sense that if we live according to nature and our nature (body), we will live a just and fulfilled life, hence the invention of νόμος φύσεως.

⁹⁵ Kelly, J. M., *A Short History Of Western Legal Theory*, 47.

⁹⁶ This formula appears in a variety of early Stoic texts, including Zeno’s *On the Nature of Man* and Chrysippus’ *On Ends* (D. L. 7.87-89), as well as the exordium of Chrysippus’ *On Law* (Marcian *Inst. 1=SVF 3.3914*), which treat *koinos nomos* and *orthos logos* as equivalent ways of referring to the canon or standard that human beings follow in living according to nature. Cf. also Arius Didymus *ap. Stob.Ecl. 2.96.10-12, 102.5-6 ...*

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 clearly recalls the early Stoic position that man’s end (*telos*) as a rational animal consists of living according to nature, refraining from every action prohibited by the common law (*koinos nomos*), which is identified with the sage’s right reason, and patterning his conduct on the divine order and harmony evident in the rational order of the *cosmos*. This development, in my view, has been wrongly and unjustly attributed to the Stoics. I have shown already that such development was done by the pre-Socratic philosophers and critically developed further by Plato (*Timaeus*) and Aristotle (Virtue Ethics). What I have exhibited is that the original idea was developed before Zeno. Therefore, we should be careful before crediting Stoics as the originators of natural law. However, the concept of natural law in the hands of Cicero was established as the theory of natural law.

Diogenes Laertius reports to us (Bk VII. 86-7)⁹⁷ about Zeno’s views on nature. Zeno holds that it is false to consider the primary impulse of animals to be their objective in life. Pleasure, if achieved, is accidentally a byproduct of what has been organized by nature for them. Nature makes no distinction between creatures, whether animals or plants. Nature regulates them without any sensation. In the case of animals, the impulse is added in the way to pursue what is suitable to them; then, for them, what is natural is to be governed by impulse. In the next step, when reason by nature has been bestowed upon creatures, there are rational creatures.⁹⁸

⁹⁷ Laertius, *Lives of the Eminent Philosophers*.

⁹⁸ Aristotle had already made this point. It does not belong to Zeno, even if Laertius reports otherwise. Zeno is not the inventor of these ideas.

Thus, what is natural for them is to be governed by reason. Laertius continues reporting that Zeno, in his work *On Human Nature*, said that the goal is to live in harmony with nature. He elaborates on that statement that he means to live by virtue. This is because nature leads us to virtue. Cleanthes also advises the same thing in his work *On Pleasure*. In his book *On Goals* in an affirmative way, Chrysippus says that virtue in life is living according to the experience of natural events. These examples lead to consider how Stoics viewed law. As we have seen, all these developments were done already at the time of Plato and Socrates. There is nothing originally new in Laertius' reports of Zeno and his pupils.⁹⁹

Here is another example of crediting Zeno and his pupils by Laertius (Bk VII. 142-3): Laertius reports again that the Stoics believed that the *cosmos* has a soul and it is a living being. Zeno discusses the genesis and destruction of the *cosmos* in his work *On the Cosmos*. However, there is a development in the argument regarding the *cosmos* by Panaetius that the *cosmos* is indestructible. It is a living being. Chrysippus, in his *On Providence*, and Apollodorus, in his *Physics*, claim that the *cosmos* is not only a living being but also endowed with a soul and is rational and intelligent. However, I have, in fact, exhibited what Plato in *Timaeus* repeats of the Greek natural philosophy and considers the *cosmos* as a living thing.¹⁰⁰

The question is how this Stoic view of the *cosmos* affected their view of the law. Chrysippus considers both universal nature and, in particular, human nature. Moreover, human nature is a part of the universal nature (Laertius, Bk VII. 89). Hence the concept of a harmonious

⁹⁹ Like Plato in the *Timaeus*, the Stoics regarded the cosmos as something alive; but while Plato had a separate creator god animate the world by giving it a soul, the Stoics show a preference for a radically unified conception of the cosmos. There is a divinity that makes the cosmos alive, but it is material and immanent throughout the cosmos, being called 'Zeus' or 'god' or 'Nature,' and identified with the purest form of the element fire (Inwood, p.39).

¹⁰⁰ See pp. 54-56.

life is in accordance with universal nature and its laws. In this sense, virtue is the knowledge of discovering this harmony. This is, nevertheless, the repetition of the macrocosm vs. microcosm interrelation argument presented earlier.¹⁰¹

Further, the Stoics claim that justice is natural and not conventional, as are the law and the right reason. Chrysippus takes this position in his work, *On the Honorable* (Laertius, Bk VII. 128). Nevertheless, this is a reminder of Hesiod's argument for justice.

Waerdt is among the scholars who believe that the early Stoics originated the theory that had come by Cicero's time to be identified as the theory of natural law. He, however, points at a different crucial interpretation of the formula between the early Stoics and the later natural law tradition.

In Cicero, we read that the universe is a system run by a rational providence (*The Laws*. I. 21). That Mankind stands between God and the animals. Man is a part of the animal kingdom because of his physical needs, appetites, and mortality. However, unlike other animals, he has been given the power of reason. This enables him to work the land and to use animals for his own purpose (*The Laws*. I. 25). Once again, we can look back at Hesiod's *Works and Days* and Aristotle's *Politics* and *Ethics* on this matter. Cicero also states that man's rational soul, which can survive death, makes him akin to God (*The Laws*. I. 24). So, by enacting wise laws, he is behaving like his creator (*The Laws*. I. 35). Nature can be used in connection with lower beings (men and animals) or higher beings (men and gods). That human potential can only be realized in communities. That Man is a distinct species. The similarities of human beings in physical and mental powers, in feelings, values, and aspirations, as well as in defects and vices, far transcend

¹⁰¹ See p. 49.

their differences in nationality, custom, religion, and social organization (*The Laws*. I. 29-32). That law is based on nature, not on opinion. "Nature" here means the condition of man as it actually is within the *cosmos* (*The Laws*. I. 24). Cicero concludes that unless a law is contrary to nature, a citizen has a duty to obey it.

It is evident that since the ancient era considering citizens in a commonwealth or city-states was based upon acknowledging certain rights that had been defined based on natural laws. All were derived from man's condition in nature. Thus, the citizenry was defined based on the implementation of natural rights. Man is a species that has a share in divine reason and is bound together by a partnership about justice. Cicero further claims that law is the highest reason, inherent in nature, which enjoins what ought to be done and forbids the opposite. Moreover, our minds were implanted in us by god. Therefore, justice comes from nature (*The Laws*. I, 16-35). Once again, Cicero reminds us of the pre-Socratics.

In defense of justice which exists in nature, Cicero believes that self-interest damages justice. He writes, "Most foolish of all is the belief that everything decreed by the institutions or laws of a particular country is just. What if the laws are the laws of tyrants?" Then he gives the example of the Thirty's ruling in Athens, which was not acceptable even if the entire city had accepted its laws. There is one single justice that has been established by one single law. That law is the *right reason* for commanding and forbidding (*The Laws*. I, 42). A law of any kind in a community will not be a law, even if the people have accepted it. Therefore, the law means distinguishing between just and unjust. Cicero believes that every virtue will be abolished if nature is not going to support justice (*The Laws*. I, 43). It is of the utmost importance to Cicero first to distinguish the right law from the bad law. The measure is nature (the condition of man, according to its right reasoning). Then there is the task of law. It must distinguish between just

and unjust (*The Laws*. II, 13). As a result, popularity (which we could consider as the opinion of the majority) does not necessarily, equate with justice, and, indeed, tyrannical law does not serve justice. In my view, this is the most crucial contribution of Cicero, who mainly writes against tyranny and the majority's opinion.¹⁰²

Conclusion

I based my argument on Hesiod's contribution. That justice is tied to work, and it is endorsed by Zeus. Then Anaximander establishes the culture about the inquiry of nature apart from the gods.

There is a link between these Greek words: *cosmos*, *nomos*, *logos*, *telos*, *phronesis*, *physeos*, and *politeia*. The Greek natural philosophy built on what had been developed as a consensus that man is responsible for his deeds (Hesiod) and is a part of the *cosmos* (Anaximander et al.). It has order. The order testifies to rationality and reason governing the *cosmos*. Man is a part of the *cosmos*; hence its order and laws (*nomos*) subjugate him.

The concept of Aristotelian *politeia* reiterates this development as the best for government and for its *telos*. *Politeia* is the outcome of the argument for three hundred years in the making. City or *polis* is developed and necessitated by nature. It has a task (which is endorsed by law) to train and make citizens virtuous to fulfill their *telos*. That fulfillment requires a specific political environment, not just any. The cosmic reason is in accordance with

¹⁰² To trace the relevance of the concept of natural law to republic one needs to observe the extent of Cicero's influence on the Founding Fathers. That influence is deep in the sense that it leads to the notion of "common sense" in American Law. He, directly and indirectly, has impacted people like Locke, and Montesquieu. And these authors have had profound effects on the American legal mindset. Thomas Jefferson directly cites Cicero in his writings and manifests how Cicero impacted him on the "public right" concept. Jefferson wrote the Declaration of Independence among other authors (he is not the sole writer of the declaration) based on Cicero's teachings on natural rights. John Adams and James Wilson also cited Cicero's writings on "the principles of nature and eternal reason." Wilson played a crucial role in the success of the Constitutional Convention of 1787 and subsequent ratification of the Constitution. Wilson was a prominent advocate of Cicero's philosophy of law; and in his teachings people like George Washington, John Adams, and Thomas Jefferson frequently attended. Wilson gave prominent attention to Cicero on natural law (Niegorski).

man's *telos* as long as he is acting to achieve his excellence. *polis* provides such an achievement. This sets the limits of "law," which later becomes the Stoics' core view of the law.

The Stoics extended this argument ultimately in the hands of Cicero as the model for interpreting and understanding law for the cause of saving the Roman Republic. Thus, it is to conclude that observing the *cosmos* and incorporating man and his social life into it based on the ethics developed at best by Aristotle results in mixing ethics and politics to achieve such harmony between man and the *cosmos*. This harmony is provided and supported in the Aristotelian *politeia*.

Chapter Three

The Trace of Natural Law Concept in the Indo-Iranian Context

Pre-Historic Mithraism to Historic Zoroastrianism

This chapter explores the concept of law among the Indo-Iranian tribes in ancient times. These nomadic people lived on the east bank of the Volga River in Asia's steppes to the banks of the Indus River, where gods influenced all aspects of their lives. Gods guided their personal and social affairs and maintained social order. Two of these gods are central to our study: *Mithra* (Old Persian)/*Mitra* (Sanskrit), and *Varunā*. Next, the Zoroastrian period marks the emergence of political authority in Iran, with the rise of the Achaemenid Empire. We will examine how gods collaborated with the kings to shape the law in this era. Law was understood as a combination of divine law and positive law (king's law). *Dāta* (law) encompasses both meanings. This understanding of the law has persisted throughout Iranian history, preventing any possibility of republicanism. Republicanism, in the Aristotelian sense, is a mixed form of government that requires a separation of divine law and positive law to embrace the people's virtues in the *Politeia*. The Zoroastrian God (Ahura Mazdā), who is omnipotent and supreme, does not allow such a separation. God has always been present in the Iranian political scene, and its jurisprudence.

A preliminary argument

The reasons for designing this argument are twofold: 1) Lack of written political literature other than religious Texts in Sanskrit and Avestan. 2) The need for philosophizing and politicizing the religious Texts of antiquity (Indo-Iranian context), in hope of finding any connotations to natural law. In this respect, I quote Mircea Eliade,

For the historian of religions, every manifestation of the sacred is important: every rite, every myth, every belief, or divine figure reflects the experience of the sacred and hence implies the notions of being, of meaning, and of truth. As I observed on another occasion, "It is difficult to imagine how the human mind could function without the conviction that there is something irreducibly real in the world; and it is impossible to imagine how consciousness could appear without conferring a meaning on man's impulses and experiences. Consciousness of a real and meaningful world is intimately connected with the discovery of the sacred. Through experience of the sacred, the human mind has perceived the difference between what reveals itself as being real, powerful, rich, and meaningful and what lacks

these qualities, that is, the chaotic and dangerous flux of things, their fortuitous and senseless appearances, and disappearances” (Preface).¹⁰³

Mithraism

We are considering the sacred hymns remaining of the Indo-Iranian nomadic peoples, with a primary focus on *The Rigveda*¹⁰⁴. In ancient times, even before the advent of written history, gods played a crucial role in organizing and establishing order within communities. The Indo-Iranian peoples were no exceptions, they believed that gods protected them, and their properties, and ensured order within their societies while vanquishing their enemies. This statement is supported by the evidence (treaty) we have found in Anatolia (northern Syria, today). There was the empire of Mitanni in the 15th – 14th centuries B.C. The powerful empire of Mitanni spanned from the eastern Mediterranean shores to western Iran (Zagros mountains). The language of Mitanni was Hurrian. Mallory believes that their basic language was non-Indo-European, but there is clear evidence of the use of an Indo-European vocabulary in the Mitanni documents. In the treaty between Hittites and Mitanni, the King of Mitanni swears by a number of Hurrian gods, and then adds a series of names that are major Indic deities: *Mitra*, *Aruna* (Varunā), *Indara* (Indira), and *Nasaattiya* (Nasatya).¹⁰⁵ These Indo-Iranian deities were the guarantors of the treaty between the two powers.

In a larger scope, there is a phenomenon among the Indo-European peoples regarding the social divisions of their communities. Vedic India divided their communities into three distinct groups *brahmanas* (priests), *Kshatriya* (warriors), and *vaisyas* (herder-cultivators), as well. The

¹⁰³ Eliade, *A History of Religious Ideas*.

¹⁰⁴ Jamison and Brereton, *The Rigveda*.

¹⁰⁵ J. P. Mallory, *In Search of the Indo-Europeans*, 2nd edition, (London: Thames & Hudson, 1991), 37.

same structure existed in Iran. Mallory developed a chart comparing India, Iran, Greece, Rome, and Gaul.¹⁰⁶ All these Indo-European peoples have structured their communities the same way. For instance, Iranian people divided their community into *atharavan* (priests), *rathaestar* (warriors), and *vastriyofsuyant* (laborers). The priests held an established and unchallenged position in both the societal and political perspectives from the beginning.

There is a question about this societal division. Is there a reflection of this structure in the Indo-European religion? Georges Dumézil argues that the evidence for the tripartition of Indo-European society is observed in one of the earliest sources of their religion. Dumézil points out the treaty (mentioned above) between Matiwaza (King of Mitanni), and the Hittite King c.1380 B.C. which was discovered in the archives of Bogazkoy (Hattusa).¹⁰⁷

For the Indo-European peoples, “Law” was divinely issued and sanctioned by gods. Kings were directly associated with or connected to the priests. Consequently, no political society existed without designated high places for gods, making it impossible to study ancient communities’ laws without considering the role of deities and the level of devotion they inspired. Thus, studying religious Texts and poetry that have survived from the Indo-Iranian peoples becomes essential.

The Indo-Iranian society revered numerous gods, many of whom exhibited natural appearances and attributes. Some of the well-known gods included *Mithra* (Avestan)/*Mitra* (Sanskrit), *Varunā*, *Aryamān*, *Agni*, *Indra*, and many others in their pantheon. The power of these gods was shared among the Iranians and Indians before their migration to the western part of the subcontinent India, and the Iranian Plateau. This consideration may help us discern ideas relative

¹⁰⁶ Mallory, 131.

¹⁰⁷ Mallory, 131.

to natural law. The intention is to see how these people viewed gods, nature (cosmos), and law in their societies. We are examining the Texts in search of the roots of understanding law in the Indo-Iranian context.

To comprehend *Mitra* better, scholars must turn to *The Rigveda*, the oldest Sanskrit Text among the many literatures produced by later Indian civilization. Numerous hymns in *The Rigveda* focus on *Mitra* in conjunction with *Varunā*, highlighting them as crucial deities representing moral and cosmic principles. *Mitra* is associated with “contracts,” and the fulfillment of agreements, ensuring social order by upholding oaths. Thieme claims that *Mitra* is about the contract and refutes the other scholar’s position for “friendship.”¹⁰⁸ He observes upholding oaths that contribute to maintaining social order. *Varunā*, on the other hand, is associated with cosmic order, justice, and adherence to moral laws.

There is one hymn which is dedicated solely to *Mitra*. It is *RV III.59*. The description of *Mitra* about his job or assignment is clear as the guardian of social order and contract, treatise, marriages, promises, and everything which is essential to keep the social order. “*Mitra* arranges the peoples when (Alliance) is declared.” “*Mitra* upholds earth and heaven.” “*Mitra* watches over the nations with the unblinking eye” (*RV III.59.1*, Jamison and Brereton trans.).

In the Indo-Iranian context, “Lie” is considered a violation of the cosmic order and cosmic laws, and *Varunā* punishes those who commit lies and deception. The moral order demands the avoidance of lies, as they are seen as a destructive force in the cosmos, disrupting the world’s natural order. This concept of lying extends beyond individual interactions, as even a single instance of lying can have universal consequences and invoke severe punishment from the

¹⁰⁸ Paul Thieme, “*Mitra* and *Aryamān*,” *Transactions of The Connecticut Academy of Arts and Sciences* 41, no. 1 (1957): 19.

gods. Consequently, this understanding of “Lie” has social and political implications, as is evident in King Darius I’s appeal to *Ahura Mazda* to save his country from falsehood, which is believed to be the cause of many rebellions. Darius I writes about the “Lie” (*drauga*) and *Ahura Mazda* [VI B (4.33-36 par. 54)]. He warns us against “Lie.” [VI C (4.36-40 par. 55)]. The king solemnly reiterates his love of truth (*hašiya*) [VI D (4.40-50 pars. 56-58)].¹⁰⁹ We will observe how “Lie” is associated with forces that violate the natural order in the cosmos and subsequently in human life (in its social order and frame), according to the Indo-Iranian deities.

The relationship between *Mitra* and *Varunā* in *The Rigveda* reflects a broader understanding of natural law, which is seen as a fundamental order that governs the cosmos and human behavior. The hymns often praise *Mitra* and *Varunā* as upholders of the cosmic order and moral principles, and they are invoked for guidance and protection, as we have seen in the treaty between the Mitanni King and the Hittite King c.1380 B.C.

The Rigveda contains hymns that highlight the connection between the actions of individuals and the moral consequences they face. It emphasizes the idea that individuals should align their actions with the principles of natural law, upheld by deities like *Mitra* and *Varunā*, in order to maintain harmony and avoid negative consequences. However, it is important to note that the concept of natural law in *The Rigveda* was not as systematically or explicitly developed as it was in later philosophical traditions, such as among the Greeks and Romans (e.g., stoicism).

Nevertheless, the association of *Mitra* and *Varunā* with moral principles and cosmic order in *The Rigveda* hymns suggests a recognition of the importance of natural law in the context of

¹⁰⁹ Rüdiger Schmitt, “BISOTUN iii. Darius's Inscriptions,” *Encyclopædia Iranica*, online edition, available at [Bisotūn](#) (accessed on 12 July 2023).

social and moral harmony. In the Vedic Text, *Varunā*, with the help of *Mitra*, act as the enforcer of social order.

During antiquity, even before the advent of written history, the prevailing thought in society was predominantly religious or magical. In the Indo-Iranian communities, the force behind contracts was rooted in religion, oaths, and sacredness. In both *The Rigveda* and the Avestan Texts, a single god (*Mitra*) was tasked with overseeing the honoring of contracts. Here are a few examples from *The Rigveda* that illustrate the association of *Mitra* and *Varunā* regarding the concept of upholding natural law:

1. *RV* III.59.6: "The help of the god Mitra, who maintains the separate territories, brings gain; his brilliance holds bright renown."
2. *RV* V.63.1: "O herdsmen of the truth, o you whose nature holds true, you two stand upon your chariot in the most distant heaven. For him whom you two help here. Mitra and Varunā, the rain swells rich in honey from heaven."

These examples illustrate the reverence for *Mitra* and *Varunā* as deities associated with moral order, truth, and cosmic harmony. Their prominence in the hymns reflects an understanding of the importance of aligning human behavior with moral principles and the cosmic order they represent. They share and protect some values for the people on how to conduct their social activities. These gods have certain functions.

3. *RV* I.2.8: "By truth— o Mitra and Varuṇa, strong through truth, touching truth— you have attained your lofty purpose."
4. *RV* V.63.7: "According to your nature, o Mitra and Varuṇa who perceive inspired words, you two guard your commandments by the cunning of a lord. By truth you rule over the whole living world. You place the sun here in heaven as your shimmering chariot."
5. *RV* VII.60.3: "He has harnessed from his abode his seven antelopes, which, rich in ghee, convey him, the Sun, who, seeking you, o Mitra and Varuṇa, surveys your domains and the tribes (of men), like your herds."
6. *RV* VII.36.2: "This well-twisted (hymn) here do I make anew, like a refreshing drink, for you two, lordly Mitra and Varuṇa."

One of you two, the strong one, is an undecivable tracer of the track, and (the other), Mitra, arranges the people in their place when called upon.”

These few examples (among many more) emphasize the crucial role of *Mitra* and *Varunā* in upholding moral principles, guiding human actions as manifestations of the cosmic order. The hymns portray *Mitra* and *Varunā* as divine beings intricately connected to the cosmos and responsible for overseeing the ethical conduct of individuals within society throughout their lives. Their divine presence ensures that human actions are aligned with the greater cosmic harmony, reinforcing the significance of natural law in shaping the social and moral fabric of ancient Indo-Iranian communities.

This statement is supported by Hanns-Peter Schmidt's assertion that Thieme posits the enforcement of a modern contract's validity through legal and worldly jurisdiction. In the context of Indo-Iranian antiquity, a "contract" is safeguarded by its sacred nature, being under the vigilant protection of one or more deities or fortified by mystical forces.¹¹⁰

In the Avestan Texts, *Mithra* is closely linked with the ideas of “mutual contact” and “interchange.” These associations highlight the different aspects and attributes attributed to *Mitra* and *Mithra* in their respective religious contexts. While *Mitra* is revered as a deity associated with benevolence and amicable relations in *The Rigveda*, *Mithra* in Avestan Texts is seen as a divine force that facilitates mutual connections and interactions among individuals and the divine realm. These distinct interpretations contribute to the diverse understanding and reverence for these deities in ancient Indo-Iranian traditions.

¹¹⁰ H.-P. Schmidt, “INDO-IRANIAN MITRA STUDIES: THE STATE OF THE CENTRAL PROBLEM.” p.357.

Regarding honoring the promise, one of the stories is about Indra that breaks his promise and kills Namuci (demon). This act of Indra was considered a great crime, not for the killing but for breaking the promise. Thieme¹¹¹ explains that *Mitradrūh* means “he who harms his friend.” He further says that *Mitra* in a neutral sense means “friend,” and the root *druh* means “to harm.” Nevertheless, Thieme believes, that in the Old Indian language, *Mitradrūh* was used exactly like its Iranian counterpart *miθradruj* in the sense of “breaking one’s treaty by deceit.” This meaning becomes evident in the story of Indra breaking his promise to Namuci and killing him. Indra has not just harmed a friend, he has committed a sin, so outrageous that even the severed head of Namuci cries out against it, and Indra has thereby endangered the whole world of the heavenly. Thieme then gives us an excerpt from *Avesta*, the words of the *Mihr-Yasht*: “He harms his whole country, the contract-deceiving (*miθrō-druj*) knave.” *Mihr* has two sets of meanings. It means oath and covenant in the Avestan.

Gershevitch, however, believes that all the attributes of *Mitra* and *Varunā* to use the sun as an eye in the sky to observe and protect truth and contracts developed after the migration of the Indo-Iranian peoples from their original place. “Both gods used the sun as an eye to detect contract breakers and truth-infringers, but at the time of the Indo-Iranian migration into India and Iran, nobody considered as yet thought of turning either god into a sun god on an account of the peculiar use he was making of the sun. This thought occurred only after the emigrants had left, to those Indo-Iranians who had remained to become known as the nomadic Sakas.”¹¹²

¹¹¹ Thieme, P. “The concept of Mitra in Aryan belief,” *The First International Congress of Mithraic Studies*, ed. John Russel Hinnells (Manchester University Press, 1975), 21.

¹¹² Ilya Gershevitch, “Die Sonne das Beste,” *The First International Congress of Mithraic Studies*, ed. John Russel Hinnells (Manchester University Press, 1975), 89.

This reference underscores the significant role of *Mitra* in Indo-Iranian religious culture before recorded history, indicating the existence of deities entrusted with safeguarding Truth (reality), fostering friendship, promoting bonding, and upholding the sacredness of promises and contracts, all of which were vital for maintaining societal order. This early belief system laid the groundwork for the establishment of laws and ethical codes in their communities.

A crucial aspect of promises and contracts among the Indo-Iranian peoples was their inherent sacredness. Once given, these commitments had to be honored without exception, regardless of the consequences. Breaking such agreements carried severe punishments, as *Mitra* was believed to be the divine guardian of contracts and promises. The fairness of an agreement was of secondary importance; what truly mattered was the obligation to honor it.

This profound emphasis on the sacred nature of contracts and the belief in divine enforcement under *Mitra*'s domain played a pivotal role in shaping the moral and social fabric of ancient Indo-Iranian societies. It fostered trust, reliability, and accountability in interpersonal dealings and contributed to the stability and cohesion of their communities. The concept of *Mitra* overseeing contracts and promises served as a cornerstone in their early religious and moral framework, influencing their approach to justice, integrity, and the fulfillment of obligations.

This power was crucial in establishing societies when there was no formal government or codified laws. The belief in these deities and their divine oversight provided a framework for social cohesion and ethical conduct, contributing to the successful establishment and organization of the Indo-Iranian communities in the absence of formal governance and legal systems. This association of *Mitra* and *Varunā* with moral principles and the enforcement of sacred promises and contracts in the early Indo-Iranian religious culture points to the concept of natural law. Natural law, in this context, refers to the belief that certain ethical principles and

moral norms are inherent in the fabric of the universe and are essential for maintaining social order and harmony. *Mitra* and *Varunā* symbolize the deities responsible for upholding these natural laws.

Additionally, the emphasis on honoring and protecting contracts and promises reflects the recognition of the significance of such social agreements in maintaining a well-functioning society. By considering “Lie” as the most destructive force in nature and among the communities, there is a clear acknowledgment of the negative impact dishonesty and deceit can have on social cohesion and moral order.

The early Indo-Iranian societies’ focus on these ethical values and the belief in divine enforcement of natural laws through *Mitra* and *Varunā* contribute to the establishment of a concept of law, even in the absence of formal written laws and governance structures. The understanding of social life, centered around these moral principles and the repercussions of violating them, helps create a sense of order and responsibility within the community, forming a rudimentary framework of social law based on natural moral principles.

In Sanskrit, “*rtá*” is the past participle of the verb, meaning “to fit,” which designates the order of the world, an order which carries three attributes all at the same time: cosmic, liturgical, and moral (Eliade, p. 219). This word would be the closest Indo-Iranian term to the Greek *nomos physeos*.

According to Boyce, those with power in society should have accepted the restraints of pact and bond. This idea seems to be in accord with the leading philosophical concept of the Indo-Iranians that *rtá* was a principle of order and rightness that governed the natural world (causing the sun to rise and set and the seasons to change) and also directed human society, so

that to be happy in life and death men must submit to its workings, and regulate their own lives with seemliness.¹¹³

Gonda¹¹⁴ claims that in *The Rigveda* there are many meanings and attributions, activities given to *Varunā*, and to *Mitra-Varunā* as the duo of the deities among all other gods. *Varunā* alone and *Mitra-Varunā* as the duo gods have been commissioned for the cosmic kingdom, defenders of *rtá*, protectors of law and rituals. Both “He” and “They” in dealing with human affairs are the Oracle. *RV* X.13.8 claims that *Mitra* is invoked to vindicate man’s honor and honesty:

On which cryptic thought the gods converge—we do not know it.

May Mitra, Aditi, and god Savitar here declare us to Varuṇa to be without offense. According to Gonda, *Varunā* and *Mitra-Varunā* hold the authority of universal kingship, safeguarding *rtá*, upholding the law, and maintaining societal norms in human affairs. They serve as watchful guardians over humans, ensuring the honoring of truth and promises. However, the concept of *rtá* should not be limited to just “Truth;” it should be understood as the normative order that governs society. *Rtá* encompasses the idea of being correct, natural, and true, aligning with both the cosmic and social order.

Mitra and *Varunā*, being associated with *rtá* as its protectors and guardians, indicate the presence of a notion of natural law among the ancient Indo-Iranian tribes. While this concept might not be as explicitly developed as in the later Greek and Roman philosophical traditions, it

¹¹³ Boyce, Mary. *A History of Zoroastrianism*, vol. I, The Early Period (Netherlands: E. J. Brill, 1996), 4.

¹¹⁴ Gonda, J. “Mitra in India,” *The First International Congress of Mithraic Studies*, Manchester University Press, 1971.

is evident that the belief in *rtá* and its guardians, *Mitra* and *Varunā*, established a sense of natural order and moral principles within their societies.

Considering that the Indo-Iranian tribes predate the Greeks by more than a millennium, it becomes evident that the origin of the concept of natural law might not be exclusive to the Hellenic world. The Indo-Iranian understanding of *rtá* and its association with *Mitra* and *Varunā* provides evidence of an ancient notion of natural law existing independently in different cultural contexts, predating the more elaborated articulations found in later philosophical traditions.

According to another prominent scholar (Haudry)¹¹⁵, there is an association between “Truth,” “order,” and “reality” in the society. This key term may be constructive to our argument in search of natural law that if “Truth” (*rtá*) is associated with reality (connected with nature, as cosmos and the social life and order) and the gods (*Mitra* and *Varunā*, and to a lesser extent Indra) are the protectors of *rtá*, then the opposite force of this is *druh* (*druj* in Avestan), meaning “Lie,” that will destroy the reality which is directly associated with human lives and their social order, hence their laws and governance. This would be the reason why there is a political literature advising people not to follow “Lie.” We have documents from the Achaemenid government that “Lie” is considered the force that potentially can destroy the country in its entirety if not stopped. The religious warnings about the political ramifications of “Lie” come from the Indo-Iranian deities, illustrated earlier. These two texts are examples of the royal inscriptions carved for us:

§2a Darius/Xerxes the king proclaims: By the favour of Auramazda I am of such a kind that I am a friend to what is right, I am no friend to what is wrong. (It is) not

¹¹⁵ See Haudry, Ch.1, 27.

my wish that to the weak is done wrong because of the mighty, it is not my wish that the mighty is hurt because of the weak.

§ 2b What is right, that is my wish. I am no friend of the man who is a follower of the Lie. I am not hot-tempered. When I feel anger rising, I keep that under control by my thinking power. I control firmly my impulses.¹¹⁶

There was an ancient understanding across the world that the moral behavior of the King brought prosperity and health to his people. And by an act of evil, he brought devastation, pain, and death upon his people. In *Ramayana* (I.9.8) the evil-doing of the king (Rumpada) brought famine to his country. Agamemnon's wrongdoing and injustices to the Apollon Priest brought plague to his army. King Oedipus did not knowingly cause a plague in his realm. He only fixed that when he maimed himself (Sophocles). There are many more stories among the peoples of antiquity that indicate the pain or joy of the people directly associated with the acts of their kings.

Dumēzil in his book, *The Destiny of a King*, talks about a man who is considered the first man, a god who is the eighth and last of the *Ādityas* (sovereign gods). There are two versions of this god. The Vedic narrative calls this *Āditya Yama* that according to Dumēzil, this god is not completely compatible with the Avestan *Yima*. The story, in a nutshell, is that the Avestan *Vīvanhat* (ancestor of mankind) is the first man who sacrificed. For his beautiful invention, he was rewarded to have a son named *Yima*. Under Yima death was postponed for a long time.¹¹⁷

The main point is that in the Avestan and in all the posterior literature, *Yima* is above all a terrestrial king. He is a universal king whose title is *Xšaēta*. It signifies “king” not “luminous.” It is also linked to Pahlavi (Middle Persian) *Yamšēt*.¹¹⁸ This *Yamšēt* or *Jam* (Jamšid) is the first king in Persian mythology. During Yima's reign according to *Avesta*, sickness, old age, and even

¹¹⁶ Amelie Kuhrt, 503.

¹¹⁷ Dumēzil, 2.

¹¹⁸ Dumézil, 4.

death were suspended. *Avesta* declares two conceptions about Yima's end (death). One was that he committed an enormous sin: a Lie. Other sources claimed he revolted against God (Ahura Mazda) out of pride. Consequently, he lost his Divine Glory and protection.

In the Iranian legend, Jamšid's success was due to his *Xvarənah*¹¹⁹, which is the divine election that guarantees and expresses the legitimacy of a king. But in the end, he committed a sin. According to *Avesta*, that sin was lying, *Yašt* XIX, 33-34.¹²⁰ His extraordinary prosperity ended. In other religious Texts (Pahlavi Texts) he got vanity and pride, hence stopped giving homage to God. The point of this story is that he lost God's favor because of lying or vanity. He, consequently, lost the divine glory and protection, his *Xvarənah*.

The specific notion of "Truth"

Among the Indo-Iranian peoples, there prevailed a strong belief in the practice of social virtue, and this virtue was embodied in the concept of "Truth." This principle of Truth was so deeply ingrained in their society that no lie was permissible under any circumstances for anyone, including their kings. The strict adherence to Truth was seen as essential to prevent chaos and maintain social order.

The consequences of not upholding Truth were exemplified in the story of *Yima*, the first king who lied, subsequently losing all his privileges, power, and ultimately his life. In both Vedic and Avestan hymns, gods like *Mitra* (Vedic) and *Mithra* (Avestan) were entrusted with the

¹¹⁹ This Avestan word became "*Færr*" or "*Farr*" in Pahlavi (middle Persian). It is a divine power which exists in every man's soul so that they can carry out their tasks as their duties, according to their social standing or status. Kings, priests, Aryans (the people), the prophet *Zarathuštra*, and everybody else possess a specific kind of this power. As long as this power associates the kings, they will be victorious. The moment they lose it they will get defeated, dethroned, and dishonored. Vanity and lying can make a king to lose his *Farr* as Jamšid did. He became disgraced, and consequently, lost his sovereignty and ultimately got killed. It would be useful to study *Xvarənah* in respect to Aristotelian Virtue Ethics to see how the original ideas get transformed in different shapes or forms throughout time.

¹²⁰ Dumézil, *The Destiny of a King*, 38.

responsibility of protecting Truth, and *Varunā* was also regarded as a guardian of Truth. In Avestan hymns, *Mithra* assumed much of *Varunā*'s power, and *Mithra* was tasked with punishing those who committed fraud, lied, or breached their contracts.

The Indo-Iranian social order was built on the foundation of such a sacred and godly protection of Truth. *Mithra*'s association with enacting and enforcing natural law (*rtá/aša*) stems from this underlying principle of Truth. In this societal context, making a promise or giving one's word carried immense weight, and breaking such promises was considered an act against *Mithra*'s demands and divine principles.

The concept of Truth, and the strict adherence to it, underscored the Indo-Iranian peoples' commitment to a moral and just society, where honesty, integrity, and honoring promises were held in high regard, ultimately contributing to the stability and harmonious functioning of their communities.

Mithra, specifically, warns us in the Avestan *Yašt* X, 2. Example:

The knave who is false to the treaty, O Spitamid, wrecks the whole country, hitting as he does the Truthowners as hard as would a hundred obscurantists. Never break a contract, O Spitamid, whether you conclude it with an owner of Falsehood, or a Truthowning follower of the good Religion; for the contract applies to both, the owner of Falsehood and him who owns Truth.¹²¹

Mithra has many undeceivable spies all over the world and has the power of ten thousand blows to destroy whoever lies (Kings, or people, or all together). This notion would have contributed to the creation of a social order without any sense of "law and order" and law enforcement effect in antiquity.

¹²¹ Ilya Gershevitch, *The Avestan Hymn to Mithra, Yašt* X, 2 (Cambridge University Press, 1959), 45.

As Gershevitch explains these two gods, *Mitrāvarunā* (meaning “*Mitra* and *Varunā*) that there is a pair frequently mentioned next to heaven and earth. In the Text, *Mitra* and *Varunā* are conceived as young. Their eye is the sun. They reach out with the rays of the sun. They have spies that are wise and cannot be deceived. They are kings and universal monarchs. They are also called *Asuras*, who wield dominion by means of *māyā* (occult power), a term mainly connected with them. By that power, they send the dawns, make the sun traverse the sky, and obscure it with cloud and rain. They are rulers and guardians of the whole world. They support heaven, earth, and air.¹²²

Dumézil claims in the Iranian ideology, and Indo-Iranian before it, the notion of “Truth” was expressed by one or the other of the two words which in Vedic are *rtá* and *satyá*. The first word has the meaning “to arrange, to harmonize” which expresses that the true is which conforms to order, whether cosmic or social or moral. The second word the meaning of “to be” expresses that the truth is that which exists, that which is positive and not illusory. Therefore, lying, in the first perspective, means altering this order or not recognizing it. In the Avestan, *aša* has the same meaning and connotation as *rtá*. Such is the force behind the articulation, already present in the Indo-Iranian tradition, between the opposite words: in Vedic *rtá* vs. *druh*, and in Avestan *aša* vs. *druj*.¹²³ This is true when Haudry equates *rtá* with “reality.” Therefore, we can conclude that “Lie” in the Indo-Iranian context disrupts reality, hence the disruption of the livelihood of the people. This conclusion does have some social and political ramifications.

Indeed, there are similarities between the Indo-Iranian concept of Natural Law and the Aristotelian notion of *politeia*, but there are also key differences that highlight the distinct

¹²² Ibid., 4.

¹²³ Dumézil, *The Destiny of a King*, 45.

approaches to governance and human responsibility. In both contexts, there is a recognition that laws, particularly positive laws, should be in harmony with nature and its laws and order. In Aristotelian *politeia*, the responsibility for ensuring this accordance lies within the political community, virtue ethics, and its governance system. The government is tasked with enacting laws that align with the natural order to promote justice and the well-being of the citizens.

On the other hand, in the Indo-Iranian context, the responsibility for imposing such accordance is attributed to the gods. Deities like *Mitra* and *Varunā* are considered protectors of *ṛtá*, the cosmic and social order, and they oversee the alignment of human actions with these principles. Here, divine authority and guidance are emphasized, suggesting the role of the gods alone in maintaining the natural order within society.

The difference between these approaches lies in human responsibility and the role of the government. In the Indo-Iranian context, the primary responsibility for upholding Natural Law is placed on the Divine, with the King representing the authority of God on Earth. In Aristotelian *politeia*, however, the focus shifts to human governance and the responsibility of the political community in establishing just laws that conform to the natural order.

This distinction underscores the unique perspectives on the relationship between the Divine, the government, and human responsibility in shaping the legal and political systems in the Indo-Iranian and Greek traditions. While both recognize the importance of harmonizing laws with the natural order, they diverge in attributing this role to either the gods or the political community.

A historical perspective

By studying the historical records, we can discern a distinctive approach towards law in the region before the Iranian tribes settled on the Iranian plateau.¹²⁴ The Sumerian gods, within their pantheon, exerted a profound influence on the lives of ancient people. The structure of authority among these deities was often depicted as resembling a pyramid, with a supreme god at the apex.

The same hierarchical structure observed in the Sumerian pantheon persists throughout the Iranian plateau among Iranians. In this context, the king is directly associated with the gods, and his decrees are believed to enjoy divine confirmation. This parallel structure in the Iranian society can be traced back to the historical and cultural interactions with the well-established civilizations of the region, such as the Sumerians. The Indo-Iranian tribes, as newcomers to the region, inevitably encountered these older societies with their complex governance systems and religious beliefs. The interactions with these advanced civilizations significantly influenced the Indo-Iranians' own political and religious practices.¹²⁵

In the region, the King's authority concerning law is compatible with and reminiscent to God's authority. Kings through the Achaemenid era enjoyed a religious affiliation as the protector of the faith. For example, Xerxes became the King after Darius I, and he was considered religiously justified.¹²⁶ The king gets his legitimacy for governing from God. Justice and the just ruling are viewed from this perspective. *Ahura Mazdā* gives his blessing, called *Xvarənah* to the King; it is the sanction given to the King by *Ahura Mazdā*. If a King deviates from the godly rule, he commits injustices, consequently, he would be deemed unworthy of the

¹²⁴ See ch.1, 26.

¹²⁵ The influence of the Sumerians, the Elamites, the Assyrians, and the Babylonians is not deniable. To be concise, I only reference to the Sumerians.

¹²⁶ Gabriel, 314.

ruling.¹²⁷ King is directly connected to God. There is no notion of King’s law apart from God’s Law. Divine Law is absolute, which would be also a Sumerian contribution. However, there are no sub-categorizations of law under Divine Law, as opposed to the development of the Western thought about the law (St. Augustin’s distinction of Divine Law from positive law, for instance.)¹²⁸

In the Avestan hymns and teaching, we observe that the prophet *Zarathuštra* considers himself committed to both perspectives of Law. He addresses himself as the one who has both *ahu*¹²⁹ and *ratu*¹³⁰. *Ahu*, literally, refers to the political leader and *ratu* refers to the religious leader.¹³¹ The prophet possesses both. In *Visparad* there are so many references to this notion that *Ahura Mazda* in the holy and spirited world is *Ahu* and *Ratu* and his prophet in this earthly world has the same role and authority. Thus, the prophet is both. This means that *Zarathuštra* is the leader who oversees and edicts divine laws and positive laws. Thus, law cannot be divided into Divine Law and positive law in the Zoroastrian world. They are intertwined. The weight of the law is as significant as it can be. We observe this dual mission of the prophet in *Farawardin Yašt*:

91. By whom the all-mąθra containing
 “*Rtam*”-prayer was made known;
 (he) *ahu* and *ratu* of the world,
 the praiser of Truth which is the greatest
 and the best and the most beautiful,
 and the interpreter of the Religion
 which is the best of the existing (religions),¹³²

¹²⁷ The same way Jamšid suffered from the consequences of drifting from God by lying and losing his *Xvarənah*.

¹²⁸ Referencing to *The City of God*.

¹²⁹ “The universal leader, Supreme leader, Great, The symbol of a worldly leader.”

¹³⁰ “Great, Supreme, Leader, The symbol of a religious leader.”

¹³¹ Hāšem, Razi, trans., *AVESTA*, 2nd ed. (Iran: Behjat Publications, 2002), 297–98.

¹³² William W. Malandra, *The Frawardin Yašt*, 103.

And another hymn from the same *Yašt*:

152. We worship ZaraΘuštra, the *ahu*, and *ratu*, and the first teacher of the material existence, of beings the most beneficent, among beings having the best dominion, of beings the most intelligent, of beings having the most glory, of beings the most worthy of worship, of beings the most worthy of praise, of beings the one most to be pleased, of beings the most lauded, a man who is called “worshiped,” “worthy of worship,” “worthy of praise,” just as (he is called) by each of the beings according to the Best Truth.¹³³

There is another important reference in the *Avesta* about *ahu* and *ratu* (*Yasna*, *Hāt* 27.1). It says that *Ahura Mazda* has authority as *ratu* and *ahu* to ward off *Ahriman* and all devils from the Earth. Later, the concept of combining *ahu* (righteousness) and *ratu* (lordship) in one person finds expression in the figure of the king as a *Mōbad*¹³⁴ (Priest). This idea is illuminated in the interpretation of a well-known Middle Persian story called *Vīs u Rāmīn*, as interpreted by Minorsky.

In the story, Minorsky emphasizes the presence of the king-*mōbad* concept. This concept revolves around the notion of the king embodying both the role of a ruler with lordship (*ahu*) and a priestly figure with righteousness (*ratu*). The King, in this context, is seen as not only the political leader but also a spiritual authority responsible for upholding religious principles and maintaining divine order within the realm. This amalgamation of both political and religious roles in the person of the King illustrates the significance of the King's authority being connected to the divine mandates and religious orthodoxy. The King, as a *Mōbad*, represents the harmonious integration of the worldly power and spiritual wisdom, aligning both realms to ensure the well-being and order of the society.

¹³³ *Ibid.*, 116.

¹³⁴ Minorsky, V. “*Vīs u Rāmīn*: A Parthian Romance (Conclusion).”

In the case of ruling and its compatibility with God's Law, the priests came to the fore to aid the King. The priests played a crucial role in developing a political system, as Dumēzil highlights in his categorizing the proto-Indo-European societies into three groups. Since the Sasanian dynasty, there was a political and official religion of the state, as Zoroastrianism. The King oversees enacting those laws and enforcing them. King's ruling is the legitimate authority as long as he obeys God's law (or his ruling is in agreement with the religious doctrine). The coordination between the King's law and religious orthodoxy in the Iranian context is crucial for the incorporation of the two camps of law, namely Divine Law and positive law. These two forms of law cannot be kept apart, as they are interconnected and intertwined in governance of the society.

From the Iranian perspective, if we were to equate the King's absolute authority with tyranny, it would not necessarily be seen as unnatural or unholy. This is because the King's authority is not challenged or viewed as tyrannical as long as it aligns with the religious orthodoxy. The divine mandate bestowed upon the king, as the representative of God's will on Earth, grants legitimacy to his authority, making his rule legitimate and not tyrannical in the eyes of the people. The coordination between the King's law and religious orthodoxy is what solidifies the king's authority and ensures the harmony between the laws of the state and the laws of the divine. In this context, tyranny is not a concept that applies to the king's rule, as long as he adheres to religious principles and upholds the sacred laws dictated by the divine authority. This integration of religious orthodoxy and the king's authority creates a unique system of governance in the Iranian context, where the laws of the state and the laws of the divine are perceived as inseparable, strengthening the king's rule and the religious foundations of the society.

From the Greek perspective, the Persians were governed by a king who epitomized the essence of absolute monarchy.¹³⁵ In the Persian context, authority was centralized and absolute, with the king occupying the central position, rather than power being vested in a group of individuals. This concentration of authority was made possible by the perception of the king as an image of God.

Daryaee¹³⁶ highlights the significant role of the king in Persian society, where the monarch was considered as the earthly representative of divine power. The idea of the king embodying divine attributes can be traced back to the influence of Zoroastrianism, an ancient monotheistic religion developed by *Zarathuštra*.

Zoroastrianism's monotheistic nature, centered around the worship of *Ahura Mazdā*, the supreme God, provided a strong theological foundation for the consolidation of political power. The belief in a singular, all-powerful God reinforced the notion of a single, supreme ruler on Earth, who was divinely sanctioned to govern with absolute authority.

This theological concept of the king as a divine representative played a crucial role in legitimizing the monarch's rule and maintaining the stability of the Persian empire. The king's authority was not merely derived from earthly sources but was perceived as a reflection of divine will, elevating the status of the ruler to a sacred position.

The union of religious and political power in the person of the king contributed to the centralization of authority, allowing for effective governance and a sense of continuity in Persian society. This fusion of religious and political elements in Zoroastrianism played a pivotal role in

¹³⁵ See ch.1, 30.

¹³⁶ Daryaee, Touraj. 2012. *The Oxford Handbook of Iranian History*, 4.

shaping the Persian monarchy and its absolute nature, according to Greek perspectives and historical accounts.

In the Western literature, the concept that “man-made law must not be contrary to natural law” played a crucial role in the development of republicanism. The idea of natural law, which transcends man-made laws and is based on universal moral principles, gained prominence. Later, in Christianity, St. Thomas Aquinas believed that natural law and Divine Law should be in harmony and not contradict each other. He argued that man-made laws should be in accordance with natural law and, ultimately, Divine Law. If a human law contradicted natural law or Divine Law, St. Thomas Aquinas posited that such a law would be deemed unjust and invalid. This understanding highlights the parallelism between natural law and Divine Law, where the principles of natural law are seen as rational and in harmony with the laws established by God.

Aquinas’s philosophy introduced the idea that rationality is an essential aspect of Divine Law. He argued that God, being the source of all reason and logic, cannot act unjustly or illogically. In this way, Aquinas injected rationality into Divine Law, suggesting that God’s laws and commandments are consistent with reason and moral order. The example provided, such as God not being able to say the sum of two plus two is any number other than four, illustrates this idea. According to Aquinas’s perspective, the laws governing the universe, including mathematical principles, are inherently rational and reflect the divine order established by God. Therefore, even the laws of mathematics are seen as a reflection of God’s wisdom and consistency.

By establishing this parallelism between natural law and Divine Law, Aquinas sought to reconcile reason and faith, arguing that the pursuit of knowledge and understanding through reason complements and enhances one’s religious beliefs. This approach profoundly influenced

the development of Western thought, particularly in matters of ethics, law, and the relationship between faith and reason.

In this framework, even kings' decrees were considered unjust if deemed against natural law or Divine Law. This limitation on kings' laws is important. Kings could not violate Divine Law, meaning they were bound by the higher moral principles set by God. Over time, this concept extended to the idea of their sovereignty being subject to the law they enforced. This notion reached its full development in Medieval Political Thought in England, where the concept of the rule of law was established.¹³⁷

In Zoroastrianism, the legitimacy of a king is intricately tied to the concept of *Xvarənah*, which is linked to the king's religious orthodoxy and adherence to the principles of the faith. The possession of *Xvarənah* indicates the divine favor and support bestowed upon the king by *Ahura Mazda*. A king's legitimacy is maintained as long as he upholds religious principles and follows the path of righteousness. However, if a king loses his *Xvarənah*, he becomes illegitimate, as this divine blessing is seen essential for his right to rule. The loss of *Xvarənah* implies a departure from religious orthodoxy and moral conduct, rendering the king unfit to govern.

The departure between the two traditions, that is, the Western tradition and the Iranian tradition, can be seen in the concept of natural law and its impact on Divine Law in Christian and Zoroastrian faiths. The terms "*ṛtá*" in Vedic and "*aša*" in Avestan both refer to the natural order and truth in the Indo-Iranian tradition. They reflect the understanding that truth corresponds to reality and is in harmony with the natural order of the universe.

¹³⁷ Drafting the *Magna Carta* and forcing King John to sign it in 1215 CE. Establishing the parliament in 1295 CE.

However, when Zoroastrianism underwent a process of Canonization in the 3rd century C.E., the religious orthodoxy became more rigid, leading to a departure from the original teaching that a Zoroastrian's social life should align with nature and the natural order. This shift set the scene for the development of a more dogmatic and codified religious law, which influenced the Zoroastrian legal and political landscape.

As a result, the possibility of secular law, independent from religious law, was constrained. The king's law became closely intertwined with religious orthodoxy, making it difficult for secular laws to exist separately from religious principles in Zoroastrian governance.

This historical development reflects the complex interplay between religious beliefs, natural law, and political authority in Zoroastrianism and highlights the significance of *Xvarənah* in shaping the legitimacy of kings and the governance of ancient Iranian societies.

The word *Dāta*¹³⁸ is used in the both contexts. The word refers to the King's law, as well as to the religious law. It is essential for us to understand that *Dāta* corresponds to Positive Law (for the lack of a better term) and to God's Law combined. The Old Iranian conception of *Dāta* bears both of the meanings and carries them out, simultaneously.

Schmidt's research¹³⁹ highlights the complexity of the process of announcing a King in ancient Iran, particularly during the Achaemenid era. This process was influenced by societal mechanisms that revolved around oaths and social covenants. The concept of a social contract and covenant was integral to this process, emphasizing that the relationship between the ruler

¹³⁸ See ch.1, 31.

¹³⁹ Schmitt, Rüdiger. *Dāta*.

and the people was mutual and voluntary. This idea can be traced back to even earlier times, including the Elamite era.

The nickname “vast farm,” attributed to *Mitra* in ancient Iran, implies that this deity played a significant role as a protector of peace and political reconciliation among the tribes. This interpretation finds support in the *Zend Khorda Avesta* (specifically in verses 242, 3), which also emphasizes Mithra’s role in fostering harmony and cooperation.

As Schmidt also reiterates, in contemporary scholarship, the appellative meaning is commonly considered as the primary significance, with the god's name being regarded as essential for comprehending his character. There is a consensus among scholars that the god *Mitra* and the appellative *mitra* are both associated with the concept of peace. They are understood to promote the creation of expansive and harmonious living spaces by mitigating the constraints imposed by adversaries. From this, one can infer that the cosmic function of deliverance was fashioned in emulation of human experiences. Since the term "mitra" is exclusively employed in an abstract sense, signifying "contract" or "alliance" (or a more suitable term that may be identified), the perspective that the abstract concept serves as the foundation for its evolution remains a preferred viewpoint. This rational interpretation, of course, does not negate the belief held by Indo-Iranians in God *Mitra*, that they regarded as the origin of every human *mitra*, or as a representation of the principle embodied by the god in each human *mitra*.¹⁴⁰

Another attribute to *Mitra* known as “*Yāta Yajjāna*” indicates that *Mitra* ensures that everyone is placed in their rightful position based on their merit, which signifies the importance of justice in the social order. This concept reinforces the idea that rulers, including Kings, were

¹⁴⁰ H.-P. Schmidt, 350.

expected to govern justly and treat their subjects according to their deserving position within the society.

Overall, Schmidt's research sheds light on the intricacies of ancient Iranian political and social systems, which were influenced by the notion of mutual agreements and covenants between rulers and their people, and the importance of justice and reconciliation in maintaining social harmony.

The unique position of the King implies a super-human importance, although he is not considered holy. "Generally, the Near Eastern king was always considered responsible for law and order on behalf of the gods. He is the one who interprets gods' will, as well as represents their people."¹⁴¹

Great Ahuramazda, the greatest of gods –
he created Darius the King,
he bestowed upon him the kingdom,
good,
possessed of good charioteers, of good horses, of good men.¹⁴²

By studying the Vedic and Avestan Texts from the legal perspective, some important points become clear. They show that the Indians and Iranians had a common tradition amongst themselves about kingship and their kings (as the supreme leader that Boyce calls them "high Kings").

Boyce writes that the high king's rule was not arbitrary, but was bounded to some extent by undertakings entered into with his vassals so that he acknowledged obligations as well as

¹⁴¹ Almagor, Eran. 2017. "The Political and the Divine in Achaemenid Royal Inscriptions." In *Ancient Historiography on War and Empire*.

¹⁴² Mallory, 49.

exercising rule. This pattern of society appears to have become reflected in that of the gods, for its influence has been traced in the development of beliefs in the *Asuras* of the Indo-Iranian pantheon.¹⁴³

Justice

Rašn Yašt belongs to the *Young Avesta*, it is about “Justice.” There is no Vedic equivalent to this deity. According to Goldman, *Rašnu* is closely associated with *Mithra*.¹⁴⁴ This deity’s primary role is ensuring justice. One way this god achieves this goal is “through his involvement in the ordeal, being a trial designated to determine guilt through divine intercession.”¹⁴⁵ There is a reference in *Vidēvdād* 4.54 wherein *Rašnu*, together with *Mithra*, is implicated in a very specific kind of ordeal: that of drinking sulfurous water.

In *Rašn Yašt* the term *varah-* refers to an ordeal. In history, the ordeal was about a harsh examination to find out about the guilt or innocence of a person, such as forcing him to cross a long labyrinth of fire. Passing it through, unharmed, was considered a sign of innocence. Or submerging a person underwater. If he got out unharmed, hence his innocence. There are a few Avestan references about the “individual ordeal.” There are three different ways of *varah-* observed: the ordeal of drinking sulfurous water (*Vidēvdād* 4.54); the ordeal of consuming the consecrated *drōn* (*Yasnâ* 8); and an ordeal involving boiling water (*Vidēvdād* 4.46). *Rašnu* presides over the ordeal, writes Goldman.¹⁴⁶

Goldman summarizes the individual ordeal in four. 1) A means of settling legal disputes (*Vidēvdād* 4.46); 2) A method of checking the religious *bona fides* of participants in the *Yasnâ*

¹⁴³ Boyce, Mary. *A History of Zoroastrianism*, vol. I, The Early Period (Netherlands: E. J. Brill, 1996), 4.

¹⁴⁴ Goldman, *Rašn Yašt*, 27.

¹⁴⁵ *Ibid.*, 28.

¹⁴⁶ *Ibid.*, 74.

ritual (Y. 8, 2-4); 3) A tool for demonstrating the Zoroastrian religion's ultimate truth (Supp.ŠnŠ.15,16-17; Zād.22,11-13); and 4) A way of selecting a candidate for extra-terrestrial voyages (AWN.1,39-43).¹⁴⁷

On the “universal ordeal,” Goldman says, as distinct from the individual ordeal, the Zoroastrian Texts make repeated references to a universal ordeal that has a key eschatological¹⁴⁸ function. It is said that at the time of renovation (Phl. *frašgird*), all humans, including the resurrected, will face judgment. In part, this process involves the assembled masses undergoing an ordeal by molten metal. A comprehensive description of this event is wanted from the *Avesta*, the main source of information being the Pahlavi Texts. The *Bundahišn* provides a graphic account.¹⁴⁹

The introduction of these references serves the purpose of exploring the concept of justice in antiquity, particularly in the context of ancient Iranian societies. However, Goldman points out that the available references are not entirely clear, and there is a lack of information regarding the trial procedures and rational processes for determining justice during that era.

Some graphic images are mentioned, depicting trial methods such as forcing the subject to drink sulphuric water (acid) or using molten metal to test innocence. If the accused survived such ordeals, it was considered proof of innocence. Additionally, the belief in universal judgment after death is mentioned, where individuals will be questioned and examined. The presiding figure over these trials is *Rašnu*, which suggests a religious foundation for the judgment process.

¹⁴⁷ Ibid., 81. Supp.ŠuŠ.: Supplementary Texts to the Šāyest nē Šāyest. Zād: Wizidagihā i Zādspram. AWN: Ardā Wirāz Nāmag

¹⁴⁸ Regarding the ultimate destiny of mankind.

¹⁴⁹ Goldman, 81.

It is implied that these religiously-founded judgments were based on reading the scriptures and matching the behavior of the accused with the sacred Texts, leading to suspicion or suspense (*varah-*). The concept of a universal ordeal might have had significant political ramifications. The fear of collective punishment could have been used to organize society and impose order, in line with the Texts written and interpreted by priests or *Mōbads*.

The references, discussed earlier, hint at the ancient Iranian society's reliance on religiously-based trials and judgments to determine justice, utilizing ordeals and the reading of sacred Texts to uphold social order and enforce a sense of collective responsibility within the community.

The latest development in antiquity of Iran regarding law happened during the Sasanian dynasty, in which the new codification based on Zoroastrianism came into play. For the first time, we had an official religion for the country. It meant that the laws must have been based on the official religion of the land, hence the political religion and the religious government. "The Church and the State began working hand in hand for the first time in Iran in the third century C.E."¹⁵⁰

As mentioned earlier, in Zoroastrianism, the religious and governmental aspects are closely intertwined, making it a unique system where the laws are interpreted through the lens of religion. This means that the priest holds a significant role as both the lawgiver and the interpreter of the law. Unlike the Greek tradition, where the law was often associated with reason and the natural order (*cosmos*), in the Persian world, the law is primarily correlated with the Canonical Texts of Zoroastrianism.

¹⁵⁰ Daryaei, Touraj. "The Oxford Handbook of Iranian History," 189.

The Canonical Texts, comprising the sacred scriptures of Zoroastrianism, serve as the foundation for understanding and interpreting the laws that govern society. The vision of law in the Persian world is heavily influenced by religious beliefs and divine guidance, making the priestly class essential for upholding and administering justice according to the tenets of Zoroastrianism.

This distinction in the conceptualization of law marks a departure between the Greek world and the Persian world. In the Greek tradition, the emphasis on reason and the natural order contributed to the development of philosophical and rational approaches to law. In contrast, the Persian world's reliance on religious Texts and the priestly interpretation of those Texts gave rise to a different understanding of law, where religious authority and the Divine played a central role in the legal system and the governance of the society. It put the positive law under Divine Law category. It means Divine Law defines the positive law. They are not apart from each other.

In the era of Zoroastrianism, two prominent priests, *Tosar* (Tansar), and *Kerdir* played a significant role in shaping the view of law in the Iranian context. *Kerdir*, in particular, was instrumental in establishing the Zoroastrian Church, creating a body of laws, and canonizing *Avesta*, the sacred scriptures of Zoroastrianism. He was an essential accessory to unify the Church with the State, which had a profound impact on the concept of law in the region. This marriage of the Church and the State led to the belief that all laws, including positive law, were considered sacred and endorsed by God through the sovereign's mandate.

The *Fær-e Izadi*, a concept related to religious orthodoxy and the king's legitimacy, played a crucial role in this context. In the Zoroastrian perspective, everything, including law and divine authority, was embodied in the figure of the King. The positive law, which was shaped and enforced by the sovereign, received similar attention and respect as Divine Law.

This development marks a significant difference between the Western and Iranian systems of law and governance. In the Western context, as seen in Sophocles' *Antigone*, the king's authority was not absolute and was never equated with the authority of the gods. The concept of tyranny was generally not supported or condoned in the West, and there were limitations on the king's authority. However, in Iran and other parts of the East, such questions about the absolute authority of the king were not raised.

Overall, the blending of the Zoroastrian Church and State, the concept of *Fær-e Izadi*, and the moral duality of *ašā* and *drūj* contribute to a unique view of law and governance in the Iranian context, setting it apart from the Western systems of law and authority.

Zarathuštra, who seems to have adopted this fundamental duality, described himself as a true enemy of the followers of *drūj* and a powerful supporter of the followers of *ašā* (*Yasnā* 43.8).¹⁵¹ Nigosian considers these concepts of order and disorder, or Truth and Falsehood, to belong to the realm of nature and cultic rites and moral law.

Now it is prudent to claim that "lawgiving" is a theological process in the Iranian context. It is as if the laws are made in heaven and then given down to the people among the Iranian orthodoxy. 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.¹⁵² Boyce also claims that *Ahura Mazdā* is the ultimate Creator of all things in Zoroastrian theology.¹⁵³ The authority of the Vedic *Varunā* and *Mitra* was mainly transferred to *Ahura Mazdā* to consolidate all powers into one God by *Zarathuštra*.

¹⁵¹ Nigosian, 20.

¹⁵² Boyce, Mary. 1979. *Zoroastrians, Their Religious Beliefs and Practices*. Routledge & Kegan Paul Ltd., 11.

¹⁵³ Boyce, Mary. "On Varunā's Part in Zoroastrianism".

In the Iranian context, the authority of the king is regarded as a representation of “holiness,” which marks a significant turning point where the approach to law differs from the Greek tradition. From this point forward, two distinct continuities or traditions emerge, the Iranian and the Western. Therefore, according to the Iranian perspective, influenced by Zoroastrianism, the king was considered beyond the scope of law and could not be subjected to it. This view also led to a continuity where “law” and “authority” were merged into one entity, creating a barrier to distinguish between them. This fusion of law and authority is another fundamental difference between the political traditions of the West and Iran.

In the Iranian context, the attribution of laws to Divine origin implied that they were sacred and beyond critique or modification. The sacredness of laws made them immune to questioning or challenging law. Any act of critique or nonconformity could be seen as heretical and subject to severe consequences. Therefore, laws, even when subdivided into different categories, were treated as a unified whole. This holistic view of law further emphasizes the singularity of law in the Iranian perspective, setting it apart from the Western tradition.

The intertwining of law and authority, as well as the sacredness of laws, provide a distinct understanding of the legal system in the Iranian context. The divine origin of laws and the immunity to critique them create a unique approach to governance and law, shaping the political and legal landscape in a way that significantly diverges from Western traditions.

In the Iranian tradition, tyranny is not considered the opposite pole of Natural Law. Instead, it is perceived differently because *Ahura Mazda*, the supreme deity in Zoroastrianism, is believed to be the Creator of the *cosmos* and its laws. As the Creator, only God holds the authority to issue laws, and the king’s role is seen as following and implementing God’s rule on Earth. In contrast, the Western tradition has subdivided law into different categories. Divine Law

is believed to belong solely to God, while the rest of the laws, known as positive law, are created by man and are subject to criticism and modification.

The distinction between the Iranian and the Western approaches to law lies in the perception of the king's authority, the concept of tyranny, and the source of law. In the Iranian context, the king's authority is viewed as sacred and connected to the Divine, while in the Western tradition, it is often seen as separate from Divine authority, allowing for its critique, and the development of positive law by human authorities. These differing viewpoints on the king's authority and the source of law have shaped two distinct legal and political traditions, marking a fundamental departure between the Iranian and Western approaches to law and governance.

Jurisdiction in the ancient world meant the administration of justice and exercise of the judicial authority. The royal prerogative and duty in the Achaemenid Empire, like any other older empires in Mesopotamia, was bestowed upon the kings by the grace of the gods. In the Achaemenid era and for the Persians it was *Ahura Mazda*. The Kings in the judicial matters and their royal laws (*Dāta*) were endorsed by the God. "Kings were the lawgivers and the judges."¹⁵⁴

Darius I in his inscription at Bīsotūn writes (in conclusion), "By the favor of *Auramazda*, these peoples respected my law."¹⁵⁵ However, according to contemporary research, the term *Dāta* does not refer to a unified law code. Pringruber reports that there are two fundamentally different (but related) concepts of law that have been noticed by two different source groups.

In the Achaemenid royal inscriptions, the word *Dāta* defines "the overarching authority of the King's rule" in the ideological-political sense, as well as the religious sense. Therefore, it

¹⁵⁴ Pirngruber, "Jurisdiction."

¹⁵⁵ Amelie Kuhrt, 141–58.

does not strictly belong to the judicial sphere. P. Briant and J. Wiesehöfer hold the same positions, according to Pringruber. Wiesehöfer¹⁵⁶ believes that *Dāta* lies at the basis of and upholds the earthly and cosmic order. As a result, all the king's subjects are obligated to obedience, taxes, and military service.

On the other hand, in Elamite and Babylonian legal administrative records, as well as in the biblical books of *Daniel*, *Esther*, and *Ezra*, *Dāta* refers to the concrete prescriptions and commands issued by the king. Pringruber provides an example from Babylonia where such royal decrees (*dāta ša šarri*) stipulated fiscal and customs obligations, penalty payments, and regulated business transactions.

The meaning of “*dāta/dath*” in the often-quoted passage from the letter of King Artaxerxes I to Ezra, which stipulates the Jews' return from the Babylonian exile and the future administration of the province of Judah, is less clear. *Ezra* 7:26 decreed the death penalty for transgressors against “the law (*dath*) of your God and the law (*dath*) of the king.”¹⁵⁷

However, Briant¹⁵⁸ and similarly Frei¹⁵⁹, believe an inclusion of the law of Ezra's god – the *Torah* – into the royal laws was meant to provide protection against arbitrary interventions by the satrap. Another postulation, supported by L. Fried¹⁶⁰, and alluded to by Wiesehöfer¹⁶¹, suggests that the judges mentioned in the preceding line 7:25 were installed by Ezra and would

¹⁵⁶ Wiesehöfer, J. (1999). *Das frühe Persien: Geschichte eines antiken Weltreichs*. München: C.H. Beck, 66-67 (Cited by Pringruber).

¹⁵⁷ Pringruber, “Jurisdiction,” 1088.

¹⁵⁸ Briant, P. (2002). *From Cyrus to Alexander: A History of the Persian Empire*. Winona Lake, IN: Eisenbrauns, 511 (Cited by Pringruber).

¹⁵⁹ Frei, P. (1995). *Die persische Reichsautorisation: Ein Überblick*. *Zeitschrift für Altorientalische und Biblische Rechtsgeschichte*, 1, pp. 1–36 (Cited by Pringruber).

¹⁶⁰ Fried, L.S. (2004). *The Priest and the Great King: Temple-Palace Relations in the Persian Empire* (*Biblical and Judaic Studies* 10). Winona Lake, IN: Eisenbrauns, 212-213 (Cited by Pringruber).

¹⁶¹ Wiesehöfer, J. (1995). ‘Reichsgesetz’ oder ‘Einzelfallgerechtigkeit’? *Bemerkungen zu Peter Freis These von der achaimenidischen ‘Reichsautorisation’*. *Zeitschrift für Altorientalische und Biblische Rechtsgeschichte*, 1, pp. 36–46 (Cited by Pringruber).

exercise justice in accordance with both Divine and royal law. This interpretation relates the passage to the broader meaning of *Dāta* primarily visible in Achaemenid royal inscriptions¹⁶², where it encompasses both Divine Law and positive law. This key understanding highlights the challenge of separating the State from the Church. For any sense of republicanism, this separation is essential.

Conclusion

This inquiry delves into the protohistory of the Indo-Iranian peoples to their history in antiquity, predating the written history of the Greeks by over a millennium. The aim is to explore the surviving Texts, namely the Vedas, to uncover any possible concepts of law and order associated with the natural order or based on nature to govern the society.

The term “*rtá*” refers to order observed in nature and carries a moral connotation that influences society. It has religious significance, as gods oversee and enforce the acknowledgment of good and bad, maintaining balance. The order observed in nature has somehow contributed to structuring the society. *Varunā*, as the sovereign god, along with *Mitra* enforces a certain level of order. In the Indo-Iranian context, “Truth” is synonymous with “reality.” This equality between Truth and reality holds political weight and is directly linked to *rtá*. *Varunā* and *Mitra* oversee society to ensure the association of Truth with reality. Thus, there is a strong emphasis on avoiding “*drúh*” (*druj*, Lie). In the Indo-Iranian context, a “Lie” is a destructive force that undermines the country and life itself. The Indo-Iranian theogony’s task is to protect *rtá* (Truth,

¹⁶² Pringruber, “Jurisdiction,” 1089.

reality) and strive to avoid *druh*. This forms the basis for an understanding of “Natural Law” in the Indo-Iranian context.

Regarding *Zarathuštra* and his contributions, the modifications to the Indo-Iranian pantheon and the consolidation of gods, particularly *Varunā* and *Mitra* to *Mithra*, played a fundamental role in shaping a political system that aligned with his newly designed theogony. This, initially, led to the codification of law, and later the unification of law and authority under the King, representing a single omnipotent God above all other gods. The dualism of good and evil in the world is resolved by honoring good and avoiding evil, which constitutes the core concern for law. This singular vision of law prevents dividing law into Divine Law and Positive Law, thus establishing an eternal marriage between the State and the Church. This development stands as a counterbalance to the notion of Aristotelian republicanism or his “mixed form of government.”

Summary

Tyranny holds a central position in Western political philosophy as a primary subject of inquiry. Throughout the course of Western history, political thinkers and philosophers sought remedies to address the inherent evil of tyranny, considering it as "unnatural" due to its oppressive and unjust nature. This notion implies that under a tyrannical rule, individuals experience a lack of protection for their natural rights, leading to a state of insecurity and vulnerability.

The natural law theory played a crucial role in shaping an understanding of law, including positive law, in the Western context. The foundational premise of this theory asserts that no law can violate the principles of natural law, which are perceived as inherent and universal principles governing human conduct and justice.

Republicanism emerged as a response to tyranny in the West. The core principle of republicanism is to protect the liberties and rights of individuals from the concentration of power in the hands of a tyrant or an autocratic ruler. This philosophy aimed to establish systems of government that would be representative, accountable, and responsive to the needs and will of the people.

The separation of law from authority became a pivotal mechanism in this endeavor. By ensuring that law is placed above the authority and that no one, including the ruler, is above the law, the risk of tyranny is mitigated. This concept formed the basis for the establishment of systems of checks and balances, wherein different branches of government act as a restraint on each other's powers, fostering a more balanced and accountable political structure.

In short, Western political philosophy has long grappled with the issue of tyranny, seeking to address its oppressive nature. The natural law theory, coupled with the development of republicanism and the separation of law from authority, became fundamental in building a framework to counterbalance tyranny and protect the rights and liberties of individuals within the society.

My research aimed to explore the concept of tyranny in the Iranian political thought, in the protohistory of Indo-Iranian peoples and their history when they established the Achaemenid government through its laws, particularly by Darius I, and expand this comparison throughout the ancient to the middle history of Iran before Islam. The objective was to compare and contrast the Iranian perspective on tyranny with the Western concept, particularly with regards to the idea of divine authority and the role of gods in shaping political aspirations.

In the Iranian context, the Indo-Iranian cults and their respective gods, such as *Varunā* and *Mitra*, played significant roles as guardians of righteousness and covenant in prehistoric times. These gods contributed to generating a sense of political community among the people. Later, with the emergence of Zoroastrianism, *Zarathuštra* introduced *Ahura Mazdā* as the sole God, consolidating the cultic gods into one omnipotent deity. He created an abstract image of God for the first time. There was no natural connotation and adherence to God anymore. But he was omnipotent and in charge of man's life in this natural world and beyond (after death).

Ahura Mazdā is responsible for creating the universe, mankind, and the establishment of good laws. *Ahura Mazdā* has two distinct powers but not exclusive. They are *ahu* and *ratu*. These powers make the omnipotent God responsible for man's life in

this world to make sure he follows God's good laws, so that he would ascend to heaven after death. Those laws are considered as guarantors for the followers and believers. These two powers are not exclusive to God because the Prophet, *Zarathuštra*, also has the same power. He observes and makes sure the right kind of laws are enacted for the same purpose, to ascend the believers to heaven. This commission for God and his prophet lays the foundation for merging or mixing Divine Law and positive law together. They are not parallel as St. Aquinas envisioned or devised them. Rather there is a hierarchy between them, meaning that the positive law must be in accordance to Divine Law. This development eroded the concept of tyranny. Thus, tyranny did not become the same question in the Western tradition as unnatural and evil. Tyranny in Iranian context was covered under the "veil of holiness."

Therefore, all the legitimacy for governance and laws is derived from *Ahura Mazda*, making king the representative of God on Earth. The king's legitimacy to rule comes from God's blessing known as *Xvarənah*. In this framework, there is no concept of law separated from God's Law, and Divine Law is regarded as absolute.

The priests played a crucial role in the political system, particularly during the Sasanian dynasty, when Zoroastrianism became the State's official religion to expand Zoroastrianism and its laws over the whole country for the political purposes.

In the Iranian context, the concept of *aša* (truth or order), play a crucial epistemic role in shaping this quest for a just and ethical society. *Aša* manages human conduct and is considered akin to the concept of natural law in the Iranian tradition. Upholding virtues like truth, honesty, loyalty, and courage aligns with *aša*, while the principle of falsehood and disorder is known as *drūj*, representing vice. Both *aša* and *drūj* are acknowledged

within the Iranian ethos, with the righteous person honoring *aša* and the wrongdoer following *drūj*.

Lawgiving in Iran is considered a theological process, where laws are believed to be made in heaven and bestowed upon the people. God is seen as the source of wisdom, virtue, and goodness, and laws are thus expected to be issued by God or *Ahura Mazdā*. This continuity of thought has sustained itself throughout ancient times, leading to the blending of law and authority embodied in one, with God or kings having the authority to issue laws. As kings represent God on earth, they are not subject to the law, marking a departure from Western political traditions.

In Iranian context, laws are considered sacred, as they are perceived to be God-given, making them immune to critique or modification. Acts of critique are seen as heretical. This perspective leads to two distinct continuities or traditions in the Iranian and Western political ethos. In the Iranian world, law is viewed holistically and issued solely from one divine source. In contrast, the Western tradition does not sanction tyranny, and the law is not viewed holistically except for Divine Law. This difference in approach leaves room for the critique of law in the West, leading to the emergence of republicanism, which opposes tyranny due to the influence of natural law. Such room did not and does not exist in Iran.

As Dumēzil suggested, among all Indo-European peoples, there were three distinct social classes in their communities: royals, priests, and soldiers. This tripartite division held significance throughout the protohistory and the entire recorded history of Iran, a tradition that continues to be observed to this day. Notably, the priests in Iran have played a significant role either in participating in governance and lawmaking or directly

assuming positions for ruling. This close relationship between religious and political authority has shaped the development of Iranian political system, where religious leaders have wielded considerable power and influence.

On the other hand, in the Western perspective, it is worth noting Sophocles' play *Antigone* as a counterargument. In Greek thought, the authority of kings was not considered absolute, and they were not equated with gods. The Greeks believed that nothing in life occurred without a reason, contributing to the development of the tragic worldview.

Tragedy in Greek thought is perceived as a response to injustice, exploring the concept of law of compensation as a means to restore justice in human affairs. This notion, as articulated by Robinson, suggests that the law of compensation operates not only in human affairs but throughout the world order, making it a law of nature.

Plato, in his works *Laws* and *Statesman*, acknowledges the importance of the rule of law, even though it may be inferior to expertise. However, he remains doubtful about the possibility of achieving political expertise within a human *polity*. Despite this, *Laws* considers the potential for improving laws even in the absence of political expertise.

The early Stoic scholars are credited for advancing the theory of natural law to a new level. The traditional meaning of the term *nomos* or *lex naturalis* (natural law) designates it as a law discernible by reason, determining what is right or wrong based on nature. It is considered universally valid, independent of circumstances and local customs. Cicero's definition in *De Legibus* describes natural law as the highest reason implanted in nature, guiding what ought to be done and prohibiting the opposite.

Aquinas builds on these ideas and distinguishes between *actus humani* (human acts) and *actus hominis* (acts of a man). He asserts that only the former, which is the free-willed act of man, is moral and directed towards an end. Moral acts require reason, leading to the differentiation of Good and Bad. Aquinas aligns with Aristotle in emphasizing the role of reason in distinguishing man from animals and directing human actions towards comprehension and pursuit of an objective end.

Aquinas introduces the concept of “right reason,” signifying the reason for directing man’s acts to attain the objective good for man. He uses this filter to differentiate between rational acts of man, implying that not every act for good necessarily aligns with the objective interest of man.

In conclusion, this research highlights the development of two distinct narratives of law, shaping different political ethos in the Iranian and Western contexts. Tyranny in the Iranian world is associated with representing God due to the holistic view of law issued from the divine source. This starting point leads to the mixture of Divine Law and positive law on the premise of Divine Law’s supremacy, hence the inability of a “parallel view of laws.” This is the main barrier for establishing any form of positive law which is essential for a mixed form of government leading to republicanism. In contrast, the Western tradition does not endorse tyranny and allows for the critique of laws, giving rise to republican ideals influenced by natural law principles.

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