

The Spirit of Law, the Role of the Religion to Legitimize the Law: Coercion vs. Divine Acceptance

Amirali R. Davoudpour

Iranian Canon of Medicine and Law, Administrative Wing of Law and Healing association, Iranian Watchdog of Medicine and Law, Tehran-Iran

Email of the corresponding author: davoudpour@canmedlaw.org

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Abstract

The essence of law lies not only in its written text but in its spirit. When a law lacks spirit, enforcement relies on force and coercion. Conversely, when a law possesses spirit, it is intrinsically acceptable and enforced by a higher moral authority, often perceived as divine. This article explores the dichotomy between laws devoid of spirit, leading to coercive enforcement, and laws imbued with spirit, fostering intrinsic acceptance and moral compliance.

Introduction

We already stated that in matter of i.e. the Ethical and Security Implications of Governmental Surveillance (Davoudpour, 2024) the possibility to legitimize governmental jurisdiction does not fit the sacred Quranic Perspectives as implemented in the body of the Quran¹. The Quranic injunctions against suspicion and spying

¹ The Quran 45:12

(49:12) offer foundational principles that resonate with contemporary debates on privacy, trust, and governance. Also in the matter of compulsory Hijab the same questions and problems exist in the matter of governmental jurisdictions over human body and outfits. Any attempts until now to completely fit Sharia law in the society has been coerced and met with both resistance from the society and led to fierce battles between the body of the society and scholars. "Zan, Zendegi, Azadi" (Women, Life, Freedom) has become a powerful slogan and symbol of the ongoing struggle for women's rights and broader social reforms in Iran. The phrase gained international attention following the death of Mahsa Amini in September 2022, a 22-year-old Kurdish Iranian woman who died in police custody after being detained by the morality police for allegedly violating Iran's strict dress code for women. Her death sparked widespread protests across the country, highlighting the systemic oppression and human rights abuses faced by Iranian women.

The slogan "Zan, Zendegi, Azadi" encapsulates the core demands of the movement: gender equality, the right to live freely, and the pursuit of freedom and justice. It has resonated deeply with many Iranians, particularly women, who have been at the forefront of these protests. The movement has seen women publicly defying mandatory hijab laws, cutting their hair, and participating in demonstrations despite severe crackdowns by authorities (Amnesty International, 2022).

These protests are part of a broader context of resistance against the Iranian government's authoritarian policies and human rights violations. Over the years, Iranian women have fought for their rights in various spheres, from education and employment to political participation. The current movement, however, has brought unprecedented international solidarity and media attention, putting pressure on the Iranian regime to address these issues (Human Rights Watch, 2022).

The international community has also responded, with numerous governments and organizations condemning the Iranian authorities' actions and calling for accountability. The United Nations has issued statements urging Iran to respect women's rights and freedoms, and to end the use of excessive force against peaceful protesters (United Nations, 2022).

The "Zan, Zendegi, Azadi" movement represents a significant moment in Iran's history, highlighting the resilience and courage of Iranian women and their allies in the fight for a more just and equitable society. As the struggle continues, it remains a potent reminder of the universal desire for freedom and human dignity.

"spirit of the law" refers to the underlying principles, values, and intentions that guide the creation and application of legal norms. According to Fuller (1964), laws should not merely be rules imposed upon people but should reflect the moral and ethical values of the society they govern. A law with spirit is one that resonates with the community's sense of justice and fairness, thereby earning its legitimacy and voluntary compliance.

Law Without Spirit: Coercion and Force

When laws lack spirit, they are often perceived as arbitrary, unjust, or detached from the moral values of society. This disconnection leads to a reliance on force and coercion for enforcement. Bentham (1789) argued that such laws fail to command genuine respect and adherence, requiring the authorities to use threats and punishment to ensure compliance. This approach undermines the legitimacy of the legal system and can result in widespread resentment and resistance among the populace.

Case Study: Authoritarian Regimes

Authoritarian regimes provide stark examples of laws devoid of spirit. In these contexts, laws are often tools of oppression rather than instruments of justice. For instance, during the apartheid era in South Africa, laws were explicitly designed to enforce racial segregation and inequality. These laws, lacking moral legitimacy, necessitated brutal enforcement mechanisms, including police violence and systemic repression (Thompson, 2001).

Psychological Impact of Coercive Law

The psychological impact of coercive laws on society is profound. Studies by Tyler (1990) show that individuals subject to arbitrary and forceful enforcement of laws experience heightened levels of distrust and alienation. This erosion of trust in legal institutions can

lead to a breakdown in social cohesion and an increase in civil disobedience (Tyler, 2006).

Economic Consequences of Coercive Law

Coercive enforcement of laws also has significant economic implications. According to Acemoglu and Robinson (2012), nations with oppressive legal systems often suffer from stagnated economic development. The lack of trust and predictability in the legal system discourages investment and innovation, leading to economic inefficiency and persistent poverty.

Law with Spirit: Moral Acceptance and Divine Enforcement

In contrast, when laws possess spirit, they align with the deeper moral and ethical convictions of the people. Such laws are perceived as inherently just and worthy of respect, leading to voluntary adherence. Hart (1961) emphasizes that the acceptance of law is crucial for its effective functioning. When laws are perceived as just, they are seen as extensions of a higher moral order, often equated with divine will.

Case Study: The Universal Declaration of Human Rights

The Universal Declaration of Human Rights (UDHR) exemplifies a set of laws imbued with spirit. Drafted in the aftermath of World War II, the UDHR reflects universal values of dignity, freedom, and equality. Its principles resonate with diverse cultures and religions, earning widespread acceptance and adherence. The moral authority of the UDHR transcends national boundaries, influencing domestic laws and practices worldwide (Morsink, 1999).

Psychological Benefits of Spirit-Filled Law

Laws imbued with spirit foster a sense of community and trust. According to Tyler and Huo (2002), when individuals perceive laws as fair and just, they are more likely to cooperate with authorities and engage in prosocial behavior. This enhanced cooperation can lead to more stable and harmonious societies.

Economic Advantages of Spirit-Filled Law

Spirit-filled laws can also drive economic prosperity. Research by North (1990) indicates that legal systems perceived as just and fair create a conducive environment for economic transactions. Trust in the legal system reduces transaction costs and fosters a climate of investment and innovation, leading to sustainable economic growth.

The Role of Religion in Legitimizing Law

Religion often plays a significant role in infusing laws with spirit. In many societies, religious beliefs provide the moral foundation for legal systems. Weber (1922) argues that theocracies, where laws are seen as divinely ordained, rely less on coercion and more on the intrinsic acceptance by the faithful. In such systems, the enforcement of law is viewed as a religious duty, with God perceived as the ultimate enforcer.

Case Study: Sharia Law

Sharia law, derived from Islamic principles, is an example of a legal system deeply intertwined with religion. For many Muslims, Sharia represents a divine mandate that governs all aspects of life. The moral and spiritual authority of Sharia fosters a sense of voluntary compliance among believers, who view adherence to the law as a religious obligation (Esposito, 2001).

Historical Perspective: Natural Law

The concept of natural law, deeply rooted in ancient philosophy, illustrates the idea of law possessing an intrinsic spirit. According to Aristotle, natural law is based on reason and the inherent order of the universe, reflecting universal moral principles (Aristotle, 350 BCE). This perspective influenced the development of Western legal thought, emphasizing that true law must be aligned with moral truth.

Implications for Modern Legal Systems

Legal Education and the Spirit of Law

Modern legal education should emphasize the importance of the spirit of law. As Luban (2007) notes, training lawyers to appreciate the ethical and moral dimensions of law can lead to a more just and humane legal system. Incorporating courses on legal philosophy and

ethics into law school curricula can help future legal professionals understand the deeper purposes of law beyond its procedural aspects.

Policy Recommendations

Policymakers should strive to ensure that laws reflect the moral values of society. Engaging in comprehensive consultations with various stakeholders, including community leaders, religious figures, and civil society organizations, can help in crafting laws that resonate with the populace. This inclusive approach can enhance the perceived legitimacy and acceptance of laws (Rawls, 1971).

Global Perspectives

The global community can benefit from a shared understanding of the spirit of law. International organizations such as the United Nations can play a pivotal role in promoting laws that uphold universal values of justice, equality, and human dignity. Collaborative efforts to address global challenges such as human rights violations, environmental degradation, and economic inequality can be more effective when grounded in a shared moral framework (Sen, 1999).

Conclusion

The spirit of law is a crucial determinant of its acceptance and effectiveness along with the innate nature of law (Davoudpour, 2024). Laws devoid of spirit necessitate coercion and force, undermining their legitimacy and fostering resistance. Additionally, the inner sense of freedom and legitimacy reduce the prevalence of inner disturbance and contradiction which is very important in the concept of eligible governance (Davoudpour, 2024). Conversely, laws imbued with spirit command intrinsic respect and voluntary compliance, often drawing upon moral and religious convictions. As societies evolve, ensuring that laws reflect the ethical values and beliefs of the people they govern is essential for maintaining justice, peace, and order.

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