Theories of Law

Name

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Antigone is one of the most famous tragic plays by the Greek author Sophocles. The play is tragic in the way that the author has presented the dilemma of an ancient society of Thebes facing the conflict of preferring positive law over the natural law. The particular preference of positive law by the ruler brings the devastation on him, in the form of losing his family. The debate of preferring the positive law over natural law is also one of the most discussed issues in the field of philosophy. Most of the philosophers, including the name of Thomas Aquinas, have dedicated their lives explaining the role and importance of both types of laws in the life of human beings. The natural laws of the society are those which are set by nature and going against them brings the destruction of humanity[[1]](#footnote-1). On the other hand, nature has not defined all the laws of the society, due to which the human beings felt the need of setting their own rules and laws for their distinct societies, which are called as the positive laws. The main conflict shared in the tragic play Antigone by Sophocles is that of following the positive law or the natural law. The play is concerned with obedience or disobedience to law to a great extent as it is the main theme of the play, in addition to being the basic source of the tragedy described in it. Following the laws of nature, while neglecting the laws of the human beings may have been the point of disobedience in Sophocles’ play Antigone has been argued as wrong by the natural law theorist and philosopher Thomas Aquinas[[2]](#footnote-2).

In the tragic play Antigone, Sophocles has described that Antigone acted against the laws of the society, or in other words positive law, to arrange burial rites for her brother, Polyneices. The city of Thebes, which was being ruled by Creon at that time, declared Polyneices as a traitor who had lost the affiliation with the city by acting against it in the war. Creon ordered that the dead body of Polyneices would be left in the open place for the animals and birds to destroy it. Antigone was not willing to accept the positive law and leave the dead body of her brother. She arranged for his last rites and buried him, believing that the natural laws are supreme. She also believed that the god has commanded the human beings to bury the dead bodies after performing their last rites and nothing can take away that right from the dead, as well as from their family to enact the procedure due to their loyalty towards them[[3]](#footnote-3). She ignored the ban of the ruler imposed on her due to the positive laws and preferred to remain loyal to her dead brother, which brought the wrath of the ruler towards her. When her sister tried to warn her against the circumstance she would have to face in future in case she enacts according to natural law, Antigone told her that she would prefer to please the dead and god, instead of pleasing the living people[[4]](#footnote-4). Sophocles has presented her ideology in the following words,

“And even if I die in the act, that death will be a glory.

I'll lie with the one I love and loved by him –

an outrage sacred to the gods! I have longer

to please the dead than please the living here:

in the kingdom down below I'll lie forever.

Do as you like, dishonor the laws

the gods hold in honor[[5]](#footnote-5).”

She was not at all worried about going against the laws of human beings, as she firmly believed that she is not doing anything wrong by following the command and law of God. She was confident about her actions because of her beliefs that she would be honored by God, even if she is punished by the ruler of her society and the eternal life is more important than this worldly life, so she wanted to be successful in the afterlife. On the other hand, the ruler of Thebes, Creon believed that following the positive laws is quite important to keep a strict check on the general public and maintain the peace and order of society. The act committed by Antigone was clear disobedience of the positive laws of the society, threatening the rebellion of the society in the future as well. Creon punished Antigone for acting against the positive law[[6]](#footnote-6). His son, who was engaged to Antigone, tried to change his opinion and convince him to not punish her, however, Creon was not ready to accept the reasoning of any individual. He was of the view that being the king of Thebes, he had the right of enforcing his laws on the people to ensure the peace and progress of the society, while his son held the point of view that he would face the criticism of the society due to his ideology. Sophocles described the argumentation between the father and son in the following words,

“Am I to rule this land for others-or myself?

HAEMON It's no city at all, owned by one man alone.

, CREON 'what? The city is the king's – that's the law!

HAEMON: What a splendid king you'd make of a desert island you and you alone[[7]](#footnote-7).”

The concern of obedience or disobedience to the law is clear in the tragic play as Creon and Antigone face the dilemma of preferring one over the other. Creon is in the favor of positive law, while Antigone affiliates with the natural laws. Thomas Aquinas has also shared his concern about obedience or disobedience of the law, which can be explored in the light of the tragic play. According to the philosopher, the natural laws hold greater importance and value as compared to the positive laws, therefore; neglecting the natural laws is actually disobedience. On the other hand, if a person disobeys the laws of the human beings, in order to follow the laws of nature, it cannot be declared as disobedience, as he or she is obeying the orders of the supreme. Nothing can be considered more important or valuable over the words of the god. Thomas Aquinas holds the point of view that there is no comparison between the natural and the positive laws[[8]](#footnote-8). However, if the situation comes to the point that a person can only opt one option, then there is no doubt that the positive laws would be unjust and following the natural law is fair and just. The case of Antigone is similar to the said scenario as she had to fight against Creon who preferred his laws over the natural laws and punished Antigone for being disobedient. In reality, he was the one who was being disobedient towards the laws of nature, as there is no doubt in the supremacy of the laws of nature over the laws of human beings. The philosopher has explained that nature has formulated its laws considering the well-being, peace, and prosperity of humanity all over the world. On the other hand, the laws of human beings are formulated according to the peace, prosperity, and benefit of some specific community or area of the world, which is the main reason that the laws of different countries and region are distinct from each other. There is no harm in formulating and following the positive laws, as they are necessary for the development of the distinct societies. The point of concern as explained by Aquinas is that the positive laws should not clash with the natural laws and if such scenario occurs then the priority and preference of the human beings should be following the natural laws while ignoring their disobedience to the positive laws[[9]](#footnote-9).

Obedience or disobedience of the law is the major theme of Sophocles' Antigone and through the tragedy of the play, the author has tried to give the message that natural laws are superior to the positive laws. He has shown that Creon who was the ruler of Thebes, lost his valued relationships and rule as the punishment of not giving preference to the natural laws. Aquinas has also conveyed the point that human beings cannot become triumphant if they ignore the laws of nature and act against them. They will have to face the wrath of the supreme force, so it is quite important to do what is favored by nature, instead of giving preference to the laws of human beings. Creon’s exercise of his legal power does not fit with the rule of law as interpreted by the concept of law shared by Thomas Aquinas[[10]](#footnote-10). Creon supported the law which was formulated by human beings according to their own benefit, which hindered the well-being of humanity across the world. He wanted to punish the brother of Antigone by curbing his burial rites in the light of positive laws, which cannot justify the supremacy of humanity. His law cannot be considered preeminent because it was not selfless and ensured the peace of humanity, but it was an effort of making the people fearful of going against the opinion and will of the ruler, even if they were right. Antigone’s response to Creon’s ‘law’ is an exercise of obedience towards the natural law, even if it is deemed disobedience towards the positive law. She has tried to ensure the supremacy of humanity by risking her own life[[11]](#footnote-11). On the other hand, Creon also risked his life, as well as the life of his family by not surrendering to the natural laws and considering him supreme over nature. The proposition that Antigone exercised disobedience towards the law of higher force is not true because the play provides evidence of her righteousness. If she had been wrong, then the wife and son of Creon would not have committed suicides which became the suffering of Creon. He was the one who was at fault, therefore; suffered the heartache of losing his family, after punishing Antigone for her disobedience towards the positive law. The play has clearly highlighted the point that the laws of the kings can never be more valuable and worthy than the laws of nature, which is more considerate and kind towards the humanity as compared to the worldly kings or rulers[[12]](#footnote-12).

 The themes and lessons of Antigone are relevant to the legal issues concerning obedience to the law in Australia today in a number of ways. One of the most points to consider in this regard is that each and every society of the world is making progress in a peaceful manner because its authorities have worked hard to formulate the positive laws in the light of the natural laws. The Australian society is no exception as the government and legislative bodies have worked hard to ensure that the laws of the state do not contrary to the laws of nature[[13]](#footnote-13). Most of the times, the positive laws are not strikingly contrasted with the laws of nature, because the well-being of society cannot be ensured while neglecting the natural laws and it is the most important element of the positive law as well. Plays like Antigone and philosophers like Thomas Aquinas became the guiding light of the western countries, especially Australia when the legislative bodies worked on the formulation of the laws. The philosophers who have taught the society the art of living and making progress made it clear through their teachings that morality and law are connected with each other and cannot be treated as separate identities. So, the formulated laws must be moral, which will eventually ensure their justification and fairness[[14]](#footnote-14). The Australian society has also ensured the morality of its positive laws, which ensure the fairness of the judgment, as well as its connection with the natural laws. Natural laws were always considered to be linked with religion; however, even after being distanced from the religious teachings and practices, the western world has ensured the connection of the natural law with the common laws of the society. Even after being secular in thoughts and practices, the government of Australia has ensured to not compromise the morality and validity of the common or positive law. One of the most important examples of natural law being embedded in the positive law of Australian society is the reasoning process of the appellate courts. The court authorities ensure to provide an equal chance of conveying their reasoning to the parties involved in the case and share their precedents[[15]](#footnote-15). The court authorities do not make the judgment on the basis of one party’s claims in order to ensure the fairness of the judgment while basing it on morality and not on personal thinking or attachment. Another important thing to consider in this regard that Australian legislation allows the authorities to nullify the positive laws, in the light of the natural laws; however, natural laws can never be ignored or nullified. Natural laws, which are the actual source of most of the positive laws, do not need any modification in them, while there is always a room for improvement in the positive laws to make the judgments fairer and just for the general public[[16]](#footnote-16).

Sophocles Antigone is based on the notion of obedience or disobedience to law. The tragic play highlights the importance of conforming to the laws of nature, even if the individual has to disobey or ignore the laws of the general society made by human beings. Thomas Aquinas, a natural law theorist, has shared the ideology that the laws of nature are supreme, more valuable and worthy as compared to the positive laws, which are actually formulated by the general societies. The reasoning behind this is that the laws of nature are more concerned and promising about morality as compared to the laws derived by the human beings according to their own society as they contain elements of selfishness and personal benefits of one group over the other. On the other hand, the laws of nature deem all the human beings in every nook and corner of the world as equal entities, deserving equal treatment, and benefits. The play, as well as the teachings of the philosopher, gives the message of making the natural laws as the guiding force of common or positive laws of the society. It also highlights the point that the peace and well-being of the humanity are disguised in following the laws of nature, as it will ensure the morally fair and just treatment of all the individuals while giving equal importance and value to all, irrespective of their social status. The Australian legislative authorities also function according to the supremacy of the natural laws over the common laws, in order to ensure the fair treatment of all the citizens, while confirming the smooth and steady progress of the society. The Australian society has adopted the natural law as the guiding force towards the development of the positive or common law, which is one of the most important reason that the laws of the society do not conflict with morality and ethics.

Bibliography

Amiridis, Kostas. "The shadow of Sophocles: Tragedy and the ethics of leadership." (*Business Ethics Quarterly* 28, no. 1 (2018): 15-29).

Ascarelli, Tullio. "Antigone and Portia." (*The Italian Law Journal* (2016): 604).

Boyle, Joseph. "Natural law and the ethics of traditions." In *Thomas Aquinas*, pp. 157-184. (Routledge, 2017).

Cairns, Douglas. *Sophocles: Antigone*. (Bloomsbury Publishing, 2016).

Charlton, William. "Natural law, Aquinas and the Magisterium." (*New Blackfriars* 96, no. 1063 (2015): 326-344).

Dalzell, Thomas. "Theology after Postmodernity. Divining the Void: A Lacanian Reading of Thomas Aquinas." (2015): 259-261.

Darwall, Stephen. "The foundations of morality: virtue, law, and obligation." (*The Cambridge* (2017)).

d'Entreves, Alexander Passerin. *Natural law: An introduction to legal philosophy*. (Routledge, 2017).

Finnis, John. "Liberalism and Natural Law Theory." In *Thomas Aquinas*, pp. 139-156. (Routledge, 2017).

Fletcher, J, "Citing the Law in Sophocles's" Antigone"." (*Mosaic: a Journal for the Interdisciplinary Study of Literature.* (2008) 79-96.)

Kalpakgian, Mitchell. "The Right to Life and the Natural Law." In *Australian Association for Professional and Applied Ethics 12th Annual Conference, 28–30 September 2005*. 2019.

Lisska, Anthony J. "The Philosophy of Law of Thomas Aquinas." In *A Treatise of Legal Philosophy and General Jurisprudence*, pp. 285-310. (Springer, Dordrecht, 2015).

Pearsall, Gurney. "Revisiting Antigone's Dilemma: Why the Model Rules of Professional Conduct Need to Become Model Presumptions That Can Be Rebutted by Acts of Ethical Discretion." (*SCL Rev.* 67 (2015): 163).

Tebbit, Mark. *Philosophy of law: An introduction*. (Routledge, 2017).

Weber, Paul J. "Toward a Theory of Civil Disobedience." (*The Catholic Lawyer* 13, no. 3 (2016): 4).

1. Fletcher, J, "Citing the Law in Sophocles's" Antigone"." (*Mosaic: a Journal for the Interdisciplinary Study of Literature.* (2008) 86.) [↑](#footnote-ref-1)
2. Boyle, Joseph. "Natural law and the ethics of traditions." In *Thomas Aquinas*, pp. 174. (Routledge, 2017).

 [↑](#footnote-ref-2)
3. Finnis, John. "Liberalism and Natural Law Theory." In *Thomas Aquinas*, pp. 145. (Routledge, 2017). [↑](#footnote-ref-3)
4. Amiridis, Kostas. "The shadow of Sophocles: Tragedy and the ethics of leadership." (*Business Ethics Quarterly* 28, no. 1 (2018) 15). [↑](#footnote-ref-4)
5. Cairns, Douglas. *Sophocles: Antigone*. (Bloomsbury Publishing, 2016) (l 86-92) [↑](#footnote-ref-5)
6. Kalpakgian, Mitchell. "The Right to Life and the Natural Law." In *Australian Association for Professional and Applied Ethics 12th Annual Conference, 28–30 September 2005*. 2019. [↑](#footnote-ref-6)
7. Cairns, Douglas. *Sophocles: Antigone*. (Bloomsbury Publishing, 2016) (l 823-27). [↑](#footnote-ref-7)
8. d'Entreves, Alexander Passerin. *Natural law: An introduction to legal philosophy*. (Routledge, 2017). [↑](#footnote-ref-8)
9. Lisska, Anthony J. "The Philosophy of Law of Thomas Aquinas." In *A Treatise of Legal Philosophy and General Jurisprudence*, pp. 295. (Springer, Dordrecht, 2015). [↑](#footnote-ref-9)
10. Pearsall, Gurney. "Revisiting Antigone's Dilemma: Why the Model Rules of Professional Conduct Need to Become Model Presumptions That Can Be Rebutted by Acts of Ethical Discretion." (*SCL Rev.* 67 (2015): 163). [↑](#footnote-ref-10)
11. Weber, Paul J. "Toward a Theory of Civil Disobedience." (*The Catholic Lawyer* 13, no. 3 (2016): 4). [↑](#footnote-ref-11)
12. Darwall, Stephen. "The foundations of morality: virtue, law, and obligation." (*The Cambridge* (2017)). [↑](#footnote-ref-12)
13. Tebbit, Mark. *Philosophy of law: An introduction*. (Routledge, 2017). [↑](#footnote-ref-13)
14. Dalzell, Thomas. "Theology after Postmodernity. Divining the Void: A Lacanian Reading of Thomas Aquinas." (2015): 260. [↑](#footnote-ref-14)
15. Ascarelli, Tullio. "Antigone and Portia." (*The Italian Law Journal* (2016): 604). [↑](#footnote-ref-15)
16. Charlton, William. "Natural law, Aquinas and the Magisterium." (*New Blackfriars*  (2015): 339). [↑](#footnote-ref-16)