

Arrived Date
13.03.2021

Accepted Date
26.04.2021

Published Date
30.04.2021

Umar Farooq TIPU*, Usman QUDDUS†

ABSTRACT

This paper attempts to explain how humans derive their conscience and act according to it. The purpose is to explain in clear terms the basis of individual actions. The methodology is descriptive with elucidation of the proposed thesis by examples. The findings mandate that humans' conscience is driven by societal demands. The limitations of research were comparative analysis of the topic due to nature of research which was mainly introspective. Such like work can be traced in the writings of legal and social jurists' particularly natural law writers. However, a different interpretation has been placed on natural law theory deriving influence from societal needs and religion concluding that it is the societal needs that are the deriving factor behind natural law.

INTRODUCTION

Natural Law theorists' postulate that humans are gifted with a scale by the nature which helps them differentiate between good and evil (Khan, *Natural Law and Morality* 2015). The theory of natural law in its hey days assumes an inbuilt reason patterned on the universal natural order. Later, the natural law theory acquired a religious content and presumed divine laws to be eternal laws (Vasani et al., *Natural Law School* 2020). Thus natural law theory is highly elusive and cannot provide a concrete answer as to how standards of human conduct are derived. This study will delve into the issue as to how natural standards are derived. Furthermore, we will be discussing the role of religion and society in this study of natural scale that is ingrained in the consciousness of individuals. How this scale works and what is its scope will also be the subject of discussion in this analysis.


The Natural Scale

Every human being is capable of deciding the goodness and badness of any act on the basis of something which is already present within him. This something which is present in every human being for judging his actions is what we may call the natural scale. Now the question is why we may call it the natural scale? The answer is pretty much simple. This scale for measuring the goodness or badness of the acts is not what a human himself created itself, rather it is something endowed to it by the creator or, in other broader term, by the nature (Mahajan, *natural law* 2010).

Now the question arises why we believed it to be so ingrained by the creator or nature? The reason behind this is that if humans were able to fit this scale in themselves at discretion then they were free to choose at will the extent of the scale of goodness and badness and it would not have been a universal fixation being ingrained generally in masses at large.

To explain this we may present a hypothetical example that there is a company who produces or creates robots of the same type. In every robot the company fits in a specific type of tool or mechanism which helps the robots to distinguish good from bad. We can conclude that every robot made by the company will have this tool installed in it. Taking lead from the above example while elucidating the natural scale we may say that the company is the creator or the Nature while the robot is a human being and the tool

*  Student, tipu1192@gmail.com, Department of Law, University of Swabi/ PAKISTAN

†  Assist.Prof., usmanquddus1980@gmail.com, Department of Law, University of Swabi / PAKISTAN

which is installed is the natural scale. It can be concluded thus that every human on the earth every day measures the goodness and badness of their acts using the in-built natural scale for the purpose. Thus, either nature or creator can be said to be the maker of this natural scale which is installed within us from the very inception to the end. This scale in our everyday life helps us choose a course of action over another on the basis of its goodness and badness.

Where in the Natural Scale Resides

The creator made this whole universe with laws to run it properly in a desired manner. These laws are called the laws of nature or the eternal laws, expressions as coined by Thomas Aquinas (Mahajan, *Natural Law* 2019). These set of laws apply uniformly to the whole of universe. One of such laws is that every living thing born will eventually die. This is also a law of nature that the sun will rise in the east and will set down in the west. Laws of nature postulate that water will always flow from higher concentration to the lower one. It is a law of nature that a lion will always devour meat and will never eat grass etc.

The law of nature applies on all living and non-living things alike. All the things in the universe are bound by the laws of nature. An exception to this rule in case of human beings can be carved out. The law of nature does not completely bind the humans to follow its dictates as it does in case of other living and non-living things. The law of nature has left it to the human to decide how to do things within certain limits as ascertained by the law of nature (Mahajan, *Natural Law* 2019).

The holy book for Muslims i.e. the Quran states that God offered discretion for doing things the way it likes to everything but only humans accepted unlike the case of other animals, which are completely bound to do what the law of nature taught them to do and they cannot go against it (*The glorious Qur'an: Translation*) e.g. there is certain time for their copulation to produce off-spring. Beside that time, the animal do not mate and produce the off-spring but in case of the humans this rule does not apply.

If we look at the habitat of animals, they live in a specific environment like some live in deserts, some in jungle, in damp moist places etc. but if we look at the human they are not bounded to live only at one place. They have been given the power to make the choice, where to make a habitat.

Now the question arises as to why humans are given so much discretionary power to forge their own path within certain limits by the law of natural. The answer is "Reason". They have been given the above mentioned discretionary power because they have the capacity of reasoning and intelligence which the rest of the subjects of the law of nature do not have. (Mahajan, *Natural Law* 2019)

Now it is clear that humans are somewhat different from the rest of the living beings and the main reason for the difference is the faculty of reason. Law of nature has bestowed the human some discretionary power to use but it did not left these discretionary powers to be used abruptly and in foolish ways. To stop humans from abusing and foolishly using the powers given to them by the law of nature, the creator or nature fitted the tool inside every human to which I am referring to as the natural scale.

It may be presumed that this is clear by now that the natural scale is found in humans only and not in other living beings and non-living things alike.

Standards for Measurement

Every human contains a scale which I call the Natural Scale to measure the goodness and badness of the things in front of him. We all know that to measure something in a scale we require one more thing beside the scale and that is the 'standard' for comparison.

The scale is given to us by the creator or nature as we have already discussed but what about the standards. Without the standards, the natural scale is useless because you have no way to compare your acts. And if there are no standards then one will never know what is good or bad. In such situations, the

in-built scale of nature is unable to give an answer because it has nothing to compare the requisite acts to know about its nature.

In simple words, the in-built scale or the natural scale is ineffective without the standards. So standards are one of the basic ingredients for the natural scale to work. Standards are the most important part of the Natural scale.

Source of Standards for Natural Scale

The natural law theorists and upholders say that there is not just an in-built scale for measurement of good and bad but with it there are also standards for that purpose given to the humans at the time of creation by the creator/nature. In other words, they say that the standards are also in-built in humans just as the natural scale (Khan, *Natural Law and Morality* 2015).

But we not quite agree with this thesis. Let us give you an example to clear our standing on this point. When a baby is born then according to the upholders the baby has an inbuilt scale and inbuilt standards required for the measurement of goodness and badness of an act. So, if the Natural Scale is there and standards are also there then the baby is good to go and measure the goodness and badness of the acts and things. But in reality a baby is unable to decide or differentiate between good or bad.

The counter argument can be that baby are unable to apply reason in deciding and without reason it is not possible to differentiate good from bad using the natural scale.

Let us cite another situation. We keep a person in total solitude from the rest of the world in a place from birth to his adulthood and when he attain the age of adulthood then we mix him with the rest of the world. Then in that scenario will he be able to differentiate good from bad. I do not think so. In that case he is an adult now and he is capable of using his innate reasoning ability because he has attained the age required for fully functioning his reasoning faculty and as already told that the natural scale and standards for it is inbuilt in him and is given to him at the time of creation.

If we ask from that adult that stealing from someone is good or bad or killing someone is good or bad. Will he be able to answer these questions? I think he cannot. Even if he tries to answer, he will be more or less guessing and nothing else.

I agree with the natural theorist up to the point that there is an inbuilt scale for measurement of goodness and badness in every human but the point on which I deviate from the path of the natural theorist is that they believe that the standards for measurements of goodness and badness of an act is also inbuilt in every human but I refuse to agree with them on this.

According to my point of view, the standards are not something ready-made given to humans by the creator or nature. This is not something given to the humans at the time of birth which is a complete set of standards for the purpose as mentioned above. But instead of this these standards are created by every human being in his life for himself. Every human uses these standards for himself extracting it mainly from his society, and religion.

These are the sources from where a human derive its standards for the natural scale to measure the goodness and badness of his actions. To elucidate further, I will try to explain these standards one by one to clearly put forward my point.

Society

First of all we will start with the society as the source of standards for the scale. Society is one of the important developments made by the human race. Sir Charles Darwin in his thesis 'origin of species' traced the biological evolution of living organisms from simple unicellular amoeba to the most complex multi cellular organism like human being. Some of the earliest and greatest sociologist too viewed societies evolving from simple, food gathering societies to the complex, modern societies. This social

evolution they traced through a set of stages and are called 'uni-linear-evolution'. Society is a system of usages and procedures of authority and mutual aid, many groupings, division of controls of human behavior and of liberties. This ever changing, complex system we call society. It is the web of social relationship. As I have already said above that society is system of usages and procedures of authority and mutual aid.

Each and every person in a society has its role in society. That are the individuals who combine together to give birth to society. Therefore each and every individual have its role to play in society and in the same way each and every individual can affect the society. Even though this effect which I am talking about will be the minor one if the person who is producing this effect is just an ordinary member of the society. If the person who is producing this effect is holding some prominent position in the society then the effect produced will be the major one.

It is clear that a society is an aggregate of the individual members. Therefore the influence produced by the society over its members in their individuality will be the aggregate effect produced by all the members.

The society affects each and every aspect of the life of its members. That is why human derive a great part of his standards for the measurement of goodness and badness from the society.

The society tells an individual how to live, in which manner to live, how to eat, what to eat, when to work, what to work, how to dress and how not to, how to walk and talk, what kind of language is to be used in which situation, how to behave in different situations and so on...these are basically society's norms and usages and customs which is followed by the individuals as fixed rules in their life and from that an individual derive the base for the standards he uses in measuring goodness and badness of an act in the natural scale.

The standards of an individual for the natural scale will always be in accordance with the norms, usages and customs of the society in which he lives. It is possible that the influence of the society on the standards of an individual for the inbuilt natural scale can be less or more in case of different individuals but it is not possible at all that an individual have standards which are totally contrary to the customs, usages and norms of the society in which he lives. Now the question is why it is not possible? Aristotle said that human is a social animal (Aristotle & Rackham, *Aristotle: politics* 1959).

He is by nature inclined to live with other members together and he is unable to survive individually, it is because his inbuilt nature did not give him so much liberty to take steps that are much out of the box. Therefore a human is compelled by its nature to live in a society.

Here it is the individual who needs the society and it is not the society who needs an individual for the survival. So the society has an upper hand over the individual and therefore the individual here is not in the position to dominate but to submit to the ways of society. Therefore, that is why an individual is compelled by its nature to follow the rules of the society and shape its life as the society wants him to be.

Another reason why a human cannot form his standards against his societal ways is that a human when born starts his life in a society. It is said that when a human baby is born his mind is just like a clean slate. He started to learn the ways of the society of which he is a member. He was taught all his life the ways of the society in which he lives.

He continuously, learns the ways of his society which then is engraved on his mind. So that what he learns continuously becomes part of him and his behavior and up to an extent part of his nature too. That is why these customs, ways, norms and usages of the society started to show up itself in every aspect of the individual life and even in the standards of the natural scale. When the ways of society become that much deep part of his life, then it becomes very difficult for an individual to go against these ways.

If we ask a question from two individuals, who belonging to different societies i.e. One is from Scandinavian society of Vikings and another one is from the farming society settled in Australia. I am quite sure that I will get different answers from these two individuals regarding the natural scale. Suppose if ask either, killing innocent people and looting their possessions is a good thing or a bad one? The answer which I will receive from a Viking society member is that it is a good thing and not bad at all. He will not only give this kind of answer but will properly support his standing on this point. Why will he support his point of view? It is simple because his ways of life is directly challenged which is in fact are the ways of his society and he is bound to support and resist any change in his society's ways. The individual who is a member of a Viking society is grown up in an environment in which killing people and looting their possessions is what they do for living. That's what their society teaches as right. Therefore their standards for the natural scale is shaped according to the ways of their society and that is why when they contact their inbuilt scale for measuring the goodness and badness of this very act, about which we are talking, their scale tell them that it is good thing to do. Their inbuilt scale is compelled to give this kind of result because it is totally dependent on these standards for giving its measurement. On the other hand, the standards are dependent on the ways of the society in which an individual lives.

Now if we ask the same question from the farming society members. He will definitely tell us violent conduct is a bad thing to do. He will call such kind of acts cruel, inhumane and an evil doing because his inbuilt scale tells him so. His inbuilt scale is guided by the standards which were influenced by the ways of the society in which he lives.

Now on the same question of two individuals belonging to different societies, and having different ways of life, holding almost opposite opinions. If the standards for measurement in the natural scale were inbuilt in every human same as the natural scale, then all the humans will have exactly the same standards and they will be able to give the same answer for the same questions on good or bad. But this is not the case so people belonging to different societies hold difference in their opinions toward different things. And that is the proof that standards are not inbuilt in human as the natural scale is.

Let us get through some other examples. In the past, in Hindu society there was a practice very common called as *Sati*. In this practice the wife was burnt alive with the dead body of his husband, after the husband's death. This practice was part of their lives. They consider it a good thing to do. According to ancient Hindu customs, sati symbolized closure to a marriage. It was a voluntary act in which, as a sign of being a dutiful wife, a woman followed her husband to the afterlife. It was, therefore, considered to be the greatest form of devotion of a wife towards her dead husband.

In the past, in Pathan society there was a practice they use to call *Swara*. When a person kills someone from another family then he use to give his daughter or sister in marriage to any man in the family of the aggrieved party. At that time, it was a good way to end enmity between two families and for the society of the pathans this was a good and proper way of ending the enmity. They consider it good and upright.

In the present time, if we look at the European societies there is one practice very common nowadays and that's the living relationship. According to them, living relationship does not affect the society in bad ways. They consider is good and normal.

If we ask a member of the past Hindu society about the living relationship in America, he will categorized it as bad thing to do and will call it contrary to his ways. Same will be the answer if we ask him about the practice of *Swara* which is common in Pathan society of past. If we ask the same question about the practice of *sati* and living relationship from a member of the pathan society he will definitely oppose these practices and his inbuilt scale will rank these acts as the evil doing and bad one. If ask the same question about the practice of *sati* and *swara* from the inhibitor of an American society he will call these acts inhumane and cruel and at the same time his inbuilt scale will categorize these acts as bad.

All these examples tell us that standards for inbuilt scale of ours is not the same but it is different. From here we can say that the standards are created and driven by the ways of the society in which an

individual is brought up and leads his life. If one looks at the three practices, as mentioned above, of the societies, and ask a member of another society beside from the three mentioned above. He may hold an opinion that all the three practices are bad or good. He may say that one of them is good and other two are bad. He may hold an opinion uniquely different from all of the three mentioned society's members because his standards are different, because his standards are derived from the ways of a different society.

There are some exceptional cases in which an individual adopts standards for his inbuilt Natural Scale which goes contrary to the ways of the society. In that case there are two options with this individual. First, when he goes contrary to the ways of the society he will face reprimand from the society until he changes back his ways of life and standards to get back in accordance with the ways of the society or to change the ways of the society to get it in accordance to his ways. But in my opinion, to change the ways of the whole society is almost an impossible task to be done as compared to the task of changing one own ways to get it in accordance to the ways of the society. Second option which an individual has is that he has to leave this society and became part of another society, to which his ways of life matches. Beside these two options there will be no other third option with this rouge member of the society.

Religion

Religion plays an important role in human life. 'Religion is a system of sacred belief and practices both in the tangible and intangible form'. Every religion gives us one common message and that is welfare of people. Pick up any book of any religion you will find there sayings and teachings that will tell you to do things which is for people benefit. Religion wants an individual to be on the right path. Religion wants an individual to do things which is good for him and in which there is no harm for the people around him. Religion wants an individual to abstain from doing certain things because these things are not good for him and for the society and people around him. In other words, religion helps us to form our standards for the measurement of goodness and badness of an act. A religion tells us why you should form your standards this way and not the other way.

Every religion gives us a complete set of standards for measurement of goodness and badness of an act by using inbuilt scale. The creator did not give us the standards at the time of birth but, according to religious terms later. He gave us the complete set of standards through religious corridor. As we all know that with every religion the belief system changes and that all religions do not have the same type of theology e.g. Hinduism there are more than one gods but in Islam there is only one. Buddhism has no god at all. In Hinduism they worship idols but Buddhist worships no one. The Muslims worship one God (ALLAH). In Christianity and some other religion drinking wine is not a bad thing but in Islam it is prohibited.

So if individuals belong to two different religions then their standards for the Natural Scale will be different from each other. But in some aspects the standards created by all the religions will be the same. Why is that so, because as I have already told that the main message of every religion is same and that is common good of people and this is why the standards created by all the religions are same in some facets and in other they completely differ from each other.

If I ask the individuals who belongs to different religions (one thing to be kept in mind that here effect of social ways on standards is being considered nil) that tell us whether killing an innocent person is good or a bad thing to do. I think we will receive the same answer that it is a bad thing to do. Even though here the individuals belong to different religions but in some aspects all the religions hold same view and therefore the standards created by these religions will also be in accordance to the views of the religion.

This view which is common in all religion is the common welfare of people. This view of common welfare of people will be found in every standard created by any religion. When inbuilt scale compares the act of killing with the standards provided to it, it categorizes the act as the bad one. Here on this point every religion is of the opinion that killing an innocent person is a sin and a bad thing to do. And that is the reason why every individual's standard categorizes this act as the bad one.

Now if I ask a question from two individuals who belongs to Islam and Christianity respectively, that whether drinking wine is good or bad. The answer which a Christian will give me is that it is a good thing to do and not bad at all. But a Muslim will categorize it as a bad thing to do. Now here on same question the views of the individuals belonging to different religion differ because on the same point their religious authorities differ.

On this point Christian religious authorities hold the position that drinking is not a bad thing to do although they consider drinking enough wine to get pretty much drunk as bad. But on the other hand Islam totally prohibits the drinking of wine both the religions hold different views about the drinking of wine and therefore the standards of both the individual differ from each other. Because their standards are shaped by the religious belief they hold.

Which source among society and religion has more effect on standards?

As we have discussed above two sources, one is the society or social ways and the second one is religion. In one of these two sources of standards the social ways has more influence on shaping the standards for the natural scale of an individual as compared to religion. Look at any society you will find that it is affected by the customs and norms and usages of the society more and up to very less extent by religion (when we compare its effect as compared that of social ways).

Now the question is why religion is less affective source for standard as compared to the social ways. We can get answer to this question if we look at the sanctions behind both social ways and religion. In case of social ways if someone violate what the society want him to obey or if someone do what a society want him to abstain from then in that case there is direct and immediate sanctions attach to it. Now if in a society it is against the ways of the society to have a living relationship with someone. But instead of that prohibition of the thing a person still indulge in such kind of act then he will be punished by the society in many form such as by reprimanding his act, disrespecting for his bad doing and going against the norms, he will be out casted form the society and in many other ways. But if in case a religion stop someone from doing something and he still does that then in that case there is no sanctions on him or there is no punishment for him in his life. Because the punishments for any disobedience to commandment of religion in general will be given to him in his afterlife, and this possibility is too remote.

Therefore, religion sometimes fails to stop a human from doing certain things and the reason is that there is indirect sanctions and punishment. But in case of social ways the sanctions and punishment is direct consequence of the wrong doing of a person and is awarded to him shortly after his wrong doing therefore it has more effect on the human life and also on his standards for the natural scale.

Looking at the most of European societies nowadays, their life and standards for the natural scale is deeply affected by the social ways of their society. Religion is not a very effective factor in their whole life. Then on the same footing their social ways affect their standards for the natural scale more than that by religion. In every religion including Christianity, having sexual relationship without proper marriage bonding is not a good thing to do. Homosexual relationship and marriages is also prohibited by the religions and is considered sin. But still in European society this kind of marriages is legally valid and their society accepts it. Their standards and inbuilt scale never detect this act as bad but as permissible. Here their standards are mostly in accordance to their social ways but totally contrary to their religious ways.

Here another question arises that in some societies of individuals the standards of their inbuilt scale is mostly shaped by the religion. If the religion has less effect on the standards as compared to the social ways then why here in this case it is not so. This point here made by this question is a valid one and is a totally possible scenario that in some individuals the religion forms the main part of their standards. But that is possible only if the religion became part of the daily routine life of the society and with the passage of time it became part of the social norms, customs and usages. Then on that point, one will be able to see that religion has much effect on the standards of an individual of a society. But if we look at it closely

this is basically not the effect of religion on the standards of an individual but it is the effect of social norms and ways of the society on the standards of which religion practices became a part.

In our Pakistani society, drinking alcohol or wine is totally considered a bad thing to do. It is because this kind of act is against our social ways and our social ways were sometime back in past adopted this custom or norm from the religion of the people of society. Now we need to figure out which source of standards compel us to shape our standards more to categorize this act as the bad one and abstain from doing this. Here with the help of an example I would prove my point. In our (Pakistani) society some people still drink wine but in secrecy and in hiding from the society.

They never drink in public. And that is true it happens this way. Now if the standards of an individual is shaped by and is dominated by his religion then he will consider drinking wine a bad thing to do and then would abstain from drinking wine in public and as well as in secrecy. Because our religion told us that GOD is omnipotent thus He is present everywhere all the time. So if the standards of an individual are driven by religion he will abstain from drinking both in public and in secrecy but this is not the case so. He only abstains from drinking in public. Because he does not want to face sanctions of society and to be punished by the society or his esteem is lowered in the eyes of society. The social ways stop him from drinking wine in public or in the places where he can affect the society as a whole or where other people can see him is encouraged to violate the social ways. So here in this case the standards of an individual are dominated by the social ways and not by the religion. So now again we can say that social ways is the source which has more effect on the standards of an individual then the religion.

CONCLUSION

In every human there is an inbuilt capacity to know the goodness and badness of an act. This capacity is basically a kind of measuring scale fitted inside every human by the creator/nature which we have given the name of the Natural Scale and is sometimes referred to as the inbuilt scale. This scale is given to every human at the time of his birth and creation. But the standards for measuring in the scale are not given to any of the individual at the time of birth or inbuilt. These standards are later derived by every individual for himself from the two main sources, namely, social ways and religion. Out of these two sources the standards for measuring the goodness and badness derive its base. In these two sources the social ways has dominant effect on the standards as compared to the religion because of the different types of sanctions behind them.

REFERENCES

- Aristotle, & Rackham, H. (1959). *Aristotle: Politics*. London: Heinemann.
- Khan, I. A., Nyazee. (2015). Natural Law and Morality. In *Jurisprudence* (pp. 75-76). Rawalpindi, Punjab: Federal Law House.
- Khan, I. A., Nyazee. (2015). Natural Law and Morality. In *Jurisprudence*. Rawalpindi, Punjab: Federal Law House.
- Mahajan, V. D. (2019). Natural Law. In *Jurisprudence and Legal Theory* (pp. 599-601). Lahore, Punjab: Popular Law Book House.
- Mahajan, V. D. (2010). natural law. In *Jurisprudence and legal theory*. essay, Eastern Book Co.
- Pickthall, M. (2009). *The glorious Qur'an: Translation*. Elmhurst, NY: Tahrike Tarsile Qur'an.
- Rawls, J. (2013). *A theory of justice*. New Delhi: Universal Law Publishing Co.
- Salmond, S. J. (2012). *Jurisprudence*. Place of publication not identified: Hardpress Publishing.
- Sen, A. K. (2011). *The idea of justice*. Cambridge, MA: Belknap Press of Harvard Univ. Press.
- Vasani, T., & Vasani, A. (2020, May 19). Natural Law School. Retrieved November 09, 2020, from <https://www.legalbites.in/natural-law-school/>