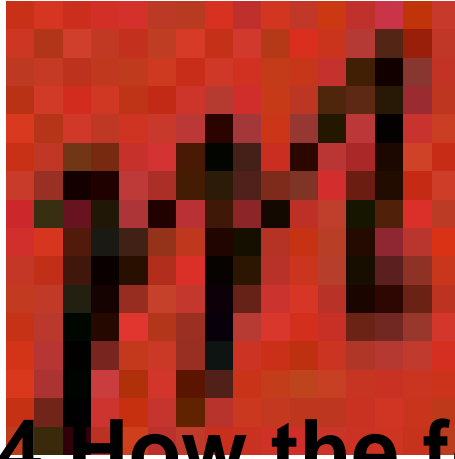


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# XXIV.14 How the force of religion applies to that of civil laws

- The Spirit of Law - Book XXIV. On laws in their relation with religion, considered in its doctrines and in itself -

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As religion and civil laws must tend principally to make men into good citizens, we see that, if one of them wavers from that purpose, the other must tend more toward it ; the less repressive the religion is, the more civil laws must repress.

Thus, in Japan, the dominant religion having almost no doctrines, and proposing neither paradise nor hell, the laws, in order to fill the gap, have been made extraordinarily severe and are enforced with extraordinary precision.

When religion establishes the doctrine of the necessity of human actions, the penalties of the laws must be more severe, and enforcement more vigilant, so that men who otherwise would let themselves go will be persuaded by those considerations ; but if religion establishes the doctrine of freedom, that is another matter.

From indolence of the soul comes the doctrine of Mohammedan predestination, and from the doctrine of this predestination comes indolence of the soul. It has been said it is as God decrees it, and we must therefore remain at rest. In such a case the laws must be used to stir men slumbering in religion.

When religion condemns things which the civil laws must allow, it is dangerous for the civil laws to allow for their part what religion must condemn ; for one of these things always signals a lack of harmony and soundness in ideas that also affects the other.

Thus the Tartars of Genghis Kahn, [1] for whom it was a sin and even a capital crime to put a knife into the fire, to go heavy on the whip, to hit a horse with its bridle, or to break one bone with another, did not think there was any sin in breaching faith, in making off with someone else's property, in harming a man, or in killing him. In a word, laws that make one see what is indifferent as necessary have the disadvantage of making one consider what is necessary as indifferent.

The Formosans believe in a sort of hell, but it is to punish those who have failed to go naked in certain seasons, who have donned clothes of linen and not of silk, who have gone oyster hunting, or who have acted without consulting the birdsongs ; but they do not consider drunkenness and disorders with women as sin ; they even believe that the debaucheries of their children are agreeable to their gods. [2]

When religion sanctifies for something incidental, it needlessly loses the greatest resource there is among men. The Indians believe that the waters of the Ganges have a sanctifying virtue [3] ; those who die on its banks are reputed to be exempt from punishments in the afterlife, and destined to live in a region full of delights ; they send urns filled with the ashes of the dead from the remotest places to be cast into the Ganges. What does it matter whether we live virtuously or not ? We will have ourselves cast into the Ganges.

The notion of a place of reward necessarily entails the notion of an abode of punishments ; and when one hopes for the one without fearing the other, the civil laws are without force. Men who believe they are assured of rewards in the afterlife will escape the legislator : they will have too much contempt for death. How is one to contain by laws a man who thinks himself sure that the greatest punishment which magistrates can inflict on him will be over in an instant, only to begin his felicity ?

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[1] See the relation of Brother Jean Duplan Carpin, sent to Tartary by pope Innocent IV in the year 1246.

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[2] *Recueil des voyages qui ont servi à l'établissement de la Compagnie des Indes*, vol. V, part I, p. 192.

[3] *Lettres édifiantes et curieuses*, 15th volume.