

## HIGHLIGHTS PROPEDEUTICE ANCIENT LAW IN THE WORK OF LAO-ZI

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*Lao-zi has made a special contribution in **developing rules and basics of law**. His doctrine promotes the idea of government by non-government, not through laws, attributing the problems and conflicts that arise in a society overloaded enforcement. In Daoism it is considered that **law** of nature is unchanging and eternal, and the **laws** governing all things are changeless. Lao-zi contends that codified **rules and laws** result in a society that is more difficult to care for. The more ordinances and laws, the more robbers and thieves there will be.*

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„The reason it's hard to govern people is that it knows too much”. (Lao-zi)

**I. Introduction**

The study on the evolution of knowledge and **development of sources of law** have started marking and bringing into question the oldest code of laws in China, attributed to Emperor Mu. Articles Code 3000 included special regulations regarding criminal. (Avornic, 2009)

Lao-zi (also spelled Lao-Tzu) was born in the Chu State, lived in the 6th century B.C. and was a contemporary of Confucius and Taoism founder. The conjectured years of his life are 604-531 B.C. His name can be translated as the „Old Master / Ancient Child”.

He was the author of the collection of aphorisms, a manual of self-cultivation and government - *Dao De Jing*, or *Tao-te-king – Book of the way and its power / virtue* „the deepest and most obscure text of all Chinese literature” (Eliade, 1986) and has made a special contribution in **developing rules and basics of law**. There have been debates on if the person, Lao-zi, really existed and if he was the real author of „*Dao De Jing*”.

Daoism (Taoism), which is one of the three main pillars of Chinese thoughts, i.e., Confucianism, Buddhism and Daoism. It is interesting to note that Confucianism has played the leading role in most of the time over the long history, but there have been few conflicts among them. They are a remarkably integrated part of Chinese culture.

Tao or Dao can be translated as „the Way” or the way nature is. It means a pathway or alternatively the process of reality itself. Referring to the natural flow of things, *Tao* recommend man to follow the course of nature and to seek the path of least resistance much like water does. It is the way of human life when it progresses in harmony with the universe. Actions taken in conformity with nature are more productive and easier to perform than attempting to go against nature. For Lao-zi, nature encompasses natural phenomena, the spiritual, and the social including socio-political institutions. (Younkins, 2006)

Dao creates everything in the universe and it exists in everything. Thus it is also the fundamental **law** of the universe. However, you know Dao is there, but you cannot see it,

touch it, or even give it a right name. But Dao is different from gods since it does not intend to interfere with you or things, no matter good or bad, in other words, it does not have a human face or character.

## II. ELEMENTS OF ANCIENT LAW IN THE WORK OF LAO-ZI

Unfortunately there are very little information on the biography of Lao-zi. It is known that he lived in the sixth century during the Zhou government and he was concerned about astrology and archive. (Brosse, 2007) As an adult, he held a minor government post as a librarian in the imperial archives.

According to popular traditional biographies, Lao-zi worked as the Keeper of the Archives for the royal court of Zhou, and was a scholar (shown in many Lao Zi paintings). This reportedly allowed him broad access to the works of the Yellow Emperor and other classics of the time. The stories assert that Lao-zi never opened a formal school, but he nonetheless attracted a large number of students and loyal disciples.

At some point he relinquished this post - presumably to engage more deeply with his spiritual path. As legend has it, Lao-zi underwent a profound spiritual awakening, and then traveled to the western frontier, where he disappeared forever, into the land of the Immortals. The last person that he encountered was a gatekeeper, named Wen-Tzu, who requested that Lao-zi offer to him (and all of humanity) the essence of the wisdom that had been revealed to him. In response to this request, Lao-zi dictated what was to become known as the Daode Jing (also spelled Tao-Te-Ching). Along with the Zhuangzi (Chuang-Tzu) and the Liehzi (Lieh-Tzu), the 5,000 word Daode Jing forms the textual core of Daojia, or philosophical Taoism.

*Dao De Jing* paper consists of two parts arranged in thirty-seven chapters and forty-four verses. This paper summarizes a number of tips and outlines a series of principles to be followed by political and military leaders from local to central level.

In translating the word *dao* can be understood as the equivalent of „origin and immanent cause of the universe”, but while the term *dao* can be explained by the **law**. (Lao-zi, 1999)

Lao-zi thought things are in pairs, such as big and small, birth and death, beautiful and ugly, etc. As long as there is „good”, there will be „bad”. All things are created from existence, and existence is created from nonexistence, then there will be existence before nonexistence. Therefore it does not make much sense to search the ultimate starting point of the universe in Laozi's mind since the cycle will go on forever. But Dao is **the fundamental law** for everything.

In accordance with the principles of the Taoist there are ten principles to be followed by the man who is searching the perfection: void - xuwu; immanence - Ziran, undisturbing - quingjing, non-action - Wuwei, stainlessness - chuncui; fullness - supu, simplicity - pingyi; peace - tiandan, gentleness - rouruo; nonexistence fight - bu zheng.

Lao-zi believed that „in his government activity, the wise man keep permanent the people in unwillingness and ignorance. When there are people who have science, the wise man seeks to make them not dare to act”. (Drimba, 1984)

Lao-zi did not agree with the idea of recognizing the authority of a supreme god, trying to promote the idea of the existence of a free spirit, absolutely - the way Dao. In his writings he rejected and combated Confucius's theory regarding the creating a society based on the goodwill and support of honest people, believing that things must take place by itself.

The desire to get one thing must proceed from its opposite: „a person who seeks to stand out, by default he is known; if he does not consider himself right, it means that he is famous; if somebody will not praise with the job done, he will be trusted; if the person is not

conceited, he will last long. If someone is weak, manages to keep the forces and it means he is strong.” (Budura, 2010)

Lao-zi recommended withdrawal from society and retreat into contemplation. He set an ethical goal for the individual only in the retreat into the wisdom and values of the inner self. His ideal society is one in which people live in simplicity, harmony, and contentment, and are not bothered by ambition, desire, or competitive striving. Desires cause harmful relationships between the self and others and lead men to appropriate things for their own satisfaction. Desires are evoked by the attractiveness and variety of things. (Younkins, 2006)

„An ideal society should be small-scale, in terms of population and territory, a society where there were no tools or improved tools, no vehicles, no wars.” (Shouyi, 1997) Lao-zi recommended communities not to interact with each other to get to know other systems of thought, other **laws and methods of government**, on the assumption of a closed society. More, he believed that „things do not change developing, but by passing a defined cycle. Resolving contradictions must be subjectively, which could lead to inaction in politics.” (Shouyi, 1997) His doctrine promotes the idea of government by non-government, not through **laws**, attributing the problems and conflicts that arise in a society overloaded enforcement. Lao-zi believed that „people will turn themselves if the sovereign does not take any initiative; they will be fair to themselves, if he loves peace; they will become wealthy if he does not care about anything; they will become simpler if he is free from desire.” (Budura, 2010)

Lao-zi appreciated that a leader must shape his existence on the following considerations: „man with a Superior virtue is like water. Water excels by making people feel well and not fight with them, staying in unpleasant places by people. Therefore, the wise man approaches the Tao. He must indulge in the more humble, and his heart should be deep as an abyss. When practical benefits, excel humanity. When he speaks he tells only the truth. When governing excels in bringing peace. When acting, excel to show understanding.” (Lao-zi, 2012) And on the same line may be mentioned the following principles „the country is governed with justice, war is made using cunning.” (Lao-zi, 2012)

The vision of Lao-zi for the model of ideal society should follow the idea that all the things have the same unique quality that is nature. „As long as idealistic leaders were able to support Tao, subjects must be able to educate in accordance with nature. People who share the same ideals form a group and merge it an ideal society.” (Shyung, 2010)

In Daoism it is considered that „**law** of nature is unchanging and eternal, and the **laws governing** all things are changeless.” (Budura, 2010)

It should be noted that Lao-zi criticized some Confucian ideas that promoted respect for social values and the idea of following and respect rites: „When we give up Charity and Justice, the people will find the true virtues of the family” (...) „rites are just a thin layer of loyalty and faith, and the beginning of disorder.” Moreover, Lao-zi was against the application of social values that was considered illusory and dangerous.

Confucius and Lao-zi have based their doctrine on the idea of creating an ideal for human behavior and society. „Confucius has searched perfection and the means to achieve this, in the field of external behavior, the phenomenon; hence the importance attached to the courtesy; on the contrary Lao-zi show us that perfection lies in the essential nature of things in their nature.” (Stere, 1975)

The wisest course, then, is to keep the government simple and for it to take no action, for then the world „stabilizes itself.” As Lao-zi put it, „Therefore the Sage says: I take no action yet the people transform themselves, I favor quiescence and the people right themselves, I take no action and the people enrich themselves....”

Lao-zi maintains that inaction is the proper function of government. He is concerned with realizing peace and sociopolitical order. He wants to allow each individual as much

freedom as possible. It follows that a Taoist ruler will not use coercion or permit others to use it against peaceful people. The government must not assert its will against individuals to exploit, dominate, or interfere with them. Although rulers possess weapons, it is preferable that they are not used. Lao-zi views politics within a larger ethical context. (Younkins, 2006)

Here are some of Lao-zi quotes are:

The more **laws** and restrictions there are, the poorer people become.

The more rules and regulations, The more thieves and robbers there will be.

In the highest antiquity, the people did not know that there were rulers. In the next age they loved them and praised them. In the next they feared them; in the next they despised them.

The more prohibitions you have, the less virtuous people will be.

Without law or compulsion, men would dwell in harmony.

A government can be compared to our lungs. Our lungs are best when we don't realize they are helping us breathe. It is when we are constantly aware of our lungs that we know they have come down with an illness.

Good Government is not intrusive the people are hardly aware of it; the next best is felt yet loved; then comes that which is known and feared; the worst government is hated.

Governing a large country is like frying a small fish. You spoil it with too much poking.

For Lao-zi the individual and his happiness was the key unit and goal of society. If social institutions hampered the individual's flowering and his happiness, then those institutions should be reduced or abolished altogether. To the individualist Lao-zi, government, with its „**laws and regulations** more numerous than the hairs of an ox”, was a vicious oppressor of the individual, and „more to be feared than fierce tigers.”

He says that a good ruler is inconspicuous, humble, and demands nothing. Lao-zi contends that codified rules and **laws** result in a society that is more difficult to care for. The more ordinances and **laws**, the more robbers and thieves there will be. When the state takes no action the people of themselves will be transformed. When the government engages in no activity the people will prosper. He says that life should be happy in a small state and that, without **laws** or compulsion, men would live in harmony. (Younkins, 2006)

### III. CONCLUSIONS

Lao-zi's claim that “the more **laws** one makes, the more criminals one creates” is the antithesis of Confucius's assertion that more **laws** make better citizens. The intellectual man is a danger to the state because he thinks in terms of regulations and **laws**; he wishes to construct a society like geometry, and does not realize that such regulation destroys the living freedom and vigor of the parts. The simpler man, who knows from his own experience the pleasure and efficacy of work, conceived and carried out in liberty, is less of a peril when he is in power, for he does not have to be told that a **law** is a dangerous thing, and may injure more than it may help. Such a ruler regulates men as little as possible. (<http://www.ancient.eu.com/Lao-Tzu/>)

Government, in sum, must be limited to the smallest possible minimum; „inaction” was the proper function of government, since only inaction can permit the individual to flourish and achieve happiness. Any intervention by government, Lao-zi declared, would be counterproductive, and would lead to confusion and turmoil. After referring to the common experience of mankind with government, Lao-zi came to this incisive conclusion: „The more artificial taboos and restrictions there are in the world, the more the people are impoverished.... The more that **laws** and regulations are given prominence, the more thieves and robbers there will be.”

Lao-zi viewed the state as a likely oppressor of the individual. He thought that any truth in government abides in nonaction and in weakness. The state should not be an

organization of functionaries. Lao Tzu thus opposed a multitude of **laws** and thought that the state should and could control by means of noninterference. He observed that the fulfillment of others and of things results not from the prominence of a ruler's virtues but from the withdrawal of self. (Younkins, 2006)

Lao-zi recognized in nature, an awareness that the good of the individual leads to the good of the community and that the best society, then, operates on natural, not man-made, **laws**.

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