

## 20. Law

*‘The word law (lex) in an absolute sense signifies that, in accordance with which, each individual thing, or all things, or all things of the same kind, behave in one and the same fixed and determined way, depending upon either natural necessity or a human decision.’*

Baruch Spinoza

**Synopsis:** *The law is the written list of processing operations that can or cannot happen on a dataset (1); Many laws? (2); No law? (3); No eternal law (4); Regulations (5–8); The digital world differs; A controlled environment (9); Regulations are organised hierarchically (10).*

### 1.

Control is exercised over each and every dataset on the information platform that is the state;<sup>596</sup> the law is a materialised, written list of its attributes.<sup>597</sup>

The law is the written list of processing operations that can or cannot happen on a dataset. In effect, the law specifies whether a(ny) specific processing operation is allowed, and under which conditions. And, just as the construction of a complete list of attributes would be impossible,<sup>598</sup> the law cannot be exhaustive.

### 2. Many laws? \*

Law is not met only within the legal (i.e. regulatory) context; we also come across the laws of Nature or laws of science (physics, mathematics etc.). This is because the term simply denotes a concrete, written-down list of controls, of processing operations that can (or cannot) happen. This list, however, may come from anywhere, be it Nature (including the sciences) or human creation (regulation).

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596 See Chap. 6, par. 3.

597 See Chap. 6, par. 5.

598 Ibid.

While the difference between the two basic sources of law (Nature or humans) is significant, ultimately the result (law) comes down to a single, concrete list (no matter how long). In the case of Nature, law has to be discovered; in human-made law, it has to be invented. Nevertheless, the fact remains that what has not yet been discovered is not law. The same can be said about law that has not yet been invented by legislators. No unwritten law exists.

### 3. No law? \*

As has been acknowledged,<sup>599</sup> the law has to be discovered or invented, but it cannot be that there is no law. This is because controls over datasets are natural on the information platform that is the state;<sup>600</sup> therefore cataloguing and expanding them is also natural to humans (who need to augment their information processing<sup>601</sup>).

As regards Natural law, controls over datasets are natural because Nature itself is a Being<sup>602</sup> and therefore exercises control over the datasets found on it. States giving (human) meaning to Nature,<sup>603</sup> individuals on them (on the information platform that is their state) need to discover these controls so as to augment their information processing (i.e. to control Nature).

As regards invented law (regulations), for each new dataset discovered or created by humans, control over it by the creator or first processor is immediate.<sup>604</sup> This control later expands through rules that regulate the access of all other humans (individuals on the information platform that is their state) to these new datasets—thus forming regulation. This process, although applied throughout human history, is uniquely demonstrable today because of the advent of the digital world: because it is entirely new to humanity, new regulations by each state aim to exercise control over it.

Human history concurs: until the Enlightenment (the brief exception of ancient Greece notwithstanding), religion was the human way to catalogue Nature's laws; writing was invented in order to bring into material format (i.e. make known more widely) human regulations (for taxation and military purposes).

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599 In par. 2.

600 See Chap. 6, par. 3.

601 See Chap. 5.1.

602 See Chap. 1, par. 10.

603 See Chap. 8, par. 1.

604 See Chap. 6, par. 4.

#### 4. No eternal law

Although law is inevitable,<sup>605</sup> it is at the same time relative. No eternal law exists—the list of laws on each information platform that is the state is the result of, and is related to, its place in space and time.

The list of laws expands (and deepens) keeping pace with humanity's increase of knowledge, of information processed. However, this should not be taken to mean that progress is linear or simultaneous among states.

#### 5. \*

A few more clarifications need to be made on invented law (regulations)—because, after all, Nature's laws are not artificial.

For the moment attention will be paid only to the existence of regulations, as an inevitable, and relative,<sup>606</sup> part of states. Crucial questions such as how any specific regulation came to be, who made it, who it is aimed at, how it is imposed, whether it is effective and so on, will not be discussed at this point.

#### 6. \*

Regulations are not created by states. Their existence may be inevitable on the information platform that is the state; their actual content, however, is anything but. In practice, the content of regulations is formed by the government.<sup>607</sup>

Accordingly, the state cannot be defined through regulation, because it precedes and predates it, that is, regulations become possible on the information platform that is the state and not vice versa. Regulations cannot therefore define the state, much less bring it to life.

#### 7. \*

Regulations are functional and operational, providing the rules for a processing operation, but they are also descriptive: the attributes of a dataset,

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605 See par. 3.

606 See par. 4.

607 See Chap. 12.

the list of processing operations that can or cannot happen on it,<sup>608</sup> are to be found in them.

## 8.

Of course, while the applicable regulation may allow an individual to carry out a processing operation, the individual may still choose not to execute it, in spite of that individual's will (as caused by need) and opportunity. As has been seen,<sup>609</sup> the choice of which processing operation to carry out each time, that is, the prioritisation of each individual's purposes, falls under the domain of morality. In other words, the fact that a regulation allows (or even prohibits) an action does not mean in practice that this action will happen (or not happen) accordingly.<sup>610</sup>

Choice, however, refers only to whether to carry out a processing operation or not (for example, drive a car, get married, build a house etc.). If the choice is to do the operation, then the relevant regulations (driving, marital or construction, respectively) must be applied, otherwise consequences follow. These consequences invariably reduce the information processing opportunities available to the individuals concerned (to varying degrees, from a fine to loss of life). In effect, regulation creates a yes or no situation, unless there will be consequences; if a third option exists (that is, it is a situation with nuanced consequences, thus requiring a choice) then we enter, once again, the domain of morality.<sup>611</sup>

## 9. The digital world differs; A controlled environment\*

It is at this point that a stark difference between the analogue and the digital worlds can be noted. In the analogue world regulation may prohibit a processing (an action); however it does not, and cannot, control whether the processing will take place or not—individuals may break the law. For example, a driving speed limit may be imposed, but cars allow drivers to go over it; if they do, the law intervenes only after the act (if at all, meaning if it ever learns of it).

The situation in the digital world is different, however. In the digital world there is always a way to prohibit a certain processing operation from

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608 See Chap. 6, par. 5.

609 In note 5/2/2.

610 See also Chap. 6, par. 9.

611 See Chap. 23; and also 'power' in Chap. 6, par. 9.

ever happening—in the example above, this would be to simply not allow a (digital) car to travel faster than the speed limit on a (digital) street. Or an artificial Being could be stopped from having access to a prohibited processing operation.

In effect, choice<sup>612</sup> is inherent for biological Beings in the analogue world (regardless of the endless nuances surrounding it); in the digital world, however, because it is artificial, there is a way (for the humans who design it) to remove choice altogether. In other words, regulation in the analogue world is enforced retrospectively, while in the digital world it can be enforced proactively.

This is, ultimately, the difference between a controlled and an uncontrolled processing environment. The information platforms that are states provide their citizens with a suitable information processing environment in which to live a meaningful life<sup>613</sup> and, by so doing, have a way of knowing all of the processing operations (actions) carried out by their citizens.<sup>614</sup> The key here is that this is just *a way* of knowing. States *can* know, but they do not *actually* know unless they (meaning, the government) actively try to know.<sup>615</sup> The analogue world is basically an uncontrolled environment. By contrast, the digital world is a controlled environment, in which states or whoever is controlling it have real-time knowledge.<sup>616</sup>

Concepts such as accountability or liberty, with which humanity has been struggling for centuries (and which still largely remain undefined) will need to be rethought and revisited. The same is true of pragmatic considerations, such as power:<sup>617</sup> should the ability to ignore a processing prohibition be embedded in the digital world's system, because it is practiced in the analogue world?

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612 Whether or not to break the law is not to be confused with permitted choice in morality; see Chap. 23.

613 See Chap. 7, par. 3.

614 See Chap. 16, par. 2.

615 See Chap. 16, par. 4.

616 See also Chap. 1, par. 17.

617 See Chap. 6, par. 9.

**10. \***

Regulations are organised hierarchically, because hierarchy is the preferred organisational system for humans, allowing them to process information more effectively.<sup>618</sup>

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618 See also note 6/7/1.