

Footnote: A Subject of The State

The State exists for the benefit of the citizen: not the citizen for the State. A subject exists for the benefit of the State: not the State for the subject. The majority of the inhabitants of a modern State are subjects: not citizens. They exist solely to serve its privileged elite. [\[PDF\]](#)

Wherever he may live in the world, the individual is a subject of a nation-state. A citizen he may be in name but a citizen in fact he is not. A State is merely the political embodiment of those who - directly or indirectly - own or control the power and resources within its territorial jurisdiction. The individual (either singly or collectively) does not control the State in which he lives: the State controls him. He is subject to its *laws*, which are there to protect the State (the ruling rich) from him (the powerless poor): and not the reverse.

The Laws of the State are thus merely a [vessel of containment](#) for the labouring poor. The purpose of the Law is to facilitate the ordered and peaceful containment and exploitation of the dispossessed by the wealthy; the hapless many by the privileged few. For this, the Law is indeed fit for the purpose for which it is intended. It is indeed of merchantable quality.

Notwithstanding, this is not the purpose for which it ought to exist. This is not the purpose for which the majority, who are subject to it, are led to believe it exists. People seem to think that the purpose of the law is to expedite justice. They naively believe that its purpose is to guarantee fairness and equity between all - irrespective of their means and influence. But how can it be said to be *just* when it punishes people differently according to their level of wealth?

Unequal Before The Law

Two cases that illustrate this well are the only two parking offences for which I have ever been convicted. In both these cases, I was punished for offences which [I had not committed](#). I have therefore been punished wrongly in 100% of the traffic offences for which I have been convicted. The fact that they were false clearly demonstrates to me the gross dysfunctionality of authority.

This, however, is not the point I wish to make here. The point I wish to make here is that, even if they had been correct convictions, the punishment I received would still have been unfair. I was punished exceedingly harshly, given my personal circumstances on both occasions. The fines in both cases caused me extreme hardship. I was punished more because I was poor.

If You Are Rich

A few years after the first parking incident, I had a job in the West End of London. I commuted by train. On my walk from the tube station each morning I used to see a Lamborghini coupé parked down a side road half on the pavement. This side road was painted its entire length with clear double yellow lines, indicating that parking was not permitted at any time.

Every day on my way home I would see a bright yellow parking ticket stuck to the Lamborghini's windscreen. Its owner was obviously so rich that the swingeing fine was to him simply the daily cost of parking his car conveniently outside his West End office. I think he would get clamped and towed away nowadays.

The fine, which to me would have been catastrophic, was to him as nothing. One could say that in fact the law did not actually *punish* him at all.

If You Are Poor

I am now unemployed. I exist on State welfare. I am struggling to keep an ageing car on the road. Without it I could not function within the society in which I am constrained to live.

I am trapped in a yuppie commuter belt. The only practicable source of food is a supermarket which is not realistically accessible other than by car. If I lose the car, I lose the means of getting food. If I lose the car, I lose the means of seeking work beyond walking distance in any direction other than up and down the main rail line.

If therefore, unjustly or otherwise, I were to receive a parking fine or a speeding ticket today, the cost would put me *off the road permanently*. My punishment would be a permanent driving ban. I would lose mobility, with all the consequences that would bring with it in today's transport-dependent society.

Different Punishments

Thus, by using the monetary *fine* as the instrument of punishment, the law, in effect:

- gives the middle-income motorist an appropriate rap on the knuckles
- imposes upon the rich motorist what amounts to a slight inconvenience
- puts the poor motorist off the road altogether

It is obviously and flagrantly anything but justice or equality before the law. The law is therefore undeniably partisan and disreputable and consequently worthy of nobody's respect. If the law is ever to regain my respect, it will first have to become respectable.

A Capitalist Principle

This same monetary principle of injustice is also manifested in capitalist taxation and charging systems. For example, the government of the day is desperate to cut road traffic. So how is it proposing to do this? By road tolls. It will certainly cut traffic, but which traffic? The effect is obvious.

- The middle-income motorist will cut out 'unessential' journeys.
- The rich will moan for a bit, then carry on as normal.
- The poor will no longer be able to travel at all.

This will further exclude and isolate the poor and give the rich clearer roads. Hardly what one could call justice, but then universal justice is hardly of great concern to the government of a capitalist State.

The State employs a judiciary to apply its Law to its subjects. However, this judiciary is not financed by the State. All its proceedings have to be paid for by those to whom - in the event of a dispute or violation - it is applied. The cost of applying the Law is far beyond the means of the labourer. Nevertheless, it can be well afforded by those with means, namely, the rich and the corporate.

The legal system of a State therefore functions as nothing more than a mechanism to enable the State, namely the rich and corporate, to resolve disputes between themselves and to enforce without opposition their wills and agendas upon their hapless subjects.

The Private Contract

Perhaps the inequity of Law can be seen most clearly in the private contract. The most prevalent type of private contract is probably the contract of trade; that is, the contract *to sell and to buy*. This is an

agreement between two parties. One party agrees to sell something, which the other party agrees to buy. The agreement should contain statements defining what must happen if either party fails to do completely what it has agreed to do.

Under an equitable system of Law, each party must be able to have equal say in formulating the content of the agreement. Each must be able to create, criticise and reject content until a compromise is reached, which both parties, without pressure or coercion, freely and contentedly accept. But I do not know of any State which has formulated and enforces such a system of Law.

In the real world, the vast majority of contracts of agreement to sell and to buy are between a limited-liability corporation (*pessoa jurídica*) on the one hand and a single physical individual (*pessoa física*) on the other hand.

The *limited liability corporation* is invariably the author of the contract. It employs clever expensive lawyers, who comfortably take all the time they need to formulate its content exactly the way they want it. They weight all advantage in favour of the corporation, loading all risks onto the hapless individual through a vast labyrinth of incomprehensible - and often illegible - small print. The small print often refers to other marathon documents of terms and conditions, which may reluctantly materialise after the contract is signed.

For the other party, the single individual, the contract is invariably a "take it or leave it" proposition. He may either accept the content of the contract as it is, or walk away. He has no option to negotiate any alterations to its terms. He can neither add nor remove so much as a dot or comma. The two parties to such a contract are thus in a very unequal relationship.

This inequality is amplified enormously in the event of a dispute between the two parties to the contract. The *limited liability corporation* has vast financial resources and a retention of the best legal experts to represent its case. The individual has only what he can spare out of the salary on which he and his family struggle to survive. The outcome of any dispute is inevitable. Right or wrong, the corporation wins. In any case, the lone individual would be reluctant to initiate proceedings against a corporation due to the spectre of financial ruination that would undoubtedly befall him.

From the point of view of Law, the individual always has the option to walk away from a private contract. From the point of view of life, however, this is not so when what he is seeking to buy, through the contract, is one of the basic needs of human life such as land, a home, water, food, fuel, transport or communications. In the case of infrastructure utility services - like water, gas, electricity and communications services - there is only one vendor to choose from. He either accepts the water company's contract and terms and conditions or does without water.

Even where there is a choice of supplier, the individual has a choice as to whether or not to enter into a contract with any one particular vendor. Notwithstanding, all suppliers within a particular industry or economic sector sooner or later adopt a form of contract that gravitates towards an industry norm. The contracts of all the suppliers within the given sector end up essentially the same. If an individual cannot accept the terms of one supplier's contract, he will not be able to accept the terms of the contract of any available supplier of that good or service. He only has the choice to accept the industry standard contract or do without that good or service, however essential to life it may be.

For goods and services that are not essential to life, the corporate vendor subjects the individual purchaser to other pressures. The corporation has vast financial resources with which to mount pressure selling. They blast the public mind with a deceptive view of what they are selling. They emphasise out of all proportion what advantage its product or service provides to the buyer. They omit or mask the obligations their contract of sale places upon the buyer. At the instant of sale, time

is of the essence. The corporation hustles the individual to buy on impulse, without reading the contract, let alone any terms to which it may refer.

I see an extreme case of this pressure in a current run of car advertisements. "Quick, quick, sign up while the offer lasts." Then at the bottom of the screen flashes a block of tightly packed white text, which obviously are terms and conditions that apply to the offer. It must be on the screen for less than two seconds and is completely illegible within the resolution of the television screen. No doubt, however, in the case of a dispute, they will be presented in pristine print and the buyer will be deemed to have been bound by them. And we are supposed to respect a system of Law that allows this?

These one-sided contracts, though grossly unfair and inequitable, are nonetheless legal and fulfillable. Notwithstanding, some contracts which the innocent consumer is duped into signing are neither legal nor logically fulfillable. One such contract, which I have had reason to study, was for the sale and purchase of a piece of land. A corporate entity had drafted this contract to sell plots of land to private individuals. After an intense analysis of its seven pages of tightly packed convoluted clauses, I found that it was both illegal and logically unfulfillable. It was the [instrument of a scam](#).

On taking legal advice, one of the individuals concerned was told that since she had signed an illegal contract, she was a party to it and was therefore equally culpable along with the corporate vendor. Consequently, the individual buyers each lost all the money he paid while the corporation walked away with all of it. Personally, I do not see how an individual consumer can be expected to have the same powers and resources for legal analysis as the corporate vendor whose clever expensive lawyers authored the contract. I have also seen lesser cases in contracts of house rental in which the tenant is forced to sign away his rights under common law in order to put a roof over his head.

Of course, it is not always the buyer who is the weaker party. In many cases of trade, where a small supplier seeks to supply a large corporation, it is the supplier who must accept unconditionally the terms of purchase authored by the buyer.

The Social Contract

The asymmetrical relationship between the parties to a private contract is carried through to the relationship between the parties to what is often (erroneously) termed the Social Contract. The Social Contract is supposedly an agreement that embodies a set of rules, which are collectively referred to as the Law. The subject (citizen) is required by the contract to obey the Law. In return, the State agrees to protect the subject (citizen). I shall now look at this social contract from the point of view of myself as a generic subject of the State.

I was never consulted regarding the formulation of the content of this contract. I was never given any opportunity to adjust or modify its terms. I did not, with free volition, enter into this contract. I never agreed to its terms. I never signed it. I was simply born into it. It was forcibly imposed upon me from birth. Consequently, by definition, it is not a contract.

But what about democracy? I live in a country ruled by an elected government. Surely, as a "citizen" of a representative democracy, I can use my vote to influence what form "my" government takes and the policies it follows.

There are many political parties on offer at election time. Most are very small and have no hope whatsoever of achieving power. They therefore exert no influence whatsoever on the way in which the country is governed. Many focus entirely on a single essentially irrelevant issue. Ostensibly there are three main parties, although effectively the choice is only between two.

As a voter, I therefore consider in detail what each of these two parties say they will do. I discover that the core structures of the society they envisage are essentially the same. Only the superficial wrapping is different. Their differences are more of culture than of political principle. I find that my honest ideal for human society bears nothing in common with which either of these parties have to offer. Indeed, I find no common ground with anything any of the political parties propose.

In this case, people are quick to tell me, in a democracy like "ours", I could easily set to and formulate my own policies and then put myself forward as a political candidate. If, having spent the 17 years prior to my retirement relegated to the unemployment scrap heap, I can lay my hands on a cool £10 million, then perhaps I could. But with anything much less than this to spend on my campaign, I would have no chance of implementing any of my policies in the real world. With the browning-out policies, which are increasingly being imposed upon non-approved websites, it is very unlikely that anything I say or write will ever command the attention of even the most obscure minority. My lack of means thus excludes me from the so-called democratic process.

The "social contract", between the State and its subjects, is authored exclusively by the State. It is a *fait accomplis*. It's a case of "take it or leave it". Except, of course, that the individual subject of the State is most assuredly not free to "leave it". He is bound by it. His obedience to its Laws is physically enforced, whether he agrees with them or not. If the Law requires him to kill human beings on behalf of the State, then he must do so. If, in the course of his civil duty, he is required to enforce a civil action that casts a sick or ailing person out into the winter cold, then this he must do. If the Law requires him to terminate welfare payments and render a family destitute, then this he must do.

Yet people still think that the purpose of the law is to expedite justice. They still naively believe that its purpose is to guarantee fairness and equity between all, irrespective of means and influence. If this be so, the law is a total failure. It is most decidedly not fit for its intended purpose. It is most assuredly not a product of merchantable quality.

The Merchantability of Law

Every product or service must, by law, be supplied in good order and fit for its intended purpose. If it is not, then its supplier is held liable for any damage which may result. The one product, which seems to be excused from the obligations and liabilities imposed by this law, is the law itself.

Most of my working life was spent writing computer software. Designing a program to perform its declared task is easy. The effort comes in building in the far greater functionality required to make sure that:

- inputs entered by users are credible,
- their values are within acceptable limits,
- malicious input is trapped and rejected,
- outputs cannot be wrong or damaging.

Every possible circumstance, which could occur within the program, has to be tested for and guarded against, no matter how unlikely, ridiculous or nonsensical the exercise may appear at the time. It is not for the programmer to second-guess what things a user may do with the program ages after its release. And such safeguards always, sooner or later, prove themselves to have been necessary.

Astronomical Complexity

Recent legal debate has gravitated towards the notion that computer software is just another consumer product. As a saleable good, it is therefore regarded no differently in Law from a simple device or appliance such as a vacuum cleaner. It must be just as fit for its intended purpose and as free from defect. The Law thereby makes me, the developer, liable for damage caused to users as a result of even the most obscure set of circumstances occurring within the software.

A vacuum cleaner has a single demarcatable purpose wherever and however it is being used. Computer software does not. Businesses are as diverse as the people who run them and the markets they serve. So, therefore, are the data objects and processes used to control and record their goings on. This means that even standard applications have to be configured in an infinity of different ways, few of which can ever be tested within a viable time frame. Advanced structuring techniques help, but sheer statistics alone dictate that problems - sometimes catastrophic ones - must occur sometime.

I tried to protect myself from potential ruination by such an unforeseeable occurrence through [a clause](#) in my software licence. I tried to make it reasonable. Nevertheless, it seems that Common Law now renders such a clause void. As a result, many software developers may consider it too risky to continue trading. Those who, through [personal circumstances](#), can trade no other way become effectively barred from their natural market. This will result in a serious loss to the quality and diversity of software.

The Case of The Law

Computer software is an absolutely vast set of instructions and rules. These tell the computer its obligations - what it is required to do. They state under what conditions different actions must be taken. They catch exceptions (detect misdemeanours) and state how each should be responded to. Software does not merely control individual computers. It also regulates whole societies of computers operating under a variety of government regimes. Among these is one which is far more egalitarian than any so far implemented at any time in human society.

There is no perfect analogy between computer software and human Law. Computer software operates according to natural logic which is immutable. Human Law operates according to human reason which is fallible and open to subjective perception, debate and argument. Nevertheless, the number and complexity of circumstances, which can arise in each, are astronomical. They are beyond the bounds of time and imagination to test in total before each is unleashed upon the wider public.

Hence it follows that, if in Law computer software be a vacuum cleaner, then so too should be the Law itself. And they who enact the Law should likewise be liable for the undeserved ruination their product may perpetrate in unforeseen circumstances upon its innocent subjects. But we all know this is not going to happen.

Inevitable Consequences

If the Law of the State - inadvertently or otherwise - denies *any individual* the use of enough of the planet's resources to transform his labour into his needs of life, **and** it offers too little compensation in the form of wages or social security payments for having done so, **then** the natural bio-social laws, which are built into his mind, render him duty-bound to his dependants [to violate the offending Law](#) of the State to gain his needs of life.

If, as it will, the State views this violation as a crime and punishes the individual for what he has done, then it is the State, and those whose interests it serves, who are the real criminals. Nevertheless, whether it be just or not, it is always the Law of the State that prevails.

This is because only the State has enough capital to buy the power to universally enforce its Laws. For this purpose it employs a portion of the dispossessed of whom each, in return for his subsistence, undertakes unconditionally to prostitute himself as an instrument of enforcement of the Law, no matter how unjust that enforcement may become when executed upon any particular individual at any particular time.

The Enforcement of Law

Those so employed are known collectively as the police. Of course, when a young idealist joins the police, his view of the Law is of a just arbiter. But once he is ordered to evict a starving family into the winter cold, will he be able to salve his conscience by saying "Well, I was only doing my job"? No. I believe each human being is, at all times, ultimately responsible for the justness of his intents and actions towards another. If, in any circumstance, to expedite the Law of the State would inflict a gross injustice on another, he alone must choose whether or not he will, in that circumstance, be that unjust Law's instrument of enforcement.

As a subject of the State, the dispossessed individual is caged within a framework of Law which he is able to have no part in devising. It serves not *his* interests but those of an elite minority to whom he is nothing more than an economic resource. Yet he is forced by the omni-present threat of overwhelming physical violence to adhere to its every dictate.

Forced To Fight

Throughout history, war has been a frequent feature of the relationships between the nation-states of Planet Earth. In every case it has been the rich and the corporate (those who control their respective nation-states and the terrestrial resources within them) who have instigated war to extend or defend their own selfish interests. Yet it has always been the landless labourer of each respective nation-state who has been sent to do the fighting. Labourer against labourer. Forced into bloody conflict not of their own free and unpressured volition, but by the threat of starvation, imprisonment or even execution by their respective masters.

Furthermore, the elite of each respective nation-state uses a *means* of persuading their dispossessed masses to fight their wars for them which is even more effective. In war, as in peace, the best means for controlling the mass-mind is the spin-machine. In war it is used to plant into the conscience of common man a fundamental obligation to defend a land in which he has no part, no vested interest and no inheritance. The elite of each nation-state thereby successfully constrains any who would *dare to question* to a single choice: to stay and face ostracism and rejection by their own, or to go to be killed by a stranger in a strange land. The dispossessed thus suffer the ultimate humiliation of being forced to defend the possessions of those who dispossessed them.

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