THE PHILOSOPHY OF LAW

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FOREWORD

I have ventured to put forth an 'autochthonous' theory, rendering and evolution-prompting Philosophy of Law. Thus whilst acknowledging the excellence of other theories, schools and means, I have striven to set out with a *tabula rasa* in my philosophy of law

I enunciated Principles – as say in Science –with the target-aim of quantum of *solidity* and *acceptability* of my work.

This work adds up the contributions I made at different times; I hope that future contributions shall form another work such as 'a Revisitation of Philosophy of Law'

It should be noted that *on the whole* whilst the 'power-roles' of Executive, Legislative and Judiciary are 'toned down', my Philosophy of Law has striven to 'tone up' the Individual, *the Individual Sovereign Will*

In this task too I humbly hope to have attained something.

E G CEFAI

THE PHILOSOPHY OF LAW

ABSTRACT

The Philosophy of Law must be seen under the aspect of the various powers and functions that the different citizens, Institutions and groups as well as Society and the Intellectuals hold and exercise in regard to Philosophy of Law.

The Philosophy of Law does not occur:progress in a ghost land.

It occurs:progresses[1] and can occur:progress[2] *where individuals are.*

Other protoplasms of ens might have rudimental and few 'regulations' between them but these are so rudimental and so few that one cannot properly speak of a Philosophy of Law in their respects.

Therefore and accordingly the Philosophy of Law occurs:progresses *in as direct proportion to the vicinity to humans*

And vice-versa

This Principle I term as *The Principle of Philosophy of Law In to Humans* q.v.

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[1] Id est in the s/c Practical State q.v.

[2] Id est in the s/c Ideal State q.v.

But not all humans lie as in the same dimension with regards to the Philosophy of Law.

Where for instance lies the legislator himself?

And the subject of the law?

And the object of the law [say the offender in the case of Criminal Law]?

And what where the subject and the object and the legislator are one and the same?

All these situations must be contemplated.

And this 'contemplation' must be and is part of if not the whole of the Philosophy of Law.

It is the description of the *dimensions* of the Philosophy of Law.

Dimensions that we should learn, but above all *experience and experience continually since that these dimensions are always and must always be in-evolution.*

28-7-2008

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This 'Hierarchical Ascent' in to the Philosophy of Law is the equivalent:identity in terms of the Principle of Equivalent:Identity q.v. of 'rock strong fact' and therefore is not as open to debate and discussion as say between the various Schools [such as the Positivists and the Naturalists] which constituted the basis of works of the Philosophy of Law.

Philosophy of Law therefore is a *human domain* and *as such* since humans are arranged *hierarchically-in-society* so an in as direct proportion humans must be arranged hierarchically in the Philosophy of Law.

The rate of [increase of] hierarchical arrangement of humans in society will be as directly proportional to the rate of [increase of] the hierarchical arrangement of humans in the Philosophy of Law

And vice-versa

This is a Principle, a Principle that I term as *The Principle of Hierarchical Arrangement of Humans in the Philosophy of Law* q.v.

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Philosophy of Law for instance was in the past seen from that dimension; but now a New Era of Philosophy of Law is opening whereby the dimension is shifting from the 'Schools Debate' to the 'Hierarchical Ascent' in to the Philosophy of Law which shall be the subject of this work

I assert that the 'fights' which characterized and which also *constituted in great part* the Philosophy of Law in the past, also in not so distant past between Positivist and Naturalist should be passe' and should *both* be replaced by the *Analytical* Methodology in:of the Philosophy of Law q.v.

The Analytical Methodology of the Philosophy of Law should 'side' with neither of the Naturalist and the Positivist but benefit from the marriage of both into a new offspring namely the Analystical Methodology.

This Method will thus replace the previous methodologies of the Philosophy of Law.

At the same time the Analytical Methodology should avoid the relatively narrow field traversed by the Philosophy of Law previously, and include and call to its aid sociology, anthropology and similar aids.

[I shall shun to call these 'other branches of knowledge' for I retain and I assert that *all knowledge should be unitary, not fragmented into disciplines, albeit connected.*]

28-7-2008

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The 'Hierarchical Ascent' of the Philosophy of Law starts from the 'ordinary citizen' who exercises the least functions and powers and goes up [with the functions and powers in directly proportional increasing order] to the 'Specialized Group Citizen' like the Priest, the Lawyer, the Notary, the Medical Doctor, the Architect, and the rest [as described in this Work] to the Group [the Party, the Pressure Group, the Non-Governmental Organization and so on]; to the Institution [like the Parliament]; then to the Courts

[especially the Constitutional Courts] and the to Society itself [the grumbling citizen yet unable to express himself or else expressing himself moderately in newspaper letters]; to the Intelligentsia [that is the Society that expresses itself, especially through, and by exercising control, sometimes absolute, over the Media] which is the highest Hierarchical Point of the Philosophy of Law.

Here is listed a hierarchy of people in the dimension of the Philosophy of Law.

For as asserted previously the Philosophy of Law works, labors and occurs:progresses in the specific site that is humanity, humans.

The Ordinary Citizen

The Ordinary Citizen is the fulcrum of the Philosophy of Law though just one dimension but that dimension is the *basis dimension* of the Philosophy of Law.

Indeed in a plurality of dimension the *basis dimension* is the dimension that is the foundation indeed of all the other dimensions.

As such the basis dimension is retained and asserted as the *genesis of the other dimensions.*

But should not all dimensions be *equal?*

I assert that here we are in the field of *Analytical Methodology* and in this field equality is relatively[3] *irrelevant.*

This I term as *The Principle of the Relative Irrelevance of Dimension Equality in Analytical Methodology* q.v.

A dimension without which the other dimensions would not arise – it being their genesis – is not superior to them nor are they inferior to it.

Rather however we should see the relation in terms of the Doctrine of Controller:Controlled q.v.

Initially the basic dimension being the genesis of the other dimensions *is* and *ought* to be the Controller of the dimensions that arise from it.

Thus I enunciate

That :

As in to the mass universe the rate [of increase of] at which a basic dimension is the genesis of other dimensions that proceed there from will be as directly proportional to the rate of [increase of] the propensity of the basic dimension to be Controller [in terms of the Doctrine of Controller:Controlled] of the dimensions that emerge from it

And vice-versa

This Principle I term as *The Principle of Controller Propensity of Basic Dimension* q.v.

However *in turn* and once 'set in motion' the dimensions 'return back' [like to the Doctrine of Renvoi in Private International Law] their virility to the basic dimension.

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[3] For everything in the mass universe from the Rim inwards is *relative* q.v.

In this *renvoi function* then the non-basic dimensions in turn start to become controllers from controlled.

And the basic dimension in turn starts to become controlled from controller.

All this in terms of the Doctrine of Controller:Controlled q.v.

Thus I enunciate

That

The rate of [increase of] renvoi function of the non-basic dimensions to the basic dimension will be as directly proportional to the rate of [increase of] the rate at which the initial Controller:Controlled relation between the basic dimension and the non-basic dimensions is reversed

And vice-versa

This Principle I term as *The Principle Of Reversal of the Controller:Controlled Roles in the Basic:Non-Basic Dimensions* q.v.

This reversal in terms of the Philosophy of Law is that though the citizen - especially as in to the democratic system – has initially the *least rung of the hierarchical ladder* in fine becomes the *top rung of the hierarchical ladder through the ultimate power he exercises over the rest of the rungs of the ladder [that is 'the hierarchical order' above mentioned]*

Indeed we might describe the motion of Controller:Controlled q.v. with the rungs and hierarchy of the 'Hierarchical Ladder' as that of *continual fluctuation* – a motion which results in the continual fluctuation in which one becomes alternately Controller and Controlled irrespective of the position on the hierarchical ladder.

Thus too the Fluctuation is assertable as a Cycle in as direct proportion to its rate of regularity.

Thus I enunciate

That :

The rate [of increase of] at which the Continual Fluctuation on the Hierarchical Ladder occurs:progresses as in regularity will be as directly proportional to the rate of [increase of] its vicinity to propensity to Cycle

And vice-versa

This Principle I term as *The Principle of Vicinity to Propensity to Continual Fluctuation as in to a Cycle* q.v.

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But even in the 'lowest point' or the citizen, the consent of all, even of the least citizen is required; without which any law, and Court decision or similar act or omission is only relative not absolute.

Democracy is like to a notary who having made a power of attorney of a multitude of heirs in favour of one single monad particular person gives the stamp of duration to that power of attorney.

Whereas *any* power of attorney is as soon withdraw able and revocable as soon as it be granted; which is after all the general retention not only of our law but of other laws of the world.

Sequitur all this from the Assertion that *What is delegated by power of attorney or otherwise is withdraw able and revocable at any time generally in the same manner as it was originally given and delegated.*

This Assertion I term as *The Assertion of Revocation of Power of Attorney* q.v.

I retain that it holds not only over the legal fields but in all fields, not the least in politics and from there in the philosophy of law.

That is the consent of the citizen, even if it be the least citizen, is withdraw able as soon as and in the same manner as it be given and this at all times without any limit in perpetuity.

That is the *power of revocation* just enunciated is not *limited* in any way but is unconfined totally and absolutely being indeed the equivalent:identity [in terms of the Principle of Equivalent:Identity q.v.] of the Individual Sovereign Will q.v.

An Individual Sovereign Will q.v. without which the State Will or in other words Bodin's Doctrine of Sovereignty cannot occur progress either in the s/c Ideal State q.v. on in the s/c Practical State q.v.

The Individual Sovereign Will is the genesis of the State Will or in other words Bodin's Doctrine of Sovereignty for any State will[4] *and can*[5] *enroot its sovereignty in as direct proportion to the rate of assent:consent of its Individual Sovereign wills q.v. and not more*

And vice-versa

This proportion [direct proportion] is also a Principle; a Principle that I term as *The Principle of Genesis of State Will in the Individual Sovereign Will* q.v.

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[4] Id est in the s/c Practical State q.v.
[5] Id est in the s/c Ideal State q.v.

Moreover this Work is also a manifestation of the Doctrine of Controller and Controlled q.v. for the Different 'Levels' in the 'Hierarchical Ascent' are Controlled by the Higher Levels, if any, and control the lower levels, if any. Thus also at the same time the Middle Level will be propense to being Controller and Controlled simultaneously more than the extreme Levels [lowest - highest] which will have the propensity to be respectively Controlled q.v. and Controller q.v.

To the norms of law the same gradations as are in our works manifest in the sciences, for instance in quanta or qualities.

These gradations are the *detailing* of the mechanism of law, of law making, of law interpretation, of law exercise : functioning.

Now the rate of [increase of] detailing of the mechanism of law will be as directly proportional to the rate of [increase of] propensity to enunciation of new legislation

And vice-versa

This Principle I term as **the Principle of Detailing of Law to Propensity to : of Enunciation of New Legislation** q.v.

I shall assert that the rate of [increase of] detailing as per the just enunciated Principle will be as directly proportional to the rate of [increase of] propensity of Law to Evolution

And vice-versa

This Principle I term as **the Principle of Detailing of Law to Evolution** q.v.

Furthermore :

The rate of [increase of] propensity to : of evolution of law will be as directly proportional to the rate of [increase of] of its immersion as in to Sociology, Anthropology et

And vice-versa

This Principle I term as **the Principle of Evolution of Law to Immersion as in to Sociology, Anthropology et** q.v.

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The Abstract then continues with other Specific Works in the Philosophy of Law like : the New Constitution, the Nine Constitutions, Table of Theses of the Philosophy of Law, Criticism and Critiques of Bentham, Austin, Kant, Hobbes, Dworkin, Holmes, Kelsen and the rest : these are all treated under the Sub-Work entitled specifically 'The Gallery of the Philosophers of Law'.[For the latter see Appendix B to this work on The Philosophy of The Law.]

ABSTRACT OF THEORETICAL CONTENTS

Definition of Philosophy of Law

Philosophy of Law *is the cumulus of all thinking, ideas, and similar relative to law.*

This definition is *generic* and this for these main purposes namely :

(1)-all knowledge is unitary, I shirk to define 'philosophy of law' as a 'branch' of either philosophy or the law or any other; and

(2)-following in the foot-steps and in the spirit of (1) above, no limit should be imposed to the boundary of philosophy of law; - hence the generic definition; and

(3)-given the no limit to the boundary of the law it will be better to define and term the philosophy of law as the equivalent:identity - in terms of the Principle of Equivalent:identity q.v. – of its having *no boundary, no circumscription at all.*

However it is well to note that the key-word is *law.*

For in definitions key-words are the sign-posts of the way.

It is by these sign-posts that we must roam through the territory of the Philosophy of Law.

And let the same [territory] be boundless and unlimited as above-mentioned.

In the case the easier – in as direct proportion – will it be for Evolution to walk with us the same territory of the Philosophy of Law q.v.

Thus I enunciate

That :

The rate of [increase of] no boundary to the Philosophy of Law will be as directly proportional to the rate of [increase of] facilitation of Evolution therein

And vice-versa

This Principle I term as **the Principle of Facilitation of Evolution in the Philosophy of Law** q.v.

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– Naturalist and Positivist –

Both terms – despite their being labeled as opposites - have a *common minimum substratum* which [as for instance in the case of the mass : energy percentage] which is an 'overruling' [even if partial : relative overruling] of the Individual Sovereign Will q.v.

As such *both* 'systems' should be reformed and evolved as in to this light.

However between the two the naturalist has the greatest affinity, the greatest vicinity and the greatest percentage of the Individual Sovereign Percentage q.v.

Vice-versa : as regards the Positivist system q.v.

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– Both Contain The Idea of *Imposition* –
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– When shall we do our utmost to detach the *imposition* from the Philosophy of Law?

Imposition and the ISW [Individual Sovereign Will] are anti-thetical.

However – as the life-process[es] find a way in which *conflicting enta* co-occur and co-progress, let the same be for Imposition and the ISW.

Now let me made the distinction of the ISW into *egoistic [1]* and *altruistic [2]* and *educated : trained [3]*

In all these three [3] let us declare egoistic at the lowest evolutive end and educated : trained at the highest evolutive end. In between is altruistic.

Now let us put forth these Principles

1-----The Individual Sovereign Will [ISW] must be left as sovereign and undisturbed as possible

2-----*However* let us [the State?] educate the ISW : it is evolutive to *suggest* educated concepts to all enta not excluding ISWs.

3------When 1 and 2 are applied there will be a propensity for altruistic ISW to occur : progress in as direct proportion

[This is a Principle, a Principle that I term as **the Principle of Genesis : Mechanics of Altruistic ISW** q.v.]

4------Furthermore the rate of [increase of] acceleration of the process as in 2 immediately above will be as directly proportional to the rate of [increase of] propensity to vicinity : genesis of *educated : trained ISW*

5------At the *intensification-in-ever-increase* of 4 there will be – in as direct proportion – the propensity for the *conflicting* Imposition and the ISW to co-occur : co-progress *together* – I repeat in as direct proportion.

Hence this I term as **the Principle of Intensification to ISW-Imposition Co-Occurrence : Co: Progression** q.v.

Thus the 'antinomy' of 'conflict' between Imposition and ISW is 'solved' : and the genesis : dynamics of its occurrence : progression and nay, further acceleration : evolution discovered.

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– Imposition Concept 'mitigated' by the Consensual Theory [Hobbes, Suarez]

The history of philosophy, nay rather the history of political philosophy and then the philosophy of law show us that the Imposition Theory is 'tempered' by the Consensual Theory in the philosophy of politics, philosophy of history and philosophy of law.

According to this theory the 'subjects', the 'people' or – as we should say in our terminology - the Individual Sovereign Wills are 'deemed' 'retained' to have renounced of their own free will to that 'liberty' [for which term I place the equivalent : identity as per my works namely : Individual Sovereign Will] in favour of a Higher Authority – the Sovereign in Suarez, the Leviathan or rather the Sovereign in Hobbes.

This is the equivalent : identity of Imposition : the resultant is Imposition albeit by a deemed 'waiving off' of the 'liberty' [recte and in terms of our philosophy read : the Individual Sovereign Will] of 'the people' 'the subjects' [for these recte and in terms of our philosophy read : The Individual Sovereign Will].

Yet although and albeit the Consensual Theory of Hobbes and Suarez are ‘de facto’ and also ‘de jure’ Imposition theories [judging from their Resultant rather than from their Mechanics : Methodology] – yet – they *concede* the ***sovereignty*** of the individual, although in technical terminology they do not arrive at the more exact term ‘Individual Sovereign Will’ yet the direction points, nay, *is* there.

As such therefore are the ‘technical’ pros and cons of the Consensual Theory of Hobbes and Suarez vis-à-vis the Individual Sovereign Will q.v. as per our works.

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– – Utilitarian Sub-Division into Exposition and Censorship

Let us consider Bentham as the ‘first great utilitarian’.

As such Bentham has the virtue of fissuring and ‘distancing’ the philosophy from the morality and the theology [for instance see his ad vocation of divorce and of the ‘liberation’ of homosexual acts].

This ‘distancing’ of philosophy from morality is essential to the genesis and subsistence of the ‘sovereignty’ of the Individual Sovereign Will [ISW] just as the womb is to the new-born baby, if not more.

For morality points to an ‘Imposition Situation’ in which a Higher Authority [generally a God whether monotheist or plural] is ‘obeyed’ and also ‘sanctions’ ‘punishes’ the ‘subservient’ subjects of his morality.

This situation is the ‘de facto’ first – and then the ‘de jure’ – negation of the situation of the Individual Sovereign Will q.v.

As such the work of Bentham in that direction is favorable to the sovereignty and genesis of the Individual Sovereign Will.

The same with the Pleasure Principle, the Principle of the greatest happiness of the greatest number and other works of the same august philosopher.

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– – Bentham

We made our observations on Bentham immediately supra and thereafter elsewhere as in Appendix B to this Philosophy of Law q.v.

To which I refer presently q.v.

Repetition helps, but prudence in repetition wins too.

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– – Censorship Reminiscent of 'Imposition Concept' – Austin, the pupil of Bentham carries forth the 'Imposition Concept' in his definition of Positive Law –

History has its ironies and civilization so as well.

Bentham, such a liberal philosopher, and to a wide extent defender of a 'primitive' ISW, had in his pupil Austin the constructor of a system which imposed precisely on that same ISW.

Hence the Bentham-Austin tandem must be viewed as the producers and parents of a colossal and remarkable antithetical situation in the Philosophy of Law q.v.

But was this historical development a logical development that is the Benthamite doctrine was bound to logically found the Austinian positivism of philosophy of law and consequent imposition process?

I should say that in all fairness emphasis should be made on the 'idolization of law' common to both Bentham and Austin.

In Bentham this 'idolization of law' points to the ISW, albeit in a 'primitive' way.

But in Austin this same ‘idolization of law’ points and ends up in positivism – with the consequence – perhaps not totally desired by Austin of ‘Imposition’.

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– Parliament however democratic is Imposition –

And in these regards we cannot even exempt a Parliament ‘democratically elected’ from the grievance of ‘Imposition’.

For Parliament is so very often – not to say exclusively – the vehicle, the instrument – through which the Austinian doctrine of the imposition of positive law be born, carried through and executed upon not just one ISW but pluralities of ISWs.

And the execution mentioned in the immediately preceding paragraph is normally carried out in the most impersonal way, that is the individual is retained as just a number, and in this mode and manner too, the ISW is retained as a number, a number bound to obey.

In this way one might feel the grievance and ask : Then in what is Parliament different in this aspect – at least – of Imposition on the ISW [Individual Sovereign Will] as distinct from tyranny?

I assert : As in to the s/c Ideal State one cannot retain difference.

As such the Parliamentary institutions, democracy and the same must not be retained with too much ‘glorification’ and ‘dogmatized’ as the apex of political evolution and one of the very peaks evolution of the philosophy of the law.

As such the Parliamentary institutions and democracy et must be retained as not immune from that Principle of the mass universe *wherein all that becomes dogmatic, will have a rate of [increase of] in as direct proportion the propensity to be non-evolutive in as direct proportion to the rate of [increase of] its status of Dogmatism q.v.*

And vice-versa

Civilization must be attentive of the above; there will be those who point their fingers, but beware of what the future of Evolution and History have in store.

In all fairness however I should assert that a *slight balance* of superiority of Parliamentary institutions and democracy et over Tyranny [as for instance defined in the olden tracts] – even – and indeed directly as regards the *treatment* of the Individual Sovereign Will q.v.

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– The Democracy of Parliament that promulgates the Law does not save its Imposition Concept –

The fact that Parliament is elected by a plurality of Individual Sovereign Wills does not exempt the Imposition element from all any law promulgated by the same Parliament.

Moreover :

What respect is there to ISW if it be subject to a plurality of ISWs?

The *subjection* remains the same whether to one or a few ISW of tyrants and/or oligarchs or whether to a motley plurality of ISWs.

Indeed *numerically* the subjection of the ISW in the case of a tyrant and/or oligarchs is *less* than the subjection in the so-called democratic addition of numeration of ISWs.

This manifests that it be easier to overthrow a tyranny and/or an oligarchy if so desired - peremptorily, but not that easy to overthrow an undesired democracy – and this peremptorily.

Indeed in this democracy is a harder bulwark of imposition than other forms of government.

It is ironic that what is termed as the best form of government in the ‘civilized’ world is also the one whose imposition is most difficult to overthrow peremptorily.

In other words just as in all other areas on the mass universe : all is relative; no absolute; that is there a percentage of the opposite in any thing, however minimal that percentage be.

In other words, in a democracy too there is a percentage of tyranny, however small be that percentage.

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– Imposition Concept Reminiscent of Tyranny, Oligarchy and Similar Governments – Logically one should not reconcile the ‘Imposition Concept’ with Democracy –

– Imposition Concept Reminiscent of Tyranny, Oligarchy and Similar Governments –

An Imposition is always an imposition.

That an Imposition is made by a so-called democratic government does not have the propensity to make that Imposition lighter.

On the above see also our works as per above

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– Logically one should not reconcile the ‘Imposition Concept’ with Democracy –

We are wont to equate democracy with liberty and freedom not imposition.

The irony is that in present-day democratic governments Imposition reigns as through Positive Laws, but the State is called or rather calls itself democratic, ‘free’ with libertarian points.

An irony at which one cannot but laugh sarcastically.

Indeed democracy has its diseases as well, and I assert that the spinal chord of the diseases of democracy are in the Imposition of its Positive Laws, chiefly.

Present-day democracy should be *drastically reformed* to the extent that it must go hand in hand and be as directly proportionate to the common elements of the ISWs.

The reform of democracy should be undertaken before we undertake more laws, unless these laws add to the rights of the Individual Sovereign Will.

But wherever and whenever laws do not add to the rights of the Individual Sovereign Will, then in as direct proportion democracy should be radically and thoroughly reformed.

And the quantum of thoroughness of reform of democracy must be directly proportional to the effort required to bring it in line at least with the minimum namely the common elements of the ISWs.

And vice-versa.

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– the Rule of the Biology is sacred Not Only in science
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– The *Rule of the Biology* is a fact : as such what discussion can there about it?

The Rule of the Biology *must*[6] and indeed *does* [7]permeate all the kens of civilization though (in priority) ethics first, sociology thereafter and secondly, and anthropology thirdly should be its first areas of *permeation* q.v.

Furthermore *in the philosophy what is scientific fact [in this case the Rule of the Biology] must be transposed : transformed as in to thought, philosophical thought in its deepest, most profound strata.*

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[6] Id est : in the s/c Ideal State q.v.
[7] Id est : in the s/c Practical State q.v.

– the ‘Imposition Concept’ negates the Sovereignty of the Human Will –

The ‘Imposition Concept’ is an ‘enemy’ to be attacked because it is the enemy of the Individual Sovereign Will q.v.

The Individual Sovereign Will is well nigh all :

Without the sovereignty and full and total subjection all the powers of the ‘State’ [this is an unfortunate concept of the philosophy of Bodin] to those of the Individual Sovereign Will what is the use and utility of a democracy?

And where is the difference between a democracy, an oligarchy, an aristocracy, a plutocracy, a tryranny or other form of government?

That is I reply to Bodin :

Not the State is sovereign; but the Individual Sovereign Will.

And the percentage – and that means percentage of power too – must be high in the direction, in the vicinity of the Individual Sovereign Will q.v.

In as direct proportion the percentage of power of the State must decline.

Thus we enunciate :

The rate of [increase of] the percentage of power of the Individual Sovereign Will q.v. must be as inversely proportional to the rate of [increase of] percentage of power of the State q.v.

And vice-versa

This Principle I term as **the Principle of Inverse Proportion of the Individual Sovereign Will to the Power of the State** q.v.

Or re-stated as follows :

The rate of [increase of] the percentage of the power of the Individual Sovereign Will q.v. must be as directly proportional to the rate of [increase of] *decrease of percentage* of power of the State q.v.

And vice-versa

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– – but also in the Ethics

For this refer to what has been asserted immediately supra q.v.

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– – therefore also in the Philosophy of Law –

The Rule of the Biology is sovereign also in the Philosophy of Law.

To arrive at this consider how the Physics descends to the Biology; this in turn descends to the Ethics; and in turn the Ethics descends to the Philosophy of Law q.v.

The descent therefore is the equivalent : identity – in terms of the Principle of Equivalent : Identity q.v. – of the genealogical descent of humans; this is the descent that occurs : progresses as in to the Philosophy of Law q.v.

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– thence the Genesis of the Logic of the Sovereignty of the Human will is Established

Now all that comes as from a high descent is logical and also in the s/c Ideal State in as direct proportion to the rate of propinquity : vicinity to the pyramid of genealogical Principles and (as a situs) the Rim of the mass universe

And vice-versa

Therefore and accordingly :

The descent to the human level is logical in as direct proportion to the descent from the scientific level[8]

And vice-versa

This Principle I term as **The Principle of Logical Genesis of Human Level Descent** q.v.

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– **– Plurality of Wills should respect the Human Will because each Individually** is a Human Will

[8] Vedi our previous works in Science q.v.

The plurality of wills are as an Imposition over the Individual Sovereign Will are not alien even to the utilitarian.

This is Imposition all the same.

Imposition whether plural or singular, religious or secular, or otherwise, is always imposition.

Shall we assert that for instance in Utilitarianism the plurality of wills respect the individual sovereign will?

There is an attempt to do so; but not enough.

Indeed the balance leans definitively towards Imposition and towards the 'subjection' [even if this be a 'polite' or 'civilized' subjection at that] of the Individual Sovereign Will to the plurality of wills.

This must not be.

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– The Plurality must consider itself as an Individuality first

But for the Plurality to consider itself as an Individuality there must be the consent and common thinking and education of the Plurality to consider itself as an Individuality.

Therefore there be three requisites :

Consent

Common Thinking

Education

These Three Requisites constitute and are as directly proportional to the rate of methodology of the engineering of the Plurality to consider itself as an Individuality.

All the three requisites must be; the failure of one is the failure of all.

Regarding consent this can be implicit and explicit : indeed for the purposes of our methodology let it be *implicit* that is a state in to which the plurality is 'drowsed' just as an individual after having bouts of alcohol will irresistibly fall into certain states.

The same methodology should occur : progress here q.v.

Further more :

The other two requisites when constituted transform automatically and irresistibly into the third that is consent.

Therefore we should engineer on 'common thinking' : this is not difficult for all we have to do is to indicate to the plurality the common elements, enta and thinking there is between them all.

Once this be done the Plurality should be thought in a civilized way to retain and stick by that common thinking; which is not difficult either when one indicates to the Plurality *that it is also in its Egoistical Interest to stick by the Common Thinking.*

For both Individuality and Plurality will have the *irresistible* propensity of : to acting always in Egoistical Interest

[This Principle I term as *The Principle of Egoistical Interest* q.v.]

Therefore the 'engineering Philosopher' only has to 'point out' 'indicate' the common thinking to the Plurality that might formerly (in chronological order) not have noticed (1) the common thinking (2) that is in its Egoistical Interest and (3) therefore and accordingly it will irresistibly and as 'drugged' give its consent to it.

Indeed *this is a State where there is equivalence : identity*[9] *between the Egoistical Interest of the Individuality and the Egoistical Interest of the Plurality*

For :

The rate at which the Egoistical Interest of the Individuality will be made to or will coincide with the Egoistical Interest of the Plurality will be as directly proportional to the rate of propensity to endorsement of the Plurality by the Individuality

And vice-versa

This Principle I term as *The Principle of Genesis of Reciprocal Endorsement of Individuality and Plurality* q.v.

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[9] In terms of the Principle of Equivalent : Identity q.v.

– – And thus first of all Respect Individuality first and plurality afterwards and secondarily and subject to Individuality

All this should be seen in the light of the immediately above-mentioned Principles q.v.

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– – The 'Imposition Concept' is negated in as direct proportion to the Win of of the sovereignty of the Human Will

In all that we have been asserting in the immediate or nearest areas of these works, there stands out a Principle namely that :

The rate of [increase of] the occurrence : progression of the negation of the 'Imposition Concept 'will be as directly proportional to the rate of [increase of] propensity to winning of the Sovereignty of the Human Will[10]

And vice-versa

This Principle I term as *The Principle of Inverse Proportion of the Imposition Concept to the ISW* q.v.

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–
– – And Vice-Versa

For the Vice-versa refer to the immediately preceding work q.v.

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[10] That is : the Individual Sovereign Will [ISW] q.v.

– – Engineering Import of the Vice-Versa

For the engineering import of the Vice-versa refer also to the immediately above works, especially to the *Principles of Methodology* as per to-day's works[11]

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– - The 'Individual Conscience' even of a Criminal is Priceless

In the valuation process of the ISW *the Philosophy of Law should not[12] and can not[13] take account of the status on earth of the body of the individual carrying the respective and relative ISW*

This Principle I term as **the Principle of Irrelevance of Bodily Earthly Status to the ISW Valuation** q.v.

Therefore and accordingly it matters not[14] whether the bodily earthly status of the relative ISW is that of the President or Prime Minister or King of the country or that of a prisoner in a cell in that country. All the respective and relative ISWs are *priceless* and as such *equal in to (their rate of) priceless ness*.

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[11] For example : those Principles of Methodology that 'unite' as by 'engineering' (by the 'engineering Philosopher') the Individual Will with the Plurality Will and Vice-versa q.v.
[12] Id est as in to the s/c Ideal State q.v.
[13] Id est as in to the s/c Practical State q.v.
[14] Again both in the s/c Ideal State q.v. and the s/c Practical State q.v.

– – therefore what is Priceless cannot be surpassed in value

Refer to the immediately above.

This is a Principle and I term it as *The Principle of Equality of Pricelessness* q.v.

–

– – What cannot be surpassed in value cannot be subject to what does not surpass it in value

For this refer also to what has been said immediately above q.v.

For which situation the President and the Prime Minister and the King cannot[15] subject – in the specific example given above – the prisoner in the cell – to themselves

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– – therefore and accordingly the Sovereignty of the Human Will being Priceless cannot be subject to the Imposition Concept even in a Plurality, and even if this Plurality is a Democracy

And what we have been asserting above *holds as in to all forms of government.*

This is a Principle that I shall term as *The Principle of Equality of Priceless ness in all Forms of Government* q.v.

Therefore even as in a democracy as after we have been asserting in this work[16] and what we will assert further[17] the Individual Sovereign Will [ISW] cannot[18] and should not[19] ever be subjected to the Will of the Plurality even in a democracy at any time and in any place, under any circumstances.

[15] Both as in to the s/c Ideal State q.v. and in to the s/c Practical State q.v.
[16] See above q.v.
[17] See for instance Appendix A et to this work q.v.
[18] Id est in the s/c Practical State q.v.
[19] Id est in the s/c Ideal State q.v.

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– – Worse if in an Oligarchy Tyranny et caetera

Now although as just enunciated in the immediately above-mentioned Principle the priceless ness of the ISW 'prescind' any and all forms of government if for the sake of the argument a comparison be made as between the different and diverse forms of government if in a democracy there should stand and occur : progress the equality of priceless ness of the ISW much more at least in the s/c Ideal State q.v. in an oligarchy or tyranny[20] or other form of government[21]

But let it be pointed out that the emphasis here has been made 'for the sake of the argument'.

And in this light should this Section be construed

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– – Even in the Hierarchical Setting of the Philosophy of Law the Lowest Level [the Citizen Level] is Priceless

This has the following elements namely :

The Hierarchical Setting

And

The Equality of Priceless ness

Both have been manifested above, and I deem it unnecessary to add further than to refer to the respective Sections in this same work above q.v.

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[20] Here we are adopting the 'classification of governments' of the 'Ancient Greeks' q.v.

[21] By which I refer also to any other – nay even future, evolutive – as indeed should be – form of government which is not necessarily of the 'classification of governments' of the Ancient Greeks but chronologically thereafter q.v.

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– – Philosophy of Law links to Value in as direct proportion to its respect for the Sovereignty of the Human Will – And vice-versa – Philosophy of Law devoid of value or with Low Value Percentage is as inversely proportional to the Respect to be Felt For It – And vice-versa – Respect is felt for *Value* not for *Power, Wealth* or *Imposition* –

A reductionist analysis of the mass universe will[22] reduce and ought to[23] reduce to *motion* and/or *value*

Let us assert that motion is the equivalent : identity in terms of the Principle of Equivalent : Identity q.v. of the physicalist; and that value is the equivalent :identity in terms of the Principle of Equivalent : Identity q.v. of the 'Platonic Heavens' 'the Platonic Ideals' and our s/c Mentalist Universe q.v.

But just as mentalist transforms to physicalist so value transforms to motion in as direct proportion

And vice-versa

This Principle I term as **the Principle of Reduction to Motion : Value** q.v.

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Furthermore :

The rate of [increase of] at which Philosophy of Law links of value will be as directly proportional to the rate of [increase of] vicinity to propensity to occurrence : progression of the Individual Sovereign Will [ISW]

And vice-versa

This Principle I term as **the Principle of Philosophy of Law to Value as Directly Proportional to ISW** q.v.

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[22] That is in to the s/c Practical State q.v.
[23] That is in to the s/c Ideal State q.v.

– Hence the Positivist Concept of Law is Accordingly Criticized –

The positivist concept of Law is based on the Imposition Concept.

The Imposition Concept is also something that that Positive Law cannot escape there from.

The critiques that we made to the Imposition Concept are therefore accordingly and in as direct proportion to be made to the Positive Law.

And for one of the greatest if not the chief advocate of the Positive Law, that is Austin

[See Appendix B to this work on The Philosophy of Law – that part thereof on the criticism of Austin]

Indeed we might enunciate :

That :

The rate of [increase of] occurrence : progression of the Imposition [Concept] will be as directly proportional to the rate of [increase of] occurrence : progression of the Positive Law

And vice-versa

This Principle I term as *The Principle of Direct Proportionality of Imposition to Positivism* q.v.

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– On the Other Hand Philosophy of Law has to be 'Down to Earth'

The Philosophy of Law does not regard any matter :energy other than that which is found on our Earth.

Therefore we should say : *Philosophy of Law should be down to earth.*

However *the values, methodology and practices* of a Philosophy of Law are not specifically tied down to a locus, Earth; rather, they are tied down to the loci or sites where there occurs : progresses the Individual Sovereign Will [ISW]

Therefore and accordingly we enununciate

That

The rate of [increase of] propensity to occurrence : progression of the Philosophy of Law will be as directly proportional to the rate of [increase of] vicinity of the same [Philosophy of Law] as to Individual Sovereign Will q.v.

And vice-versa

This Principle I term as **the Principle of the Proportion of Occurrence : Progression of the Philosophy of Law to the Individual Sovereign Will** q.v.

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– – the Naturalist Looks Unnecessarily Up to the Heavens for Philosophy of Law – going to the extremes of Making What Is To What Ought [Deontology] in Kant – Thus the Naturalist Position is also Criticized as violating Empirical Observation and Sociological Change and Experiment – Modern Society Requires Sociological Change and Experiment in as direct Proportion to its Evolution – And Vice-Versa

Any society must move in as direct proportion to the rate of occurrence : progression of Sociological Change and Experiment q.v.

This is the equivalent : identity of the Individual Sovereign Will in terms of the Principle of Equivalent : Identity q.v.

Therefore and accordingly the *rate of vital importance* of the occurrence : progression of Sociological Change and Experiment in Society q.v. will be as directly proportional to the rate of supremacy of the Individual Sovereign Will q.v.

And vice-versa

This Principle I term as **the Principle of Proportion of Sociological Change and Experiment in Society to the Individual Sovereign Will [ISW]** q.v.

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– – Consequently and in as direct proportion the Naturalist Concept of Philosophy of Law is Anti-Evolutionary – And vice-versa -

The Object of Philosophy of Law is ‘Law’ –

All Philosophies have their particular Object; the Philosophy of Law has Law as its Object.

But by Law we mean and signify differently from what Austin and the Positivists mean.

And we also mean differently from the Naturalists.

Common to both Positivists and Naturalists is Imposition : there is in both an Order above, which is to be obeyed.

In the Positivist the source or genesis of the Order is the will of the sovereign, ruler, official, or other higher power.

In the Naturalist the source or genesis of the Order is the disposition of the universe [‘Nature’ a term which we avoid but which with scientific technicality – subsequent to my scientific works – should be denoted by ‘mass universe’]

Neither in the Positivist nor in the Naturalist is there a ‘stretching of the hands’ to the Individual Sovereign Will[s].

Law as we mean it and as we shall continually signify it in these works shall mean the ‘stretching of the hands’ between that [same] Law and the Individual Sovereign Will [ISW].

Our works in this Philosophy of Law shall manifest what we mean and what we signify thereby.

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And ‘Law’ is an Empirical Object –

This is manifest in our works for instance in the *empirical* listing of the common elements of pluralities of ISWs.

To which reference is made.

Therefore the Law is not just empirical, the result of the empirical, but its methodology is empirical, and its Principles the quintessence and having their genesis in the empirical.

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However it will be respected by us in as direct proportion to its own respect for the Sovereignty of the Human Will – And vice-versa – Thus for instance the Fundamental Human Rights are the most Respected by the Community because they have the Greatest Values [Carriers of the Greatest Values] – Conversely Legal Notices that Impose taxes are rather quasi-value-less and therefore unpopular in as direct proportion – The Biology by itself shows the Supremacy of the Sovereign Will by attributing relative popularity or relative unpopularity to the Laws –

The Individual Sovereign Will [ISW] itself is sub-divided into relatively[24] *civilized ISW* and *less civilized Ego-centred ISW* –

The sub-division of the Individual Sovereign Will can also be retained as the equivalent : identity in terms of the Principle of Equivalent : Identity q.v. of the *degrees and/or proportion* of civilization therein

Thus we assert that there is a minimum civilization percentage in the Individual Sovereign Will [just as for example there be minima of mass percentage and energy percentage in the Mass : Energy Percentage q.v.]

However from this minimum up there are gradations; as the percentage of civilization [civilization percentage] increases then and in as direct proportion will the propensity of the relative Individual Sovereign Will to *be, act and participate* as other Individual Sovereign Wills multiplied by the number of such Individual Sovereign Wills

And vice-versa

[24] For every thing in the mass universe from the Rim inwards is *relative* q.v.

This put in mathematical [algebraic] form runs

Thus :

Let Dc = degrees of civilization

And

Let ISWp = rate of propensity of Individual Sovereign Will to be, act and participate as other Individual Sovereign Wills

And

Let ISWn = number of other Individual Sovereign Wills

Therefore and accordingly :

Dc = ISWp X ISW n

And

As by algebraic transformation :

ISWp = Dc divided by ISWn

And

ISWn = Dc divided by ISWp

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The Civilized ISW *respects the ISW of the maximum number of 'Others' hence it has the propensity to be as near to the ISW of the Others in as direct proportion*

It is vital to make the distinction as between the Ego-centered ISW and the civilized ISW.

In the latter the ISW *without yielding all its basic rights* is altruistic, extending to other ISWs, knowing about other ISWs and understanding other ISWs *forming a bridge* with the other ISWs.

Indeed in all civilization the concept of *forming a bridge* between one ISW and the other is vital : it is like as if all the humans and other enta joined hands together and moved thus and in this way foreword together.

There is a triad [three requisites] for the Ego-centred ISW to transform to the civilized ISW namely :

The knowledge of the contents of all other ISWs which is common to all the ISWs (1)

And

The knowledge of the contents of all the other ISWs which not common to all the ISWs (2)

And

The *voluntary willed* extension of the ISW to the other ISWs to bridge the not common to all the ISWs as in (2) immediately above (3)

Here there comes in the Doctrine of Sacrifice : the Ego-centered ISW renounces voluntarily and because of its training, culture, education and notion of self-sacrifice, to the knowledge of contents not common with the other ISWs so as to be common denominator with the other ISWs

In the methodology of all this Education – the Art and methodology of Education – must come in q.v. and these must form a separate subject which I would term as *The Philosophy of Education* q,v.

Now in the Philosophy of Education there is a Triad :

The Programme of Academic Education – of which drafts were manifested previously as in our works (I)

And

The Education of the Ens – including Human Ens – to Altruism (II)

And

The Education of the Ens – including the Human Ens – to Geniusship (III)

Now let us assert that Altruism q.v. as a Subject which must be though further – in itself – as Education too q.v.

And let us also speak of the *Philosophy of Altruism* q.v.

Now this Philosophy of Altruism in turn too should sub-divide as into a triad namely :

The Individual Ens - including the Human – must be 'indoctrinated' into yielding his *superfluous ISW* [A]

And

The Methodology : Mechanics of (1) Identifying the Superfluous ISW and (2) Specifying the Superfluous ISW and (3) Yielding the *Experience* of the Superfluous ISW [B}

And

The Description of Altruistic Acts *which must be a 'Bible : collection of altruistic acts'* [C]

The ISW therefore must pass through these

Phases

And

Educations

And

Methodologies : Sacrifices

All these (namely Phases, Educations and Methodologies : Sacrifices) must be and are the Mechanics : Dynamics of the *Transformation of the Ego-Centered ISW to the Civilized ISW*

For let all transformations as in to the mass universe be and occur : progress as in mechanics : dynamics q.v.

Furthermore :

Let all these acts, mechanics and methodologies occur : progress as in to the individual and enta *simultaneously.*

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– The Ego-Centered ISW has the propensity to respect itself only and considers 'Others' as 'alien to it' –

The Ego-Centered ISW is a relatively[25] non-educated ISW.

The primitive is ego-centered in propensity not altruistic.

Indeed we may enunciate

That :

[25] For everything as in to the mass universe is relative q.v.

The rate of [increase of] the occurrence : progression of the *primitive* will be as inversely proportional to the rate of [increase of] propensity to the altruistic

And vice-versa

This Principle I term as **the Principle of Inverse Proportion of Primitive to Altruistic Propensities** q.v.

Furthermore :

The Ego-Centered ISW has the propensity to consider the other ISWs as *Others* whilst the Civilized ISW has the propensity to consider the other ISWs as *Us* q.v.

Indeed :

The rate of [increase of] consideration of 'alien' of any ISW by another will be as directly proportional to the rate of [increase of] the primitiveness of the same [ISW] multiplied by the rate of non-education of the same [ISW]

And vice-versa

This Principle I term as **the Principle of Alien Consideration by ISW** q.v.

Expressed as in equation form :

Let Ac = rate of consideration of 'alien'

And

Let Pr = rate of primitiveness of the relative ISW

And

Let Ne = rate of non-education of the relative ISW

Therefore and accordingly :

Ac = Pr X Ne

And

As by algebraic transformation :

Pr = Ac divided by Ne

And

Ne = Pr divided by Ac

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– The Ego-Centered ISW thus has the propensity to be as near to ISW of 'Others' in as *inverse* proportion –

I refer to the immediately preceding Section supra q.v.

However the Philosophy of Education q.v. combined as in simultaneity with the Philosophy of Altruism q.v. will have the propensity to 'break' this 'inverse proportionality' of the Ego-Centered ISW to be as near to the ISW of 'Others' in as inverse proportion.

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– Philosophy of Law and the Law prefer obviously the Civilized ISW to the Ego-Centered ISW

Philosophy of Law and the Law *have* the duty to prefer the Civilized ISW over the Ego-Centered ISW q.v.

Furthermore :

A level of Education and Altruism as above described has to be reached (reasons were given above also) and therefore accordingly and in as direct proportion it is these (Education and Altruism occurring : progressing as in simultaneity) that equivalize in terms of the Principle of Equivalent : Identity q.v. a status in which the Philosophy of Law and the Law prefer obviously the Civilized ISW to the Ego-Centered ISW q.v.

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– – Also Philosophy of Law and the Law ‘work better’ with the Civilized ISW than with the Ego-Centered ISW

With the occurrence : progression of the Civilized ISW the Philosophy of Law will have the propensity to work better.

Thus *imposition* will be rendered relatively unnecessary both as in to the s/c Ideal State q.v. and as in to the s/c Practical State q.v.

Furthermore :

The ‘harmony : proportion’ between the onward progress of the workings of a Constitution, the Philosophy of Law, judicial interpretation, law-making and the rest will have a propensity to be ‘guaranteed’ by the occurrence : progression of the Civilized ISW.

Furthermore :

The rate of [increase of] the harmony : proportion between the onward progress of the workings of a Constitution, the Philosophy of Law, the Laws, judicial interpretation, law-making and the rest will be as

directly proportional to the rate of [increase of] propensity to ‘guarantee’ by the occurrence : progression of the Civilized ISW q.v.

And vice-versa

This Principle I term as **the Principle of Guaranteeing of Harmony : Proportion in the Philosophy of Law et** q.v.

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– – The rate [of increase] of the Civilized ISW will be as directly proportional to the rate of [increase of] vicinity to the *voluntary agreement* of the the ISW with the Law and the Philosophy of Law – And vice-versa – This is the *Historic Identity* of Law and the Philosophy of Law on the one side and the ISW [Civilized ISW] on the Other Side – In this way Law and Philosophy of Law become *popular* not only with the *individual* ISW but with the *plurality of* ISWs –

The Philosophy of Law must *influence* the Law [Positive Law] to be just flexible and amendable accordingly –

The Philosophy of Law must influence the Positive Law to flexibility, to a very high percentage of *flexibility*

Indeed I can enunciate

That

The rate of [increase of] flexibility of the Positive Law will be as directly proportional to the rate of [increase of] its vicinity to propensity to Equity q.v.

And vice-versa

This Principle I term as **the Principle of Flexibility of the Positive Law to Equity** q.v.

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The rate of influence of the Philosophy of Law on the Law [Positive Law] will be as directly proportional to the rate of *popularity of the Law [Positive Law] – And vice-versa*

Were this not so, we would be far from a democracy. But even so, let us assert that the rate of [increase of] Principle of Popularity of Law q.v. will be as directly proportional to the rate of [increase of] propensity to : of occurrence : progression of the Individual Sovereign Will [ISW]

And vice-versa

This Principle I term as **the Principle of the Direct Proportion of Popularity of Law to the Individual Sovereign Will** q.v.

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– The rate of *popularity* of Law will be as directly proportional to the rate of *propensity to acceptance thereof multiplied by the increasing number of ISW propense to accept the same* – And vice-versa –

I will express this Principle as in mathematical form

Thus :

Let Rpl = rate of popularity of Law

And

Let Al = rate of acceptance of Law

And

Let ISWn = rate of increasing number of ISW[s] propense to accept the same

Therefore and accordingly :

Rpl = Al X ISWn

And

As by algebraic transformation :

Al = Rpl divided by ISWn

And

ISWn = Rpl divided by Al

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The Historical Genesis of the Law Making Process
Principle : The rate of rudimentality of Society will be as directly proportional to its relative lack of laws – And vice-versa [Principle of Relative Lack of Laws q.v.]
Principle : The rate of rudimentality of Society will be as directly proportional to its relative non-necessity of laws – And vice-versa [Principle of Relative Non-Necessity of Laws q.v.]
Principle : The rate of rudimentality of Society will be as directly proportional to its relative a-technicality of the laws – And vice-versa [Principle of Relative A-Technicality of the Laws]

All these Principles are seen manifested in (1) Hammurabi's Laws and (2) the Laws of Solon and (3) The Laws of the XII Tables

Also to an extent : in the Biblical 'Ten Commandments'.

Another propensity of Ancient Law making is manifest in the Principle of *Mixing of Laws* q.v. – the Laws all had also *religious orders or commandments, and the religious orders or commandments were also Laws.*

The rate of occurrence:progression of the Principle of Mixing of Laws q.v. is as directly proportional to the rate of vicinity to the period of Ancient Law making

And vice-versa

[Principle of Dating of Mixing Laws q.v.]

In the 'Ten Commandments' *all* the 'Commandments' *are simultaneously religious orders and also civil orders ['Laws']*

The high 'religious Percentage' of the Ancient Law-making manifests that Ancient Law-Making had its genesis more in *religious order* than in *civil order*

The *religious order* however made by men themselves of necessity had to reflect and finally equivalized[26] - at the level of the Biblical 'Ten Commandments' also *civil order*

History : Ancient History manifests that the 'back ground' of every thing including Science of those days and Cosmology of those days was 'religious' that it is the 'religious interpretation of Fisei by man into Gods, Divinities, beliefs'.

[26] In terms of the Principle of Equivalent:Identity q.v.

This I term as *The Religious Background of the Ancient Law-Making* q.v.

Principle : The rate of [increase of] religious background of law-making was directly proportional to the rate of [increase of] acceptance by the community [primitive community]

And vice-versa

[Principle of Acceptance by the Primitive Community q.v.]

The Next Step : Religious commandment started to equivalize and finally became equivalent:identical[27] *with civil order*[28]

The rate at which religious commandment became equivalent:identical with civil order was directly proportional to the rate of transportation of respect for the originally 'religious' norms to 'civil order norms'

And vice-versa

[Principle of Transportation of Respect to Civil Order Norms q.v.]

Principle of Methodology of Philosophy of Law : Deep empirical study of the *genesis of any phenomenon will yield in as direct proportion the knowledge and thereafter the engineering [if and to the extent necessary] of the same [phenomenon]*

Thus the study of the *historical* development of the Philosophy of Law is the key to the Philosophy of Law [29]

This results not from following De Savigny, but from following the general principle established in our works that the delving of and discovery of the genesis of any phenomenon in to the mass universe from the Rim inwards will be as directly proportional to the rate of our knowledge and subsequent engineering [if and to the extent necessary] of the same.

Principle : *This 'Genesis Methodology' must be repeated in every other part or topic of the Philosophy of Law*

Principle : *This is the central – indeed <u>exclusive</u> – methodology of the Philosophy of Law q.v.*

<u>Thus also the *Methodology* of the Philosophy of Law is 'accounted for'</u>

<u>The Right [Law] Morals Dilemma :</u> Origin is in its Genesis – And Knowledge about it too must be in its Genesis – Genesis of the Dilemma is the Historical State of Unity [Union] of Church and State [mixed together; confused as one inseparable and same entity]. But with later History a degree of separation started between Church and State which widened with time up to a moment of very great width with Bodin's Doctrine of National Sovereignty [Sovereignty of States]
Therefore the Principle : *The rate at which in History there occurred:progressed Relative*[30] *Separation between Church and State was directly proportional to the rate of occurrence:progression of Separation between Right [Law] and Morals*
And vice-versa

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[27] In terms of the Principle of Equivalent:Identity q.v.
[28] See for instance at the level [time-level] of the Biblical 'Ten Commandments' q.v.
[29] Vedi : for instance De Savigny and the Historical School q.v.
[30] For every thing in the mass universe from the Rim inwards is *relative* q.v.

[Note the import of the Vice-versa here : that is Separate [relatively] Law and Morals and you have to separate Church and State in as direct proportion].
Principle : The rate of occurrence:progression of Bodin's Doctrine of State Sovereignty will be as directly proportional to the rate of separation between Law and Morals
And vice-versa
Principle : The rate of occurrence:progression of Bodin's Doctrine of State Sovereignty will be as directly proportional to the rate of *necessity* of separation between Law and Morals
And vice-versa

[1-The rate of occurrence:progression of Bodin's Principle of Sovereignty q.v. will have the tendency to separate the State and the Church, though leaving them as close allies of one Establishment or else it will result in the 'gobbling up' of the Church by the State in to one indiscernible entity.
2-But even in this latter alternative, the rate of 'gobbling up' by the State of the Church entity will only serve for the separation of Laws and Morals since that the State *the more it attempts to change and/or arrogate to itself the Morals of the Religion, the more Resistant these grow to such Advances*

This I term as **the Principle of Resistance of Morals to Gobbling Up by the State** q.v.

3-Thus the *rate of enforcement* of Bodin's Doctrine of State Sovereignty will be as directly proportional to the propensity to separation of Laws and Morals

And vice-versa]

Principle: The rate of [increase of] Separation between Law and Morals will be as directly proportional to the rate of vicinity to propensity to Positive Jurisprudence[31]
And vice-versa

Although our Philosophy of Law retains as vital the Individual Sovereign Will [ISW] rather than Morals , yet *as with all other things in to the mass universe* all things (and therefore including the ISW and Morals) must be related to and relative to each other.

Now all this relative to each other will have the propensity to transform thereto in as direct proportion to that aforesaid relativity

And vice-versa

This Principle I term as **the Principle of Reciprocal Transformation of All Relativities as in to the Mass Universe** q.v.

6.XI.2010

6.41 P.M.

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[31] Cf.Austin q.v.

Therefore and accordingly given the ISW – Morals relation, sequitur as by syllogistic reasoning that the *inverse* of ISW and Positive Jurisprudence should be *also* the inverse of the Separation between 'Law' and 'Morals' and Positive Jurisprudence q.v.

Hence the above enunciated Principle relative to the same q.v.

6.XI.2010

6.47 P.M.

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Principle : The rate of [increase of] Separation between Law and Morals will be as inversely proportional to the rate of vicinity to propensity to Natural[ist] Philosophy of Law
And vice-versa

[For this see the immediately above q.v.]

As by syllogistic reasoning:
The Principle that : The rate of occurrence:progression of Bodin's Doctrine of State Sovereignty will be as directly proportional to the rate of vicinity to propensity to Positive Jurisprudence
And vice-versa

[For this too see the immediately above q.v.]

And:
The rate of occurrence:progression of Bodin's Doctrine of State Sovereignty will be as *inversely* proportional to the rate of vicinity to propensity to Natural[ist] Philosophy of Law
And vice-versa

A note of explanation : Bodin's Doctrine of State Sovereign is the equivalent of the genesis of the Supremacy of Parliament to Austinian Positive Law [Jurisprudence] in terms of the Principle of Equivalent : Identity q.v.

Accordingly the enunciation of the Principle enunciated immediately above q.v.

6.XI.2010

6.51 P.M.

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Methodology of Judicial Interpretation

1

The first and over-riding criterion of Judicial Interpretation should be non-conflict with the Individual Sovereign Will [ISW]

2

Criteria that are corollaries of 1 above should *only and exclusively* be the other criteria utilized in the methodology of Judicial Interpretation q.v.

3

Amongst the criteria there should be Leniency q.v. and Equity q.v.

6.XI.2010

8.59 P.M.

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Aphorisms of Judicial Interpretation

1

Leniency with Equity before the letter of the Law

2

Individual Sovereign Will before every thing else including Leniency and Equity

3

Therefore and accordingly Individual Sovereign Will before the letter of the law.

6.XI.2010

9.05 P.M.

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Relativity of Legitimacy of Judicial Interpretation

The relative legitimacy of Judicial Interpretation should be assessed as against the following Criteria :

Limits to Judicial Interpretation

Auto-Limits of Judicial Interpretation

Logical Limits of Judicial Interpretation

Society Limits of Judicial Interpretation

Relative Binding Force of Judicial Interpretation

Relative Jurisdiction of Judicial Interpretation

The simultaneous occurrence : progression of one or more of the immediately above.

6.XI.2010

9.09 P.M.

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Limits to:of Judicial Interpretation

1

Judicial Interpretation should be limited to serve Equity

2

The rate of [increase of] occurrence : progression of Limit on Judicial Interpretation will be as directly proportional to the rate of [increase of] occurrence : progression of the utilization of the same [interpretation] to serve Equity

3

And vice-versa

This Principle I term as **the Principle of Limits to Judicial Interpretation** q.v.

6.XI.2010

8.47 P.M.

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Auto-Limits of Judicial Interpretation

1

All and any Judges must personally exercise on themselves *Auto-Limit*

2

Auto-Limit includes Leniency, Equity and above all the observance of the sovereignty of the Individual Sovereign Will[s] [ISWs]

3

All and any Judges who fail to personally exercise Auto-Limit shall be open to the sanctions of the Judicial Ombudsman at the instance of any one.

These are the three limbs which together form the Principle that I shall term as **the Principle of Auto-Limits of Judicial Interpretation** q.v.

6.XI.2010

8.53 P.M.

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Logical Limits of Judicial Interpretation

1

The logical limits of Judicial Interpretation must emerge from the Philosophy of Law : that is the Philosophy of Law must be the *genesis* of the logical limits of Judicial Interpretation q.v.

2

The rate of [increase of] at which a Judicial Interpretation will emerge as from a Law[32] will be as directly proportional to the rate of [increase of] that same Law will be as subject to the Philosophy of Law

And vice-versa

3

Furthermore :

The rate of [increase of] the direction of the Philosophy of Law q.v. will be as directly proportional to the rate of [increase of] the sovereignty *accorded* to : of the Individual Sovereign Will [ISW] q.v.

And vice-versa

4

The rate of [increase of] the *sociology : psychology* of the ISW [Individual Sovereign Will] will be as directly proportional to the rate of [increase of] occurrence : progression of Evolution q.v.

And vice-versa

This Principle I term as **the Principle of Variation : Proportion of Sociology : Psychology of the ISW with Evolution** q.v.

5

The Individual Sovereign Will has a *morality percentage* however minimal

6

[32] That is Positive Law q.v.

The rate of [increase of] morality percentage as in the Individual Sovereign Will q.v. will be as directly proportional to the rate of [increase of] to the rate of its flexibility : changeability as over time : space units

And vice-versa

This Principle I term as **the Principle of Morality Percentage as Proportional to the Flexibility : Changeability as over Space : Time** q.v.

7

The rate of [increase of] variability in time : space of the ISW will be as directly proportional to the rate of [increase of] its flexibility

And vice-versa

This Principle I term as **the Principle of Proportion of : to Variability to Flexibility** q.v.

8

The rate of [increase of] flexibility of Judicial Interpretation will be as directly proportional to the rate of [increase of] propensity to vicinity of the same to : of vicinity to : of adjustment to the Individual Sovereign Will q.v.

And vice-versa

This Principle I term as **the Principle of Flexibility of Judicial Interpretation to Adjustment of the Individual Sovereign Will** q.v.

9

The rate of [increase of] flexibility of the Individual Sovereign Will q.v. will be as directly proportional to the rate of [increase of] propensity to vicinity of the same to : of vicinity of : to adjustment of Judicial Interpretation thereto

And vice-versa

This Principle I term as **the Principle of Flexibility of the Individual Sovereign Will to Adjustment of : to the Judicial Interpretation** q.v.

10

The rate of [increase of] occurrence : progression of the Principles as at 8 and 9 will be as directly proportional to the rate of [increase of] vicinity to : of propensity to which Judicial Interpretation q.v. and Individual Sovereign Will q.v. extend their hand to each other

And vice-versa

11

The rate of [increase of] at which Judicial Interpretation q.v. and Individual Sovereign Will q.v. extend their hand to each other will be as directly proportional to the rate of [increase of] the vicinity of propensity of :

to both to their harmonization with the Philosophy of Law (and therefore also of the Laws since these are subject to the Philosophy of Law]

And vice-versa

12-XI-2010

10.23 P.M.

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Society Limits of Judicial Interpretation

1

Society must limit Judicial Interpretation by ignoring Judicial Interpretation that conflicts with ISWs.

2

The rate of [increase of] at which Judicial Interpretation conflicts with ISWs will be as directly proportional to the rate of [increase of] Limit by Society of the same [Judicial Interpretation] q.v.

3

And vice-versa

This Principle I term as **the Principle of Society Limits of Judicial Interpretation** q.v.

Relative Binding Force of Judicial Interpretation

1

The rate of [increase of] at which Judicial Interpretation must have the propensity to binding precedent will be as directly proportional to the rate of [increase of] its non-infringement and non-conflict as with the Individual Sovereign Will

And vice-versa

This Principle I term as **the Principle of Non-Conflict of Binding Judicial Interpretation with ISWs** q.v.

2

The rate of [increase of] at which Judicial Interpretation is drawn up and 'gathered' as in to a *compendium* will be as directly proportional to the rate of [increase of] the propensity of occurrence : progression of its binding

And vice-versa

This Principle I term as **the Principle of Proportionality of Binding of Judicial Interpretation to Equity-Evolving Compendium** q.v.

3

The rate of [increase of] at which the Compendium of Judicial Interpretation be drawn up *in a continually revised and evolving form : methodology to Equity* will be as directly proportional to the rate of [increase of] its rate of *propensity to binding*

And vice-versa

This Principle I term as **the Principle of Proportionality of Binding of Judicial Interpretation to Equity-Evolution** q.v.

Relative Jurisdiction of Judicial Interpretation

Let the jurisdiction of *all and any* judicial interpretation be *relative* [as after all as in to the mass universe].

Let the jurisdiction of all and any judicial interpretation be subject to one or more [according to the circumstances, in particular of relative workload pending] *Judicial Ombudsmen*

All judges of any rank whatever must be subject to the scrutiny and sanction of the Judicial Ombudsman.

The Judicial Ombudsman shall be deemed to form part of the Judiciary

The Judicial Ombudsman shall be deemed to be the Head of the Judiciary.

The Rule of Law as per Dicey must be retained : asserted as amended in a way to include the Judicial Ombudsman at the head of the Judiciary.

The sanctions of the Judicial Ombudsman *are to be exercised in his sole discretion* and include (without prejudice to the generality of the foregoing) :

1---Private Warning and Reprimand

2---Public Warning and Reprimand

3---Temporary Suspension from Office

4---Prolonged Suspension from Office

5---Full Permanent Termination of Office

In the list of the above (five) sanctions there shall be *an order of priority* such that Sanction 1 shall be the least and Sanction 5 the most.

Furthermore – except in a case where a judge has very flagrantly acted unjustly - a higher sanction can normally be applied only *after* the immediately preceding sanction has already been applied (for example in a separate case of judicial injustice and/or misconduct)[33].

There shall lie an appeal from the decisions of the Judicial Ombudsman to Parliament

Parliament can only overturn the decision of the Judicial Ombudsman by a qualified majority of five-ninths.

Moreover a further appeal shall lie from Parliament to the President or equivalent Authority.

In this way the powers of the Judicial Ombudsman shall be subject to checks and balances as per the Separation of Powers principle q.v.

6.XI.2010

8.09 A.M.

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Methodology of Law-Making

[33] However these are *guidelines only* and shall not in any way shackle the absolute discretion of the Judicial Ombudsman q.v.

1

The first and over-riding criterion of Law-Making should be non-conflict with the Individual Sovereign Will [ISW]

2

Criteria that are corollaries of 1 above should *only and exclusively* be the other criteria utilized in the methodology of Law-Making q.v.

3

Amongst the criteria there should be Leniency q.v. and Equity q.v.

12.XI.2010

9.33 P.M.

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Aphorisms of Law-Making

1

Let Laws be no laws but a reading book only

2

That any law is just a reading book should be placed right at the end of each and the same law

3

The rate at which law is just a reading book will be as directly proportional to the rate of its propensity not to conflict with the ISW [Individual Sovereign Will]

And vice-versa

24.X.2010

10.45 A.M.

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Relativity of Legitimacy of Law-Making

1

The relative legitimacy of law-making stops at the door of the Individual Sovereign Will

2

Let the making of laws be directly proportional to the common elements of pluralities of ISWs

3

The rate of relative legitimacy of law making will be as directly proportional to the rate of 'incorporation' in any law and/or any part thereof of the common elements of the Individual Sovereign Will [ISW]

And vice-versa

24.X.2010

10.43 A.M.

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Limits to:of Law-Making

1

The limits to : of Law : making must co-incide with the Individual Sovereign Will [ISW]

2

And vice-versa

3

The Principles as in 1 and 2 are Philosophy of Law Principles that must be enshrined in a Constitution q.v.

6.XI.2010

6.35 P.M.

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Auto-Limits of Law-Making

1

All and any Legislator [Law-Maker] must personally exercise on themselves *Auto-Limit*

2

Auto-Limit includes Leniency, Equity and above all the observance of the sovereignity of the Individual Sovereign Will[s] [ISWs]

3

All and any Legislator [Law-Maker] who fails to personally exercise Auto-Limit shall be open to the sanctions of the Law-Making [Legislative] Ombudsman at the instance of any one.

These are the three limbs which together form the Principle that I shall term as **the Principle of Auto-Limits of Law-Making** q.v.

12-XI-2010

7.15 P.M.

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Logical Limits of Law-Making

1

The logical limits of Law Making must emerge from the Philosophy of Law : that is the Philosophy of Law must be the *genesis* of the logical limits of Law Making q.v.

2

The rate of [increase of] at which a Law Making will emerge as from a Law[34] will be as directly proportional to the rate of [increase of] that same Law will be as subject to the Philosophy of Law

And vice-versa

3

Furthermore :

[34] That is Positive Law q.v.

The rate of [increase of] the direction of the Philosophy of Law q.v. will be as directly proportional to the rate of [increase of] the sovereignty *accorded* to : of the Individual Sovereign Will [ISW] q.v.

And vice-versa

4

The rate of [increase of] the *sociology : psychology* of the ISW [Individual Sovereign Will] will be as directly proportional to the rate of [increase of] occurrence : progression of Evolution q.v.

And vice-versa

This Principle I term as **the Principle of Variation : Proportion of Sociology : Psychology of the ISW with Evolution** q.v.

5

The Individual Sovereign Will has a *morality percentage* however minimal

6

The rate of [increase of] morality percentage as in the Individual Sovereign Will q.v. will be as directly proportional to the rate of [increase of] to the rate of its flexibility : changeability as over time : space units

And vice-versa

This Principle I term as **the Principle of Morality Percentage as Proportional to the Flexibility : Changeability as over Space : Time** q.v.

7

The rate of [increase of] variability in time : space of the ISW will be as directly proportional to the rate of [increase of] its flexibility

And vice-versa

This Principle I term as **the Principle of Proportion of : to Variability to Flexibility** q.v.

8

The rate of [increase of] flexibility of Law-Making will be as directly proportional to the rate of [increase of] propensity to vicinity of the same to : of vicinity to : of adjustment to the Individual Sovereign Will q.v.

And vice-versa

This Principle I term as **the Principle of Flexibility of Law-Making to Adjustment of the Individual Sovereign Will** q.v.

9

The rate of [increase of] flexibility of the Individual Sovereign Will q.v. will be as directly proportional to the rate of [increase of] propensity to vicinity of the same to : of vicinity of : to adjustment of Law Making thereto

And vice-versa

This Principle I term as **the Principle of Flexibility of the Individual Sovereign Will to Adjustment of : to the Law Making** q.v.

10

The rate of [increase of] occurrence : progression of the Principles as at 8 and 9 will be as directly proportional to the rate of [increase of] vicinity to : of propensity to which Law Making q.v. and Individual Sovereign Will q.v. extend their hand to each other

And vice-versa

11

The rate of [increase of] at which Law Making q.v. and Individual Sovereign Will q.v. extend their hand to each other will be as directly proportional to the rate of [increase of] the vicinity of propensity of : to both to their harmonization with the Philosophy of Law (and therefore also of the Laws since these are subject to the Philosophy of Law]

And vice-versa

12-XI-2010

10.23 P.M.

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1

Society must limit Judicial Interpretation by ignoring Judicial Interpretation that conflicts with ISWs.

2

The rate of [increase of] at which Judicial Interpretation conflicts with ISWs will be as directly proportional to the rate of [increase of] Limit by Society of the same [Judicial Interpretation] q.v.

3

And vice-versa

This Principle I term as **the Principle of Society Limits of Judicial Interpretation** q.v.

Society Limits of Law-Making

1

Society must limit Law-Making by ignoring Judicial Interpretation that conflicts with ISWs.

2

The rate of [increase of] at which Law Making conflicts with ISWs will be as directly proportional to the rate of [increase of] Limit by Society of the same [Law Making] q.v.

3

And vice-versa

This Principle I term as **the Principle of Society Limits of Law Making** q.v.

6.XI.2010

9.27 P.M.

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Relative Binding Force of Law-Making

The rate of [increase of] at which Law Making must have the propensity to binding precedent will be as directly proportional to the rate of [increase of] its non-infringement and non-conflict as with the Individual Sovereign Will

And vice-versa

This Principle I term as **the Principle of Non-Conflict of Binding Law-Making with ISWs** q.v.

2

The rate of [increase of] at which Law-Making is drawn up and 'gathered' as in to a *compendium* will be as directly proportional to the rate of [increase of] the propensity of occurrence : progression of its binding

And vice-versa

This Principle I term as **the Principle of Proportionality of Binding of Law-Making to Equity-Evolving Compendium** q.v.

3

The rate of [increase of] at which the Compendium of Law-Making be drawn up *in a continually revised and evolving form : methodology to Equity* will be as directly proportional to the rate of [increase of] its rate of *propensity to binding*

And vice-versa

This Principle I term as **the Principle of Proportionality of Binding of Law-Making to Equity-Evolution** q.v.

6.XI.2010

9.45 P.M.

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Relative Jurisdiction of Law-Making

1

Since the alleged jurisdiction of law-making is man and man is the ISW therefore according and in as direct proportion the alleged jurisdiction of law-making is the ISW

2

However in conflict the ISW should always result predominant over the law and/or its alleged jurisdiction

3

As such (vedi 1 and 2 above) the jurisdiction of the law should always be simply and merely *alleged* and *relative*

24.X.2010

11.11 A.M.

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Let the jurisdiction of *all and any* law-making be *relative* [as after all as in to the mass universe].

Let the jurisdiction of all and any law-making be subject to one or more [according to the circumstances, in particular of relative workload pending] *Legislative Ombudsmen*

All legislators of any rank whatever must be subject to the scrutiny and sanction of the Legislative Ombudsman.

The Legislative Ombudsman shall be deemed to form part of the Legislative

The Legislative Ombudsman shall be deemed to be the Head of the Legislative.

The Rule of Law as per Dicey must be retained : asserted as amended in a way to include the Legislative Ombudsman at the head of the Legislative.

The sanctions of the Legislative Ombudsman *are to be exercised in his sole discretion* and include (without prejudice to the generality of the foregoing) :

1---Private Warning and Reprimand

2---Public Warning and Reprimand

3---Temporary Suspension from Office

4---Prolonged Suspension from Office

5---Full Permanent Termination of Office

In the list of the above (five) sanctions there shall be *an order of priority* such that Sanction 1 shall be the least and Sanction 5 the most.

Furthermore – except in a case where a legislator has very flagrantly acted unjustly - a higher sanction can normally be applied only *after* the immediately preceding sanction has already been applied (for example in a separate case of judicial injustice and/or misconduct)[35].

There shall lie an appeal from the decisions of the Legislative Ombudsman to President

Parliament can only overturn the decision of the Legislative Ombudsman by a qualified majority of five-ninths and a simple majority referendum.

In this way the powers of the Legislative Ombudsman shall be subject to checks and balances as per the Separation of Powers principle q.v.

12.XI.2010

7.29 P.M.

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Methodology of Law-Making

See Aphorisms of Law-Making below

Aphorisms of Law-Making

1

Let Laws be no laws but a reading book only

2

That any law is just a reading book should be placed right at the end of each and the same law

[35] However these are *guidelines only* and shall not in any way shackle the absolute discretion of the Judicial Ombudsman q.v.

3

The rate at which law is just a reading book will be as directly proportional to the rate of its propensity not to conflict with the ISW [Individual Sovereign Will]

Methodology of Society's Assessment of Judicial Interpretation

See Methodology of Society's Assessment of Judicial Interpretation below

Aphorisms of Society's Assessment of Judicial Interpretation

1

There will be a propensity for a criticizer of judicial interpretation in as direct proportion to the subsistence of a loser

And vice-versa

2

That is why judicial interpretation should have the propensity to avoid losers as much as possible

3

In amicable settlements there will be neither losers nor winners

4

That is why arbitration is desirable and preferable to winner-loser sentences

5

But even if - and to the extent that – winner-loser sentences be inevitable then in as direct proportion the Judicial Interpretation should seek t*o mitigate as much as possible the 'loser' situation*

6

The individual sovereign will (ISW) is wounded by being a loser in a sentence of Judicial Interpretation

7

And the winner in a sentence of Judicial Interpretation will have the propensity to corrupt his Individual Sovereign Will [ISW] in as direct proportion

And vice-versa

8

Judges should not only regard these aphorisms : they should follow them

9

Nay *obey* them and the rate of their justice here will be as directly proportional to the rate of their obedience

And vice-versa

Relativity of Legitimacy of Society's Assessment of Judicial Interpretation

The interpretation of judges as expressed in their decisions should be open at all times under all circumstances to the opinions, assertions and manifestations of *any* Individual Sovereign Will.

Now let it be clear that *any* single judge is just an Individual Sovereign Will to which *any* other Individual Sovereign Will is equal : therefore the interpretation of any ISW should not be less than that of any judge.

Now you will object that the judge has the learning of the law that other persons do not : but in *any* decision – judicial or otherwise – there is a percentage however minimal of *the sovereignty of human judgment, which is an extension : corollary of the Principle of the ISW [Individual Sovereign Will q.v.]*

And this 'minimal percentage' as in the paragraph immediately above should not ever be considered as ever a small percentage but rather as a majority percentage : after all it is a percentage common and occurring : progressing in *all* humans.

That is a) why the judge should be sensitive to the public assertion and b) the judge should transform this sensitivity in a) to *judgment* and c) the judgment of the judge should be criticized by any other human if necessary and appropriate.

However all this 'power of society' to criticize the judicial power is relative : for everything as in to the mass universe is relative; and once that this 'power of society' is in or rather within the confining though ever-extending Rim of the mass universe then accordingly and in as direct proportion this 'power of society' to criticize the judicial power is relative.

21.X.2010

10.05 P.M.

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Limits to:of Society's Assessment of Judicial Interpretation

Auto-Limits of Society's Assessment of Judicial Interpretation

Logical Limits of Society's Assessment of Judicial Interpretation

Society Limits of Society's Assessment of Judicial Interpretation

Relative Binding Force of Society's Assessment of Judicial Interpretation

Relative Jurisdiction of Society's Assessment of Judicial Interpretation

ON THE MAKING OF LAWS

Identification of the Time's Signs of the Needs of Society

For this see below

The Laws as responding to the Needs of Society

The laws are but a mirror wherein one can see a society of the place of making at the time of making.

The law-making is a mirror of the society and this is inescapable for society.

Because society cannot escape from leaving its imprint on the laws, however minimal the percentage

It is as if an animal passed with its paws on a foot path but however it tried it could not but leave some of its foot-prints albeit one here and there.

And the same with society.

It is like a robber, even a professional one, who cannot but leave his marks, to a percentage however minimal.

But in the case of a criminal we are speaking of *a very intelligent and purposeful evader*

Which is not the case with Society : for Society is neither that intelligent; nor wills nor has the intention of so evading; no needs so evading.

Therefore and accordingly I assert and calculate that the imprint of Society is bound to be of rather high percentage, and as irreversible and irresistible as evolution itself is.

The Register for Listing the Needs of Society

It will a careful and provident State that listens continually to the voice of Society in the making of its laws nay *prior to the making of its laws.*

I thus enunciate at this juncture

That

The rate at which Society reflects the Society thereof in the making of its laws will be as directly proportional to the rate of vicinity to propensity of the globality of Individual Sovereign Wills (ISWs)

And vice-versa

This is a Principle a Principle that I term as **The Principle of Particular:Specific Law-Making Reflection of the Particular:Specific Society** q.v.

Thus Society is *the barometer of Law-making and Law-making of the particular Society making that Laws.*

Now in a democracy or at least the more that we approach to a democracy the nearer we approach to this *Principle of Reflection of Society* and more and more methods and facilities are laid open to the citizen general to express his Individual Sovereign Will

But I opine that in any Society, however democratic it be, there be no better method and no more secure method than **the setting up of a specific particular Institution namely the setting up of a Register wherein each and every citizen can register his Individual Sovereign Will.**

This Institution must be (1) set up by an 'ad hoc' Law and (2) have a specific set-up aided all the way by the State and be (3) as much as independent of the State in the receiving of Individual Sovereign Wills prior to their registration [in the Register 'ad hoc'], but as near as possible to it [the Register with its expression:collection of Individual Sovereign Wills] once that this expression has been made.

This is democracy up in arms, democracy in action more and more, never satisfied, ever increasing, ever bettering, ever-evolving – the nearer as possible, and the more as ever and in ever-increase to the Individual Sovereign Will (ISW).

Therein lies the Principle that in the s/c Ideal State q.v. as well as in the s/c Practical State q.v. *brings on the most bettering, most evolving positions nearer and nearer to the Principles that we have enunciated.*

And the evolution will grow in as direct proportion to the rate of vicinity of the Principles enunciated in our works

And vice-versa

Of a Committee of Law-Makers to Identify New Laws or Amendments to Old Ones to Cater for the Needs of Society

In Law-Making All Needs Should be Satisfied with the Most Important being Prior in Time

Of the Criteria of How New Laws for Priority in Time Should be Distinguished

Of the Criteria for Sub-Dividing a New Law into its Distinct Parts

Of the criteria of Sub-Division a Distinct Part of a New Law into Articles

Of the Criteria for the Technical Drafting and Language-Use in the New Laws

THE SPECIAL TRIAD OF THE PHILOSOPHY OF LAW

JUSTICE

1-What is Justice?

Justice is one of the Triads of Philosophy of Law.

Justice should also be one of the Triads of Philosophy of Law

And Justice and Positive Law are in principle strange bedfellows.

But through the application of a thorough reform to the Positive Law (or rather 'law' – without the pejorative 'Positive') the law can be made palatable.

Law is palatable and just in as direct proportion to its co-incidence with the common elements of the ISW [Individual Sovereign Will]

And vice-versa

This Principle I term as *The Principle of Direct Proportion of Law to the Common Elements of the Individual Sovereign Will* q.v.

24.X.2010

11.01 A.M.

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2-Is Justice Perfect Equality?
3-Justice and the Rule of Law
4-Distributive Justice

Distributive justice is a tree that must have[36] and has[37] its root[s] in equality q.v.

But what is equality?

[This is like as when Pilate asked : But what is truth?]

Let us enunciate a *triad* of Principles : Dicta : Aphorisms q.v.

[36] As in to the s/c Ideal State q.v.
[37] As in to the s/c Practical State q.v.

Equality results (1)

Equality results[38] and should result[39] from the co-incidence of the common elements of the ISW[40] and the law (2)

Indeed we should term this as *The Principle of Genesis of Equality* q.v.

Furthermore :

The rate of [increase of] at which the Principle of Genesis of Equality q.v. occurs : progresses in a specific absolute time : space will be as directly proportional to the rate of [increase of] occurrence : progression of Equality q.v. in that specific absolute time : space

And vice-versa (3)

24.X.2010

11.01 A.M.

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'TITLES FOR THOUGHT'

5-Normative Justice
6-Equative Justice
7-The Knowledge of Justice should be attained by discovering its Historical Genesis
8-Historical Genesis of Justice
9-Justice in Politics
10-Criteria for inducing Justice in Judicial Decisions
11-Criteria for inducing Justice in Appeal from or Request to Rescind Judicial Decisions

EQUITY

1-What is Equity?

Equity is a methodology of providing Justice that Positive Law does not provide
Therefore and accordingly Equity *has* to come in where Positive Law fails.
But how decide how and where and if Positive Law fails?
Yes, Positive Law fails where the resultants of its decision[s] is in any way in conflict with any Individual Sovereign Will [ISW]

Therefore and accordingly :

The rate of [increase of] necessity of occurrence : progression of Equity will be as directly proportional to the rate of [increase of] conflict in any way with any Individual Sovereign Will [ISW]

[38] Id est the s/c Practical State q.v.
[39] Id est the s/c Ideal State q.v.
[40] As manifested earlier in these works q.v.

And vice-versa

5-11-2010

10.43 P.M.

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2-The Main Province of Equity is Judicial Interpretation
3-When is a Law Equitable in Itself?
4-Each Law should have an 'Equity Clause' as a Safeguard Clause for Justice
5-The Knowledge of Equity should be attained by discovering its Historical Genesis
6-Historical Genesis of Equity
7-What we discover about Equity on discovering its Historical Genesis
8-Criteria for Transcribing Equity in Law-Making
9-Criteria for According Equity
10-Criteria for According More Equity
11-The 'Equity Clauses' of Different Laws Should Be a 'Single Chain' Amongst Themselves

LENIENCY

1-What is Leniency?
2-Is Law Lenient in Itself?
3-When is a Law Lenient in Itself?
4-But there should be Additional Leniency to the Leniency of the Law Itself
5-Criteria for Transcribing Leniency in Law-Making
6-Criteria for According Leniency
7-Criteria for According More Leniency
8-Justice and Leniency
9-Equity [Aequitas] and Leniency

PUNISHMENT

Punishment is the mode of making the Individual Sovereign Will sobered (1) sad (2) and resolved not to repeat what conflicted with the common denominator – as expressed in Law – of the other ISWs [Individual Sovereign Wills]

Punishment must not be directed to make ens – humans – *supine* - that is enclosed; but *rather active in the promotion of progress resulting in the global progress of : to the community of 'other' Individual Sovereign Wills* q.v.

See also : Alternative Punishment - AP

12.XI.2010

11.17 P.M.

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THE WELFARE STATE AS THE OBJECTIVE OF THE PHILOSOPHY OF LAW

THE RULE OF LAW AS THE OBJECTIVE OF THE PHILOSOPHY OF LAW

THE SOCIALIST STATE AS AN IDEAL OF THE PHILOSOPHY OF LAW

CRITERIA ADDITIONAL TO 'ACTUS REUS' AND 'MENS REA' FOR CRIMES

Methodology of Examination of Laws for the Scope of Amendment – Criteria for the Methodology of Examination of Laws – Criteria for the Politician to Amend Laws –
The Right to Amend Laws Should not reside only in the Politician – Definition of Politician – The Politician should not be the only person to have faculty of amending and/ or promulgate Laws – The power to amend and/or make Laws should reside in all the *subjects of the Laws* – The rate at which any person is a *subject* of Law is directly proportional to the rate of the facukty of the subject of that Law to amend and/or make Law
And vice-versa –
[Principle of Right of the Subject of Laws to Amend and/or Make Laws]

Criteria for the Right of Law to expect Observance from its Subjects – Even so the Right of Law to expect Observance from its Subjects is *relative* – The Relativity of the Right to expect Observance of Law is the equivalent:identity of no right of the Law to expect observance from (i) the Conscious Objector; and (ii) the Philosophical Objector; and (iii) The Individual Sovereign Will (ISW) of any Citizen.
The Politician should have no *direct* power over the Citizens but only *institutional* power – However even *institutional power* is like to a Power of Attorney and can be revoked by any Citizen (or Mandatory) in any circumstances, without giving any reason –
Thus the Revocation of the Power is in the *absolute discretion* of the Citizen – No criteria for revocation need be observed or found.

Principle of the Relative Transience of any New-Made Law – Principle that the rate of Transience of any New-Made Law is as directly proportional to the rate of its Evolution –
And vice-versa

The Psychology of Law

A-The Psychology vis-à-vis the Law of the Law-Maker Himself

B-The Psychology vis-à-vis the Law of the Law-Subject

C-The Psychology vis-à-vis the Law of the Law-Maker and the Law-Subject in One and the Same Person at the same time

The Philosophical Objector – A Monologue by a Philosophy of Law Objector

The law!

Passed a week ago and obliges me to pay an additional land tax which amounts to three times of the tax I paid on my land every year.

I disagree!

Yet Parliament passed the Law.

The hands of a majority of Deputies did it.

Did *they* own land like me and will they be paying this 'treble tax'? And even if so will they in virtue of their position have an advantage which will off-set their paying of the 'treble tax'?

Doubt, doubt, doubt.

What deputy will vote for such a law that punishes *him* so much and takes away from him without his compensating himself elsewhere?

Will the deputy lacerate himself?

And who is happy with *auto-laceration*?

The Will and the Law

The Law as imposing itself on the Human Will – the Human Will as the equivalent:identity (in terms of the Principle of Equivalent:Identity q.v.) of the Individual Sovereign Will (ISW)

The Law-Will Circle-Cycle viz:

The Law will tend to impose itself on the Individual Sovereign Will [ISW] [A]

But the ISW becoming a *plurality* of ISW will rebel against such imposition if unhappy about it [B]

And the plurality of ISWs will tend to bring about the *desired change* on the Law [C]

However the *Desired Change* in the Law will then begin the Cycle Again as at [A] when such Desired Change will be again start being considered as an *Imposition*

At this Stage the Cycle-Circle re-starts.

The rate at which Desired Change on the Law be considered as an Imposition will be as directly proportional to the rate at which the Cycle-Circle will have the propensity to re-start

And vice-versa

[This Principle I term as **the Principle Of Desired Change as the Re-starter of the Cycle-Circle** q.v.]

THE NEW CONSTITUTION – THESES				
1-that judges should retire at any age provided that they sit on the Bench no longer than twelve consecutive years				
2-that judges must be continually rotated from one bench to the other at least once in every three years				
3-that judges will individually be given a *target mark* of cases to decide each year				
4-that judges who reach the target mark should enjoy extra bonuses for every ten judgments delivered in excess of that target mark				
5-that judges will also be given promotions to membership or chairmanship of Boards Agencies and similar bodies after retiring				
6-that the number of judges must be increased by at least 10% every year over a hundred year period				
7-thzt all persons holding warrant of				

Doctor of Laws from the University of Malta automatically qualify for judgeship irrespective of whether they practice or practiced as notaries, lawyers or not practiced at all				
8-that the pension of judges will not be less than 95% [ninety-five per cent] of their highest salary				
9-that judges must be considered as dividing their careers into *two* phases : first one not exceeding twelve years on the Bench itself, the other without limit of time as members and Chairmen of Boards, Authorities and Agencies				
10-that judges shall be liable at law in civil damages for any act or omission whether arising through malice, negligence or other reason				
11-that judges shall have the right to sue and be sued in private matters as ordinary citizens – provided that judgments delivered *in favour of* judges shall be				

publicized as to ensure public scrutiny				
12-that judges are equal before the law as any other citizen and as such liable to be investigated for any improper act or omission whatever by the Commission for Investigation of Corruption even on the complaint of any private citizen				
X-that the provisions of the Whistleblower Act shall apply in the case of any complaint by any private citizen of any improper act or omission done by any judge in the exercise of his functions				
14-that judges who shall have been censured or found guilty by the Commission for Investigation of Corruption shall be removed from their office by the Commission for Investigation of Corruption Provided that such judges shall not lose their rights to their pensions or to their careers as members or Chairmen of Boards				
15-so however that a judge found guilty a second time or for more				

times shall be disqualified from holding public office but in any case shall have his pension rights unaffected				
16-that judges or persons who could qualify as judges who are found guilty of criminal offences shall serve their term under house arrest but not in any Correctional facility				
17-that parole shall apply to judges or persons who could qualify as judges and moreover at any time any such person serving house-arrest can make an application to the Court asking it to revoke or reduce such house-arrest and the Court after taking into the circumstances of the case shall revoke, reduce or continue such house-arrest, or else change the conditions thereof more favorably towards the person serving such house arrest				
18-that it shall be the right of all citizens to ask that they serve their sentence under house arrest rather than in the				

Correctional Facility; and such request shall be made at any time by application to the Court which shall be bound to grant it, but the Court will have the right to impose conditions regarding the relative house-arrest Provided that such conditions are not in any way discriminatory, unreasonable or inhumane. In which case the court shall considering the circumstances of the case always decide in giving a better treatment to the person serving house arrest than otherwise				
19-that any person serving house arrest who makes a marked contribution to literature, the sciences or any branch of knowledge, or else is of service or help to community, shall be entitled to have his house arrest revoked				
20-in the case of revocation of any house-arrest the sentence shall be deemed to have been served				
21-that any person will also have the faculty of reducing				

his house arrest by one half by paying a fine of one hundred euros for every day reduced such fine going into the Community Chest Fund for good causes to society				
22-that a person shall not lose any civil or other rights even if it is undergoing or has undergone house-arrest				
23-that any person who is suffering from mental, or other illness shall at all times be entitled to exemption from house arrest as long as that mental or other illness last till full convalescence				
24-that any person whose ascendant descendant in the direct line to the fifth degree is in the care thereof and is older than sixty years shall also be exempt from house assert				
25-the same grounds for exemption from house-arrest shall exempt from conscription into an army or military or naval or similar service				
26-that in both civil and criminal proceedings the judge shall be bound to award a				

lesser punishment, due or other condemnation as the case may be to persons who prove that they are suffering from severe financial, personal, family, disease or other difficulties so that such persons shall not suffer and/or be condemned to persons who are in better circumstances. Provided that each judge in each sentence shall give a detailed motivation of his reducing punishment, due or other condemnation according to the case.				
27-any person may request any judge to abstain if the person or any relative or associate or friend thereof has or may have an interest in the case and if in the past the said judge shall have given any sentence against the person concerned and the person concerned shall have manifested his disagreement with the judge by appealing from the said decision				

28-there shall be a Three-Tier Assembly which shall have the task of suggesting amendments to the Constitution from time to time				
29-The three Tiers shall be: A)-The Citizen tier consisting of an Assembly of one thousand citizens elected by popular vote once every five years; and B)-The Party Tier consisting of an Assembly of Thirty Persons nominated by the parties in proportion to their electoral vote strength, irrespective of their representation in Parliament; and C)-The Intellectual Tier consisting of Fifty Prominent Intellectual Persons from all walks and disciplines on a yearly rotation basis				
30)-That any amendment proposed by a simple majority of the Three Tiers shall be binding on Parliament to pass into law				
31)-That where any Tier does not approve what the other Tier or Tiers approve, the said amendment will not pass				

32)-So however that a two-thirds majority of Tier A and Tier B will suffice for the amendment to pass notwithstanding the opposition of Tier C.				
33)-In case 32 however if the opposition of Tier C is of more than ninety per cent the amendment will still be 'blocked' and not pass.				
34)-That any amendments passed approved or rejected by the Three Tiers as above will be without prejudice to the powers of the Three Chambers to pass approve or reject the same				
35)-That where a conflict has arisen between any of the Tiers and/or the Tiers and the Chambers the Executive President shall be automatically be mediator who shall be accepted by the parties.				
35)-that elections will be held by a single transferable vote				
36)-that for the purposes of any election the whole country will be considered as a single district and that the boundaries of districts				

presently existing will be eliminated Provided that this measure will be effective : a)-within ten years from to-day onwards ; and b)-the seats of smaller parties shall be bound to form a coalition with any of the two parties obtaining the greatest number of seats and this within three months from election – failing which the seat of that particular 'smaller party' shall be forfeited to the party obtaining the greatest number of second preferences from such vacated seat; and c)-in forming any coalition the 'smaller party' seat shall be entitled only to its proportionate share in the administration in as direct proportion to its proportionate share from the total votes Any 'smaller party' infringing this Principle as in c) shall lose and vacate its seats as indicated in b) above				

37)-no party or coalition of parties shall hold power for more than fifteen consecutive years If the party that is in power for more than fifteen years wins the General Election it will have the following options either a) to form a coalition with the opposition party or parties; provided that in such a coalition the Prime Minister and Ministers shall not be nominated from the party that has been in office for fifteen continuous years; or b) to form by itself or in coalition with others the opposition or c) to abstain from contesting the elections for a period of fifteen years.				
38)-that notwithstanding the above at all times all parties represented in Parliament shall together – and only together – a)-nominate all members, Chairmen and all other officials and persons on any Board. Commission, Institution or other agency; and				

b)-nominate all appointments, promotions in the government sector and c)-nominate together any members or Chairpersons of any the Commission for Investigation of Injustices, Commission for Investigation of Corruption, Commission for Redress of Planning Anomalies and Injustices; Commission for the Investigation of Judicial Decisions and Action; Commission for the Investigation of Acts of the Administration.				
39)-the following Commissions [Special Commissions] are entrenched in the Constitution and may be removed only by the unanimous consent of all the members of Parliament. The said Special Commissions are namely : The Commission for the Investigation of Injustices; and The Commission for the Investigation of Corruption; and				

The Commission for Redress of Planning Anomalies and Injustices; and The Commission for the Investigation of Judicial Decisions and Action; and The Commission for the Investigation of Acts of the Administration				
40)-The Commission for the Investigation of Injustices shall – a)-investigate any compliant brought before it even by a simple letter provided that it be sent by registered post; and b)-investigate any compliant brought before irrespective of the time when the complaint occurred; and c)-investigate any act or omission 'ex officio' without the necessity of complaint as in a) and b) supra; d)-the Commission shall be composed of an number of members nominated by the unanimous decision of the Select Committee for Administration of the House of Representatives e)-the chairperson of the Commission				

shall also be nominated by the unanimous decision of the Select Committee for Administration of the House of Representatives; and f)-the Commission shall hold its sittings as often as and in the manner it deems fit but generally following the rule that it shall be proportionate to the volume of work it has such that the least possible back-log remain; and g)-the Commission shall regulate its own procedure and shall have all the powers functions and privileges of a Civil Court; and h)-the Commission shall take its decision preferably by unanimous consent or otherwise in defect of such consent by a majority of votes; and i)-So however that in the case that the Commission shall take any decision by a simple majority of votes the dissenting minority shall have the faculty to issue a separate judgment and this judgment shall be read concurrently with the judgment				

delivered by the majority; thereafter the two judgments shall be referred to the Commission for Fair and Equitable Adjudication which shall issue a judgment taking into account the basic elements of both judgments and whilst finding for the majority judgment mitigating and/or limiting and/or conditioning its effects in the manner it deems most equitable and fair : the Adjudicating Body shall also give detailed reasons in each of its judgments for every adjudication made by it; and j)-the Commission shall as a general rule hold its sittings and deliberations in public. k)-from the decision of the Adjudicating Body as in j) supra an appeal shall lie to the Select Committee for Administration of the House of Representatives l)-such appeal must be lodged within one year from date of decision of the				

Adjudicating body; and m)-the decision on appeal of the Select committee for administration of the House of Representatives shall be final and conclusive as regards the local jurisdiction; n)-This however shall not prejudice any right that may lie to the appellant or any other interested party at international level o)-where the decision of the Commission is in any way in conflict with any decision of any other body the decision of the commission and on appeal of the Select Committee of the House for Administration shall prevail; p)-the members and the chairperson of the Commission shall not be liable for any act or omission carried out 'bona fide' and without malicious intent So however that any member or Chairperson or other official of the commission who has carried out any act or omission with malicious intent can be sued in the civil courts				

for damages over and above any other action that may lie according to law q)-the remuneration of all the members and the Chairperson of the Commission shall not be less than four-fifths of that received by Judges of the ordinary civil Courts at the time; and r)-the members and the Chairperson of the Commission shall not hold office for more than five consecutive years; Provided that each members or chairperson of the commission may be re-appointed thereto Provided that Over a period of fifteen consecutive years the said member or Chairperson shall in the aggregate not hold more than seven years such membership or Chairpersonship as the case may be; Provided also that this seven year period shall not be consecutive but aggregate.				

s)-the members and the Chairpersons of the Commission shall preferably be chosen from intellectual persons, persons of known integrity, lawyers, notaries and similar persons				
41)-				

Notes:

My idea is that :

1)-in the courts [ordinary civil courts] dissenting judgments can be given by the minority; and
2)-the majority judgment and the dissenting judgment shall be treated as in Section 40 of the above Draft Constitution; and
3)-there shall be a 'reconciliatory judgment' given by a Higher Court or Higher Authority as per Section 40 et seq of the above Draft Constitution; and
4)-the 'reconciliatory judgment' shall not affect any right to appeal
5)-finally all appeals even from Court decisions at local level shall lie to the Select Committee of the House for Administration
6)-that in any government the administration of the State shall be run in a duality thus :
The external relations and foreign policy shall be run by the government of the day; subject to the limitations and safeguards entrenched expressly in the Constitution; and
The day-to-day administration shall be run totally completely and exclusively by the Select Committee of Administration of the House of Representatives
7)-that as a general rule this duality must reflect the principle that

In the State all parties should carry out day-to-day administration and even law-making by common consent; but the foreign affairs and external relations only shall be the prerogative of the Government of the day subject to the safeguards and limitations laid down by the Draft Constitution q.v.

29-7-2008

10.09 P.M.

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PHILOSOPHY OF LAW

THE NINE CONSTITUTIONS

All these Constitutions are draft constitutions and vary from each other. All of these Constitutions are also given in draft form. This is the First Draft of each Constitution and the First Version of the Work *The Nine Constitutions*

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Constitution I : In this Constitution all the writers and academics of the Country form together 'as of right' an *advisory body* to the Legislative, Executive and Judiciary. The *advice* of this body can be either (1) technical advice : in which case it will not necessarily bind; or (2) indicative advice : in which case it will be binding *but only in a general way that is by way of principle only*; and (3) binding advice : in which case however such advice must be endorsed and *confirmed* either by at least fifty-one per cent of the Legislative; or by an 'ad hoc' *consultas* [consultation] *made to the electorate in a specific consultation . A consultation is a concept which is different from an election; the term consultas [consultation] is being introduced for the first time chronologically in this Constitution. A consultation may be specific that is on a specific matter or matters; or general or on a Programme of matters similar to the political electoral programmes of the general election.* In this constitution however it is clear that the concept of *consultas* whilst being as 'democratic' as the concept of 'election' is being rather preferred thereto. Moreover the 'consultas' is different from a referendum, in the referendum the *initiative-genesis* comes from a minimum percentage of the population here [that is in the *consultas]* it comes from the advisory body itself.

Constitution II : In this Constitution there is a Pyramidal Structure so much so that this Constitution might be called *The Pyramidal Structure Constitution* q.v. In this Constitution the 'ordinary citizens' elect representatives on a wide local basis in the proportion of one representative per one hundred electors. These representatives are called *tertiary representatives* These tertiary representatives in turn elect from amongst themselves the *secondary representatives* : in number these are one-tenth approximately of the tertiary representatives : the secondary representatives are the Parliamentary level; then these elect an Executive and also a President. The Judiciary however are not appointed by the Executive but are appointed by the President but the appointment has to be *confirmed* by the *tertiary representatives* by simple majority. If the appointment by the President is not confirmed by the tertiary representatives, then it is considered as *blocked.* The same is done with all other appointments in the State including Authorities, Board and similar Entities.

Constitution III : In this Constitution the powers of the State instead of three are raised to five in number. The 'additional' powers are the Press, and the Intellectuals. All these are seen in a 'separation of powers' context in which the Acts of Parliament all need the endorsement of at least two thirds of the Assembly of the Press and a simple majority of the Assembly of the Intellectuals. Any Act of the Executive or the Judiciary can be nullified at any time by a two-thirds majority of the Press and a two-thirds majority of the Intellectuals. All persons eligible for the Assembly of the Press and for the Assembly of the Intellectuals must be elected for a five-year period in a general election 'ad hoc' by universal suffrage.

Constitution IV: In this Constitution there is the sub-division of the Legislature into Three Tiers respectively called The Legislature First Tier; The Legislature Second Tier and the Legislature Third Tier. Every five years a General Election is held for every Legislative Tier on the same day. The Executive will be composed of all the Three Tiers one third each. In this way different parties or coalition of parties will very probably be formed in the Legislative Tier as a whole and obviously in the Executive : thus this Constitution can also be called *a Coalition Constitution.* This result will probably serve as a check and balance method in all the process of democracy, the more so, since that not all eligible voters are the same in all the three respective Legislative Tiers. In fact Workers will vote in the First Legislative Tier; the Middle Class in the Second Legislative Tier; and the Upper Class and Intellectuals in the Third Legislative Tier. Again not all Legislative Tiers elect the same number of Deputies but the First Legislative Tier elects up to 55% of the Deputies; the Second Legislative Tier elects up to 35% of the Deputies; and the Third Legislative Tier elects up to 10% of the Deputies. The division of voters into each respective Legislative Tier will be according to the officially registered class of the voter.

Constitution V: In this Constitution the Legislature is elected as to two-thirds in a General Election and as to one-third from an internal voting between the various local councilors at Local Council level. In this way the power of the Local Authorities is amalgamated with the power of the deputies elected in the General Election : and indeed will have the propensity to result also in to coalition governments.

Constitution VI: In this Constitution there will be a *statutory and irrevocable delegation of powers* to the Local Authorities. The local authorities will in fact exercise all the powers that the 'central government' exercises with the exception of (i) foreign policy; (ii) the appointment of the President and (iii) the appointment of the Judiciary. The appointment of Chairpersons and members of Boards will be done by the Local Councils Association a body elected from amongst the Local Councilors.

Constitution VII: In this Constitution the main characteristic is that of the Executive President elected directly by 'universal suffrage' in a General Election once every year. Since the Executive President does not have a 'Programme' as such to implement his term of office will be shortened to just one year. Another reason for this is that because of his veto powers he may have conflicts with the Legislature which conflicts must not be of very long duration for the smooth working of any administration. However an Executive President can be re-elected up to three consecutive times and in his life-time up to nine times provided that this will always be subject to the rule of non-appointment for more than three consecutive times plus the rule that at least three years must lapse between the end of any Executive President's term of office and the beginning of any other subsequent period. The Executive President will have the power to veto all acts of the Legislature and of the Cabinet of Ministers including laws appointments and any other decision where he deems fit. The role of the Executive President however is *negative* in that he does not *propose* laws appointments or make decisions but as a 'watch-dog' only sees that such laws, appointments or decisions

are just and in the best interests of the country. Apart from the power of *veto* the Executive President has the power of *modification* whereby he may modify amend or even add[41] to any law, appointment or decision in the best interests of the country. Furthermore not all persons are eligible for the President which role is reserved only for intellectual and academic and similar persons; and only in default thereof and by way of exception to the category of persons nearest thereto always.

Constitution VIII: The Triple Constitution is one in which the powers of the State are distributed amongst three bodies subject to the over-riding rule that *each one of these bodies must be governed and administered by a different Party or equivalent thereof – this is termed the Primal Rule.* In the case where a general election returns results different from the above the relative adjustments are made *but only in such a way that whilst ensuring the Primal Rule above, the results of the general elections are to be respected as much as possible subject however to the Primal Rule.*

Constitution IX: In this Constitution there is a Single Body of Eminent Intellectual Persons who exercise the Legislative Power; this assembly or body from amongst itself then chooses an Executive Power as well as a Judiciary *both* from amongst its members and the members of the public. This Constitution is the 'government-administration' of the Intellectuals and is reminiscent of the Platonic 'Philosopher King'. However the 'Philosopher-King' is *one* individual; whilst this assembly *must* by its very constitution constitute and make up at least one per cent of the total population of the country. Moreover since the offices are held for three year periods in rotation and subject to the rule that before the lapse of a three year period re-appointment is not possible *power and administration are as widely spread as much as possible amongst the citizens.* Moreover the assembly is elected by the citizens as in a democracy but *from a list of intellectual 'eligible' persons which list is prepared by the outgoing Assembly.* The *first list* [in chronological order] however is prepared by an 'ad hoc' body composed one third of ordinary citizens, one third of academics, and one third of writers. Persons who feel aggrieved in the sense that they feel – as academics or writers - they should have qualified for the 'First List' should have recourse to an 'ad hoc' Tribunal composed of academics and writers. The final 'First List' must be prepared within three months; at the end of which period it must seek *confirmation by all the citizens of the State-Country in an election.* The results of this election are final and conclusive; and as a result persons may be struck out or added to the 'First List'.

[41] In this case the Executive President *exceptionally* has an *executive propositive power* too.

PHILOSOPHY OF LAW

DIALOGUES CONCERING JUSTICE, EQUITY AND CHARITY

I-Of Justice
Dialogue Number One – Concerning Justice and Equality

Cintius : Should Justice be the equivalent : Identity of Equality[42]?

Pomtus : Let us put it otherwise. Suppose that Justice is the equivalent : identity in terms of the Principle of Equivalent : Identity q.v. of Inequality q.v.

Sixtus : Well then when one compares – and one should compare – Justice *should* point to Equality rather than to Inequality q.v.

Cintius : But nay, not this only. Not just *point to* but *equivalent to : of*

Pomtus : Let us therefore assert with out Equality there cannot be Justice either in the s/c Ideal State and in the s/c Practical State.

Cintius : For even if one considers the Fundamental Human Rights one spots the *immediate necessity* of Equality in all as the *spinal chord* of all Fundamental Human Rights.

Pomtus : At which juncture I shall deem to close this *Dialogue* vowing at the same time to keep such Dialogues as short as possible.

22.X.2010

[42] In terms of the Principle of Equivalent : Identity q.v.

6.37 P.M.

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APPENDIX ‘A’

PHILOSOPHY OF LAW NOTES – 1 – 22-10-2010

How is the conflict as between different ISWs to be *regulated*?

To this question I assert that it is desirable that the conflict between ISWs be regulated *(1) as by Principles based on (2) empirical : statistical evidence (3) that ever changes in as direct proportion to the Evolution of History, Sociology, Anthropology, Ethics, Evolution et.*

This *prevalently statistical* study is *quasi-mathematical* and therefore should have in it the ‘security’ of mathematical methodology; and moreover the methodology used must be quasi-mathematical, and manifest the ‘relative ease’ of the quasi-mathematical.

And moreover : should such a conflict as between ISWs be regulated?

To this question I assert that it is desirable that the conflict between ISWs be regulated *provided that such regulation does not prejudice any Individual Sovereign Will [ISW]*

And if so how to be regulated?

Considering (2) and (3) above as empirical ‘workings out’ it is better to concentrate on (1) namely the enunciation of the relative Principles

Furthermore :

These Principles are :

1------That there should be collected and listed an empirical *recording* of *all* the different ISWs, *at least* the different ISWs that *'present themselves'* to be 'recorded'.

This I term as **the Principle of Empirical Recording of All ISWs** q.v.

2------That the ISWs thus recorded must be *screened* in such a way that the *common factor elements : parts* of the same should emerge

This I term as **the Principle of Emergence of Common Factor Elements : Parts of the ISWs** q.v.

3------That the said common factor elements : parts of the ISWs q.v. should be *compiled*

[This I term as **the Principle of Compilation of Common Factor Elements : Parts of the ISWs** q.v.]

and that further

4-------The said compiled common factor : elements :parts of the ISWs q.v. should be transformed as in to the enunciation of Principles et

This I term as **the Principle of Transformation of Common Factor Elements : Parts of ISWs to Enunciation of Principles et** q.v.

5-----That the Principles thus enunciated as per 4 above should be *Hierarchical Principles* which should be at the 'top of the Pyramid of Principles' very much the equivalent of Kelsen's *Grundnorm*

This Principle I term as **the Principle of Genesis of Hierarchical Principles** q.v.

6------That the said Hierarchical Principles should be in a constant state of flux and evolve and be transformed *in as direct proportion* as the or rather to the changes from time to time in 1, 2 and 3 above and as per 1, 2 and 3 above.

This Principle I term as **the Principle of Constant Change of The Hierarchical Principles** q.v.

7------That the 'sub-Hierarchical Principles' should change always and constantly in as direct proportion to the changes in and as per the said Hierarchical Principles q.v.

This Principle I term as **the Principle of Change in the Sub-Hierarchical Principles as Directly Proportional to Change in The Hierarchical Principles** q.v.

APPENDIX ‘B’

PHILOSOPHY OF LAW - GALLERY OF THINKERS

BENTHAM

The whole philosophy of Bentham is part (but not the whole) of an equivalent : identity - in terms of the Principle of Equivalent : Identity q.v. - of the ISW [Individual Sovereign Will].

Since that Bentham presents very little (if any) restrictions on the Pleasure Principle his position points to the Individual Sovereign Will.

But let me assert that the Individual Sovereign Will is technically a more 'evolved' ens than the Pleasure Principle.

Both the ISW and the Pleasure Principle are siblings; but the ISW is more 'comprehensive' in that it does not restrict the sovereignty of the Individual Will to pleasure only; but indeed even in the throes of pain, the ISW occurs : progresses.

Furthermore I assert that I find it unpalatable - not to say not logical - that the Pleasure Principle should be developed into the corollary of Positive Law and Jurisprudence as happened in Bentham's pupil Austin.

23.X.2010

9.07 A.M.

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AUSTIN

Contra posit the Benthamite striving for the happiness of the greatest possible number with that of Imposition emanating : radiating from the Positive Law of which Bentham's pupil Austin is the champion.

The bettering and socialization of laws and of the Philosophy of Law will be propense to become dogma in as direct proportion to the genesis thereof as through the methodology of Imposition q.v.

And vice-versa

This Principle I term as **the Principle of Propensity to : of Dogma ex Imposition** q.v.

KELSEN

Kelsen is right in arriving at the Grundnorm but then how does he arrive at it?

The methodology of his arriving at the Grundnorm is more or less taken 'a priori'

There is no indication whatever of any methodology of arriving at the Grundnorm in Kelsen,

Furthermore this methodology is necessary in view that it is an 'ever-shifting' Grundnorm whilst the Kelsen Grundnorm is more of a static and therefore non-evolutional and static Grundnorm.

Moreover the establishment of 'special' Courts of review to carry out for instance legal review is selective; there is no reason as to why the same job can be done by the 'ordinary' courts.

What is relevant is that the job id done (1) irrelevant of by whatever Court (2) provided that the relative Court is fully empowered and equipped to carry out its job (3)

In this Third Requisite perhaps lies the rationale of the case for having a 'special' court/s rather than an 'ordinary' court/s - especially in view of the fact that the approach of Kelsen to the Law is hierarchical and proportional directly to the Grundnorm.

to be fair to Kelsen a 'special court' and a 'Grundnorm' go hand in hand.

But an ordinary court? Well that 'ordinary court' - might have the necessity to have 'more than ordinary equipment : functions : powers' to function well - but this need not detract from its rate of 'ordinariness'.

CARL SCHMITT

This thinker's assertion of the development of the State as the greatest Occidental world achievement is perhaps the greatest - or at least one of the greatest - affronts to the Individual Sovereign Will. For a long time now in our works we have asserted again and again the pernicious development in history that is termed as the State. But in Schmitt's authoritarian philosophy such an assertion is not a surprise - indeed it is a logical consequence of his 'thinking'. I ask : Can one prop a greater enemy to the Individual Sovereign Will (ISW) than the State?

Again the friend - enemy theory of Schmitt is logical to his way of thinking but hostile to the Individual Sovereign Will. For as manifested in the Principles in Appendix A to our Philosophy of Law the Individual Sovereign Will does not occur : progress to war with other Individual Sovereign Wills but indeed such that conflict between Individual Sovereign Wills be avoided, and indeed, and nay, harmony between the same be attained. This harmony is to be attained in permanency and perpetuity - not based as on some Kantian 'pious wish' - but on the empirical : statistical and methodological (quasi-mathematical methodology) of facts in constant evolution in History, Sociology, Anthropology, Evolution and so on - and in as direct proportion thereto.

Furthermore Schmitt's 'exception' whereby a 'legal order' be suspended not only is offensive to democracy and decent reason; but also is worse in its intent to suspend a pre-existing legal order to establish another legal order. If anything, the suspension or rather withering away of any legal order should be attained, and this not to replace with another legal order, perhaps worse than the pre-existing one, but to replace and give more breathing space as to the Individual Sovereign Wills [Principle of Breathing Space to the ISWs]

Schmitt's intellectual hostility to Kelsen is to be understood; but this hostility does not result in a betterment of Kelsen's positions [as for example I assert above]

Indeed if any Schmitt's critique of Kelsen is indeed to go further away from the Individual Sovereign Will and more and more towards authoritarianism.

In this sense Schmitt's description of the legal order as 'Imposition' echoes Austin - and suffers - both in the s/c Ideal State and in the s/c Practical State - as from the same criticisms [see the said criticisms as per our works]

Furthermore Schmitt's definition of the theological, religious and political domains - indeed the importance he gives to all these domains - makes the said domains all hostile to the Individual Sovereign Will - it is indeed Carl Schmitt all the time.

23.X.2010

9.59 A.M.

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APPENDIX C

ALTERNATIVE PUNISHMENT [AP]

1.In the History of our Legislation we have had probation and now are on the way to parole. Excellent developments these, but more should be done as I shall manifest.

2.All (that is probation, parole and Alternative Punishment which I shall be presently putting forth) are part of the topic of Leniency which in turn is a part of the Law and of the Philosophy of Law.

3.Indeed I retain Leniency as the cousin of Equity : both make exceptions to hard letters of the law so as to make them as near as possible to the Individual Sovereign Will [ISW]. It is here that the law and the ISWs must both stretch their hands to join them together and move together and so we must make them do.

4.In Alternative Punishment for any offence, penalty, or other payment or infringement to the 'State' the Individual concerned chooses his own punishment - this I call as Alternative Punishment. For example if the Individual is an Artist he will choose to produce certain Artistic Works and hand them over to the State as Alternative Punishment. Community Service is also another form of Alternative Punishment. But the State should not impose; the choice of and the quantum of Alternative Punishment should always be in the hand of the Individual, not the State.

5.However in order to ensure Equality [this itself being part of the Plurality of ISWs], the State should have the right to appeal to a Board made solely of ISWs for the purpose, not of changing the type of punishment chosen by the 'offending' ISW, but solely as regards the 'quantum' of such punishment. The decision of this Board should then be final. Moreover the Board must be bound to publish and carry on all its procedures in public (except in the case of obscenity and the like) and also to fix the quantum of punishment only after considering the circumstances of the relative Individual and of his relatives and family. Should the Individual be aggrieved by the decision of the Board he can report the Board to the media and no action can be taken either against the Individual or the media and the Board shall moreover either resign or have to justify itself in the media. If the Board fails to justify itself in the media then upon the further continuation in the media of the case the Board shall resign or change the punishment as suggested by the media. 'Media' can mean just one newspaper or public source of information, even if just electronic, and it can be either publicly owned or privately owned.

24.X.2010

4.41 P.M.

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APPENDIX D

THE APPLICATION OF LAWS TO ANY INDIVIDUAL SOVEREIGN WILL

1.All laws of the land including the Constitution must be interpreted and executed in such a way as not to conflict with the ISW of the Individual[s] concerned.

2.This supreme disposition as in 1 overrides and is supreme over all the contents of any other law including the Constitution.

3.In the application of the law if any individual acknowledges his 'wrong doing' by public mode [especially in writing] then in as direct proportion he shall have the right to choose the quantum of punishment in case of pecuniary punishment and the type of punishment also in the case of non-pecuniary punishment

4.Any individual who shall cause harm by murder, bodily harm, rebellion against the State or in any other matter shall not lose any rights as per Appendix C and D [this Appendix] provided that he propose himself an adequate Scheme of Reparative Alternative Punishment. In Reparative Alternative Punishment [RAP] the type of Alternative Punishment to be chosen by the infringing and offending ISW[s] in a way to repair as much as possible at least in part damage or harm done to the victim[s] [these themselves being other ISWs] and therefore the infringing or offending ISW[s] should 'stretch his hand' to the victim ISW[s].

5.The application of 4 shall be flexible and civilized and the State shall only intervene to guide the respective parties to an agreement such that one 'stretches his hand' to the other.

24.X.2010

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APPENDIX E

UNJUSTIFIED ENRICHMENT

Where any ISW[s] [or group thereof] shall enrich itself by seizing, pillaging, stealing, invasion, war and the like, the offending ISW[s] shall lose all benefits thus gained and be bound to repair the harm done as much as possible.

Where any harm as in Appendix C or in Appendix D is only partially repaired by the offending ISW[s], then the State shall strive itself to repair and/or remedy the rest at the request [express request] of the victim[s].

Furthermore the International Community shall continue to have bodies like the United Nations in which fora both private and international infringements of large scale [especially wars of aggression, conquest, invasion and the like] shall be brought to be remedied as the Principles in Appendix C and in Appendix D but of course on the 'international level'.

24.X.2010

4.59 P.M.

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APPENDIX F

Philosophy of Law - Aphorisms

1

The Individual Sovereign Will be first; Authorities after

2

The Individual Sovereign Will commands; the Authorities serve

3

To be an Authority in a democracy is to serve

4

In a democracy the rate of legitimization of Authority is directly proportional to the rate at which that Authority serves

And vice-versa

5

Flexibility in the Individual Sovereign Will first

6

And then and thereafter in the Law

7

Flexibility and Evolution go hand in hand

8

Light the Individual Sovereign Will; Democracy is relatively irrelevant.

9

The Individual Sovereign Will has the right to demand; the Authorities the duty to obey

APPENDIX G

Positive Law – Aphorisms

1

The Individual Sovereign Will be first; Authorities after

2

The Individual Sovereign Will commands; the Authorities serve

3

To be an Authority in a democracy is to serve

4

In a democracy the rate of legitimization of Authority is directly proportional to the rate at which that Authority serves

And vice-versa

5

Flexibility in the Individual Sovereign Will first

6

And then and thereafter in the Law

7

Flexibility and Evolution go hand in hand

8

Light the Individual Sovereign Will; Democracy is relatively irrelevant.

9

The Individual Sovereign Will has the right to demand; the Authorities the duty to obey

APPENDIX H

The Enactment of New Laws – Aphorisms

1

The Individual Sovereign Will be first; Authorities after

2

The Individual Sovereign Will commands; the Authorities serve

3

To be an Authority in a democracy is to serve

4

In a democracy the rate of legitimization of Authority is directly proportional to the rate at which that Authority serves

And vice-versa

5

Flexibility in the Individual Sovereign Will first

6

And then and thereafter in the Law

7

Flexibility and Evolution go hand in hand

8

Light the Individual Sovereign Will; Democracy is relatively irrelevant.

9

The Individual Sovereign Will has the right to demand; the Authorities the duty to obey

APPENDIX I

Administrative Behavior of Bodies, Committees and the Rest – Aphorisms

1

The Individual Sovereign Will be first; Authorities after

2

The Individual Sovereign Will commands; the Authorities serve

3

To be an Authority in a democracy is to serve

4

In a democracy the rate of legitimization of Authority is directly proportional to the rate at which that Authority serves

And vice-versa

5

Flexibility in the Individual Sovereign Will first

6

And then and thereafter in the Law

7

Flexibility and Evolution go hand in hand

8

Light the Individual Sovereign Will; Democracy is relatively irrelevant.

9

The Individual Sovereign Will has the right to demand; the Authorities the duty to obey

PHILOSOPHY OF LAW NOTES - 1A

The Grievance Principle

Any person who has an Individual Sovereign Will have a right/s in as direct proportion to the rate of his grievance [feeling aggrieved]

And vice-versa

The Grievance Principle is thus the basis, genesis and origin of rights.

All rights emerging from the Grievance Principle must be recognized (1)

All rights emerging from the Grievance Principle that are in conflict must be harmonized (2)

The harmonization process of the 'conflicting' rights as per the Grievance Principle must occur : progress in the mode described in Appendix A to our work on The Philosophy of Law [3]

Moreover :

The rate of [increase of] occurrence : progression of recognition : implementation : remedying of the Grievance Principle q.v. will be as directly proportional to the rate of [increase of] the genesis and further occurrence : progression of the Principle of Justice

And vice-versa

This Principle I term as the Principle of the Genesis : Origin of Justice ex-the Grievance Principle q.v.

Moreover :

The rate of [increase of] recognition of the Grievance Principle must be as directly proportional to the rate of [increase of] occurrence : progression of the remedying of the said grievance

And vice-versa

This Principle I term as the Principle of Proportionality of Recognition to Implementation of the Grievance Principle q.v.

PHILOSOPHY OF LAW - OF THE PRINCIPLE OF PERCENTAGE JUDGMENTS

I

Every Judgment can never have an = 100% loser or = 100% winner but a 100% (tnri) loser and a 100% (tnri) winner

II

In cases of punitive decisions Judgments must apply *The Principle of Leniency* q.v.

III

In cases of punitive decisions the rate at which Judgments apply the Principle of Leniency will be as directly proportional to the rate of occurrence : progression of the Principle of Percentage Judgments

And vice-versa

IV

In cases of punitive decisions the rate [of increase of] at which Judgments apply the Principle of Leniency will be as directly proportional to the rate of [increase of] occurrence : progression of the Principle of Percentage Judgments

And vice-versa

V

The rate of occurrence : progression of the Principle of Percentage Judgments q.v. will be as directly proportional to the rate of occurrence : progression of the equivalent : identity[43] of the Principle of the Revisiting of the Rule of Law[44]

And vice-versa[45]

18-V-2011

7.51 A.M.

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PHILOSOPHY OF LAW – THE MECHANICS OF POWER

Of Power

1

Power has three dimensions : its absoluteness or otherwise; its perpetuity or otherwise; its indiscussibility or unchallengeability or otherwise

2

[43] In terms of the Principle of Equivalent Identity q.v.
[44] See our work entitled so q.v.
[45] Note the revolutionary import of the Vice-Versa here q.v.

Power is relative always to the person exercising it

3

Power is thus *always personal*

4

Power is personal even if exercised by a body of persons

5

In its *personal status* power is can be exercised either by one person or a group of persons

6

It is irrelevant that the group of persons be called corporation or some similar name for the physicality of the person counts not its morality

7

Power is

8

Power cannot be absolute ever neither in to the s/c Ideal State nor in the s/c Practical State for were power to be absolute it would be wholly exercised by those who exercise it to the complete exclusion of others.

That is if one person has 100% power, the others must have a 0% power

9

No person has a 0% power

10

By his very birth at his very birth every person has a minimum of power, however minimal.

11

The power given to a person at birth cannot be renounced even by its possessor.

12

Power to a person cannot arise before birth : therefore its is *personal*

13

All that is personal is temporary in as direct proportion

14

What arises at birth cannot but be temporary

15

Power is therefore temporary to all and any person

16

What is temporary cannot be perpetual

17

Therefore the power of any person or group of persons cannot be perpetual

18

So that power be unchallengeable it must be perpetual

19

What is not perpetual can be challenged

20

Therefore the temporariness of power is directly proportional to its challenge ability

21

And vice-versa

22

The nearest site to absolute power is in the Individual Sovereign Will

23

The nearest site to perpetual power is in the Individual Sovereign Will

24

The nearest site to the non-challenging of power is in the Individual Sovereign Will

25

The Individual Sovereign Will arises at birth

26

What arises at birth is temporary

27

What is temporary is limited in as direct proportion

28

Therefore the absoluteness of the Individual Sovereign Will is limited

29

Therefore the perpetuity of the Individual Sovereign Will is limited

30

Therefore the non-challenge ability of the Individual Sovereign Will is limited

31

No statute law or ordinance of any man can change the status of power as per the previous Sections 1 to 30

32

Therefore any statute law or ordinance that attempts to change the status of power as per the previous Sections 1 to 30 is ‘pro tanto’ null

33

Any constitutional or other power and indeed any constitution, law, regulation or ordinance whatever or disposition thereof must be read and interpreted in the meaning light and significance of the previous Sections 1 to 32 above.

PHILOSOPHY OF LAW – THE TRANSFORMATION OF THE CRIMINAL AS IN TO THE HARSHER CIVIL

In to the Philosophy of Law the criminal punishment infringes the ISW (1)

But on the other hand there must be punishment (2)

How to reconcile (1) and (2)? (3)

Reconcile by transforming the criminal punishment into a harsher civil punishment by obliging the ‘offender’ to ‘make up’ to the ‘offended party/parties’ by ‘working for them in compensation’ such as to ‘remedy their loss pecuniary, psychic and/or of any sort (4)

Such that the Criminal transforms gradually but surely as in to the Harsher Civil (5)

And this Harsher Civil transforms whilst infringing less the ISW at the same time results in a utilitarian punishment by providing remedies, compensation and retribution (6)

Till in the transformation of the Criminal as in to the Harsher Civil the Criminal ‘withers away’ (7)

THE JURISTS ACT

PART FIRST - THE JURIST

I-WHAT IS A JURIST
II-QUALIFICATIONS OF THE JURIST
III-CODE OF ETHICS OF THE JURIST
IV-DURATION OF ASSIGNMENT OF THE JURIST
V-TERMINATION OF ASSIGNMENT OF THE JURISTS

PART SECOND – THE WORK AND DUTIES OF THE JURIST

THE JURIST MUST WRITE JURISTIC REPORTS ON ANY MATTER OF LAW

PART THIRD – THE POWERS AND FUNCTIONS OF THE JURIST

THE REPORTS OF THE JURIST SHALL BE BINDING ON THE JUDGE
THE REPORTS OF THEJURIST SHALL BE INSERTED IN THE PROCES VERBAL SIMULTANEOUSLY WITH THE GIVING OF THE DECISION (SENTENCE)

PART FOURTH - OF THE INSTITUTION OF JURISTS

THE JURISTS SHALL TOGETHER FORM AN INSTITUTION
THE JURISTS SHALL TOGETHER FORM THE COLLEGE OF JURISTS
THE COLLEGE OF JURISTS SHALL BE PART OF THE JUDICIARY

PART FIFTH – SUNDRY MATTERS

OF THE INDIVIDUAL RESPONSIBILITY OF EACH JURIST FOR DAMAGES
THE STATE SHALL MAKE ALL SUCH INSURANCES AS TO INSURE JURISTS AGAINST DAMAGES

WHAT IS THE RULE OF LAW?

People of the world, hear!

The Rule of Law is the Rule of the Individual.

No less than the Rule of the Individual.

And the name of the Rule of Law had better be changed to *The Rule of the Individual*

So hereinafter the Rule of Law, the Rule of the Individual shall be referred to also as **The Rule**

And there are the following Theses to hear and consider :

1)– That the powers of the state be evolved from the traditional dogmatic three *powers* to more and more powers. More and more powers in evolution are directly proportional to the evolution of the Rule

And vice-versa

This I term as **the Principle of Ever-Increase in the Number of Powers** q.v.

2)-The **same** that is said of **powers** as in 1 above must be said in regard to the **institutions**

And therefore too **the Principle of Ever-Increase in the Number of Institutions** q.v.

3)- Democracy is *relative* : its value works in as direct proportion to the rate of workings : occurrence : progression of these Principles as in 1 and 2 immediately above and other Principles we shall be enunciating further on.

That it be not enough that no harm is done to any whatever at any time, place or circumstances, but *positive action and positive discrimination* must be done to all individuals.

This includes *so-called emarginated classes* like prisoners : the Rule must mean *the right of prisoners* which must be ever-increased subject to a basic minimum

The rights of Individuals must never be decreased in any way at any time under any circumstances.

The rights of the Individual must be ever increased in any way at any time and under any circumstances

And *thus* this increase in the rights of individuals must be ever-continuous, in ever-increase.

The rights of the **emarginated** must never be decreased in any way at any time under any circumstances.

The rights of the **emarginated** must be ever increased in any way at any time and under any circumstances

And *thus* this increase in the rights of the **emarginated** must be ever-continuous, in ever-increase.

The rights of *Poor - relative poor* must never be decreased in any way at any time under any circumstances.

The rights of the *Poor - relative poor* must be ever increased in any way at any time and under any circumstances

And *thus* this increase in the rights of *poor - relative poor* must be ever-continuous, in ever-increase.

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PHILOSOPHY OF LAW

The Rule of Law Revisited; or The Revisiting of the Rule of Law

I

The Rule of Law *has to assume* at least the following *Triad of Requisites* namely :

1-----the Incorruptibility of *all* the Judges [Principle of Incorruptibility of Judges] and
2-----the Infallibility of *all* the Judges [Principle of Infallibility of Judges]
3-----the Logical Superiority of *all* the Judges to the *all* the rest of the Humans et [Principle of Logical Superiority of Judges]

II

In this *Litmus Test of the Rule of Law* all the above-mentioned Triad of Requisites have to be followed; if any one requisite or more or even part of a requisite falls, then the Rule of Law falls *in as direct proportion*

This Principle I term as **the Principle of the Fall of the Rule of Law** q.v.

III

Furthermore :

The Logical Superiority of Judges is justified only in as direct proportion to the rate of logical non-equality of Humans et

And vice-versa

This I term as **the Principle of Relative Non-Equality of Humans et** q.v.

But :

The Rule of Law *posits* the *equality of all*[46]; therefore and in as direct proportion it *stultifies itself* and results in to its own downfall : that is the

This Principle I term as **the Principle of the Auto-Stultification and Downfall of the Rule of Law** q.v.

For the Rule of Law by its own operation : occurrence : progression *itself* infringes *at least* one of its own Triad of Requisites, and not passing *the Litmus Test of the Rule of Law* results – in as direct proportion - in to the Fall of the Rule of Law q.v.

IV

Moreover :

Regarding the Principle of Infallibility of all the Judges this also assumes that the Judges are so perfect as not to be 'open' to further betterment and further 'evolution'

[This I term as **the Principle of Infallibility of Judges to Closing to : of Further Betterment** q.v.]

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[46] See for instance in the Italian Courts *La Legge e' uguale per tutti* q.v.

A contrario sensu therefore the Rule of Law is infringed here too, for Evolution or continous betterment is a supreme rule of the mass universe[47] and therefore and in as direct proportion the resulting logical[48] and practical[49] non-continous betterment of Judges infringes another of the Triad of Requisites of the Rule of Law (that is the Principle of Infallibility of the Judges)

V

Furthermore :

Since that the *defects* of the Rule of Law are *at least* in part Logical[50] therefore accordingly and in as direct proportion the Rule of Law results as *flawed* in to the Ideal State q.v.

This Principle I term as **the Principle of Flawed Rule of Law ex-Ideal State** q.v.

VI

Now as in to the mass universe the occurrence : progression of the s/c Ideal State q.v. is equivalent : identical[51] and as directly proportional to the rate of occurrence : progression of the Principle of Proportion q.v.

And vice-versa (a)

But:

As in to the mass universe the Principle of Proportion is Sovereign, therefore, accordingly and in as direct proportion the occurrence : progression of the s/c Ideal State q.v. as in to the mass universe is Sovereign

[And vice-versa] (b)

Therefore and accordingly too :

The s/c Ideal State q.v. 'includes' and 'rules' the s/c Practical State q.v. (c)

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[47] See our previous works on the Subject q.v.
[48] Id est as in to the s/c Ideal State q.v.
[49] Id est as in to the s/c Practical State q.v.
[50] Id est as in to the s/c Ideal State q.v.
[51] In terms of the Principle of Equivalent : Identity q.v.

VII

Therefore and accordingly a ‘dilemma’ arises :

How to substitute the Rule of Law?

VIII

To which I assert by way of questioning[52] :

How to *remedy* the Rule of Law?

IX

Let us call to our aid the Principle of the Separation of Powers but not as it is usually meant but in the following senses :

A------The decision of the judge is always to be subject to another decision as much as possible; [This Principle I call also **the Principle of Infinity of Appeals** q.v.] and

B------The *tenure* of judges, any judge *is to be the shortest possible*; and

[This Principle I term as **the Principle of Shortest Possible Tenure of Judgeship** q.v.]

C------Moreover during their tenure *judges must be rotated to such an extent as to reduce possibility of abuse as much as possible*

[This Principle I term as **the Principle of the Most Possible Rotation of Judgeship** q.v.]

D------The Individual Sovereign Will contra positioned to any Judge must enjoy ‘parity of arms’ to respond *that is by exercising executive action of his own authority against and/or to countermand the Judge in the <u>way, quantum, measure, extent and mode</u> as be done by any Judge or Judges*; and

[This Principle I term as **the Principle of Parity of Arms of Judge-Adversary and Judge** q.v.]

E-------The Judges during their tenure must be subject constantly to *constant examinations* which they must pass. If they fail any periodical examination, then their tenure and status of Judge is ended in as direct proportion

[52] Id est the questioning in itself is and includes the Assertion q.v.

[This Principle I term as **the Principle of Constant *Continuous* Examination of Judge to their End of Tenure or Otherwise** q.v.]

Now :

I shall term these Five Principles as **the Principle of Remedial Quintet of Principles to the Rule of Law** q.v.

X

Now :

Let us also assert that **No human et shall, can or will have any right[53] over the person, property or other attribute of any other human et**

Let this be the Shining Beacon over all other beacons of Justice q.v.

XI

Now :

Regarding :

The Principle of Infinity of Appeals one might lament against it in the sense of its *shortfall of practicality*

That is the right of the 'winner[54]' is always *trembling*

But let it be known that

A-----It is better for rights to tremble [of the 'winner'] than rights to be infringed [of the 'loser']

B-----A trembling right is always a right; and this world as subject to evolution in ever-increase is accordingly and in as direct proportion always subject to 'imperfection' and therefore accordingly and in as direct proportion all and any right is always trembling

And vice-versa

[This Principle I term as **the Principle of Trembling of Rights** q.v.]

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[53] Including the Right to Judge q.v.
[54] This includes 'Prosecutor' at Criminal Law q.v.

C------In any case History rules and is superior to any act of Judgeship, so any act of Judgeship must always be retained as *relatively*[55] imperfect and simultaneously *only relatively*[56] perfect (a) and trembling and the reduction of possibility of judicial abuse is in as direct proportion to the rate of trembling or rights (b) and in any case in *any* judicial system it must always be *that an expediency be found to challenge any right, however ancient, however vested, however acquired at all times save for the Principle enunciated in X above.* (c)

18-I-2011

9.45 A.M.

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In the Rule the *Individual* prevails over *the State, the State prevails over the Party*

Therefore the Individual prevails over the Party.

The Party doctrine stems from the Individual; a Party has vitality in as direct proportion to the connection thereof with the supremacy of the Individual

And vice-versa

This Principle I term as **the Principle of Direct Proportion of Party Vitality to the Supremacy of the Individual** q.v.

And the same is to be asserted for ***Power***

Thus

Power : vitality of power stems from the Individual; a Power, any power has vitality in as direct proportion to the connection thereof with the supremacy of the Individual

And vice-versa

This Principle I term as **the Principle of Direct Proportion of Vitality of Power to the Supremacy of the Individual** q.v.

Furthermore :

[55] Since that every thing as in to the mass universe be relative q.v.
[56] Since that every thing as in to the mass universe be relative q.v.

The legitimacy[57] of power stems from the Individual; a Power, any power has vitality in as direct proportion to the connection thereof with the supremacy of the Individual

And vice-versa

This Principle I term as **the Principle of Direct Proportion of Legitimacy of Power to the Supremacy of the Individual** q.v.

The Right of Appeal

The Rule should work out in such a way that the right of appeal, *any* appeal be unrestricted

At this point one asks : Should there therefore be a right of appeal to a right of appeal to a right of appeal and so on and on without any restriction?

Should the right of appeal be infinite?

I would tend to answer yes, provided that *for each new appeal a new ground/s of appeal be brought.*

Moreover the usual responsibility in damages in the case of an appeal or appeals that result frivolous and/or vexatious or even if not, are lost, but delay proceedings, should not in as direct proportion *in ever-increasing mode* to the number of appeals made by appellant and lost and/or the time lost through appellant's actions

The Right of Rehearing

The Rule should work out in such a way that the right of rehearing, *any* rehearing be unrestricted

At this point one asks : Should there therefore be a right of rehearing to a right of rehearing to a right of rehearing and so on and on without any restriction?

Should the right of rehearing be infinite?

I would tend to answer yes, provided that *for each new rehearing a new ground/s of rehearing be brought.*

Moreover the usual responsibility in damages in the case of an rehearing or rehearings that result frivolous and/or vexatious or even if not, are lost, but delay proceedings,

[57] Relative Legitimacy : for everything in the mass universe be relative q.v.

should not in as direct proportion *in ever-increasing mode* to the number of rehearings made by appellant and lost and/or the time lost through appellant's actions

Shall Appeal Exclude Rehearing or Vice-Versa?

I shall say : No; it is not advisable to 'play' or 'experiment' in any way with the rights of appeal and/or re-hearing.

Both of them must be unprejudiced, largely and as in ever-increase, unrestricted

To Compensate for Appeals and Re-hearing

To compensate for time 'lost' for and/or during appeals and/or re-hearings it shall be imperative *that the appeals and/or re-hearings be heard with extreme urgency in the shortest times possible*

A system should be built within the Judiciary to attain the target just above-mentioned viz. to compensate for any time 'lost' for and/or during appeals and/or re-hearings.

This system – without prejudice to 'other' methodologies – should include 'inter alia'

1)-Increase in the number of judges; and
2)-Appointment of 'ad hoc' judges for these purposes of speeding up proceedings; and
3)-Increase 'Court staff" to help judges in this speeding up of proceedings including by these hearing any evidence, collecting evidence, making searches; and
4)-Additional sittings shall be held by these Court staff in addition to any other sitting/s the Judge may hold, and as the Judge may decide; and
5)-The said Court staff shall all be at least lawyers and/or notaries and/or Doctors of Law graduated from the University.

To harness in the Judiciary Not Just Lawyers but also Other 'Doctors of Laws' like to Notaries :

PHILOSOPHY OF LAW OF 8 – 10 – 2018 :

1

I worry where few or no laws are challenged

2

I worry more when the laws challenged are not more and more

3

I worry more and more when the laws challenged are not more and more as in ever-increase

4

Laws are there to be challenged

5

Laws must the expression of challenge be

6

If Reform be not continuous change, then what is it?

7

I worry where few or no laws are changed

8

I worry more when the laws changed are not more and more

9

I worry more and more when the laws changed are not more and more as in ever-increase

10

Laws are there to be changed

11

Laws must the expression of challenge be

12

Not just change, not just continuous change, but continuous change as in ever-increase.