

THE LOGICAL FUNCTION OF NORM-MAKING, OR WHY DO ANTI-CORRUPTION REFORMS FAIL?

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The regulation of social relations occurs through social regulators, which include morality, customs, traditions, and law. The genesis of each individual social regulator differs. Regarding law, its origins are theoretically conceptualized as a product of human activity in two aspects: generation (legal positivism) or discovery (natural law doctrine).

The generation or production of legal norms is a specific type of human activity, the process of which is explained differently by a variety of approaches. The axiological approach explains this process as the development of values through their manifestation in specific contexts in the form of norms. The historical approach explains this process through the principles of linear time and the linear development of phenomena, meaning that at some point a norm emerged, which then began to develop and branch out. The evolutionary approach defines law as an evolutionary strategy for survival, linking its emergence to the process of selecting the most relevant practices for maintaining the integrity of social homeostasis, particularly the practices of intersubjective organization.

Law in itself is evaluated as either effective or ineffective, and this evaluation occurs purely retrospectively. If the introduction of a certain law leads to a change in specific quantitative indicators in society or the qualitative state of society as a whole, scholars conclude that such a law works – meaning it is effective. Conversely, if it fails, the law is analyzed for existing flaws, which are then used to form a new prototype for a new law (the formational approach to norm-making).

However, there is a lack of research into exactly *how* this law was generated in the first place, even though the methodology directly determines the outcome. Moreover, there are currently no academic studies dedicated specifically to this issue. The entire methodology of legal norm generation has yet to move beyond the axiological method and Hume's Guillotine. Thus far, no one has provided an answer to the fundamental question of jurisprudence: *how ought things to be?*

We will attempt to answer this question by constructing an ontological system based on the philosophy of Ludwig Wittgenstein, as it most accurately describes the world through the prism of thinking in words – the very material from which law is constructed. Let us call this the Argument of the Norm-Making Function, the essence of which is formulated as follows:

1. The World is a set of facts, not of objects.

1.1. A fact f_i is a multidimensional tuple that records the spatio-temporal and relational coordinates of a state of affairs:

$$f_i = (t_i, x_i, p_i, \dots).$$

1.2. The World (W) is the universal finite set of all empirically and logically possible facts:

$$W = \sum_{i=1}^N f_i$$

1.3. The finiteness of the World ($N < \infty$) is a necessary condition for dynamics. An infinite set of facts would render transitivity (the transition of states) impossible, turning any state into an absolute identity.

2. The Actual (A , from Actual/Action) is the instantiated selection of facts from the World W .

2.1. The status of a fact is determined by the binary actuality function $\alpha(f_i)$, which takes the value of 1 for present (actual) facts and 0 for potential (non-actual) ones.

2.2. The Actual is the sum of facts weighted by the actuality criterion. This constitutes the foundation of ontology, that which is:

$$A = \sum_{i=1}^N \alpha(f_i) \cdot f_i$$

2.3. The Actual cannot be empty ($A \neq 0$), because under the condition of zero actuality for all facts, the space of reality mathematically collapses.

3. The difference between states of the Actual is defined as motion (actualization / realization).

3.1. Motion (ΔA) is the transition from the actual cross-section $A(t_1)$ до $A(t_2)$:

$$\Delta A = A(t_2) - A(t_1)$$

3.2. Time is not an independent substance; it is a scalar quantity derived from the sequence of ΔA , serving as a marker of actualization (realization).

3.3. The transition ΔA is strictly determined by the objective motion operator Φ , which embodies the immutable laws of nature.

3.4. Mathematically, the future Actual is a function of the current Actual and the motion operator:

$$A(t_2) = \Phi(A(t_1), t).$$

3.5. The projection of the current Actual through the operator Φ forms the Possible (P) – the set of all states that are objectively capable of being actualized (realized).

4. The Ought (O , вид Ought) is a teleological (purposeful) projection of the Actual.

4.1. The Ought does not exist *a priori*; it is constructed as an evaluative projection of the Actual through the desirability function Ψ .

4.2. The Ought defines the vector of necessary modification: specifying exactly which non-actual facts must acquire the value $\alpha = 1$.

4.3. Since any actualization (a fact acquiring actuality) requires motion, the Ought is derived from the Actual through the motion function.

4.4. An impossible Ought is unachievable. If a constructed Ought O_x lies outside the set of the Possible P (i.e., there is no such operator Φ , that could transition A into O_x), it constitutes an ontological fiction.

4.5. Only the Ought that is a subset of the Possible ($O \subseteq P$). can be actualized (realized). Any demand that contradicts the laws of nature Φ shatters against the impossibility of its own actualization.

5. The norm-making function (N) is the algorithm for linking the Ought with the laws of motion of the Actual.

5.1. Law is the form and method of the Ought.

5.2. Norm-making is mathematically defined as the construction of a route (law) τ from the Actual A to the Ought O , utilizing the potential of the objective laws of nature Φ :

$$N(A, O) = \tau_\Phi$$

5.3. A genuine legal law acts not merely as a declaration of the Ought, but as a bridge function. It utilizes the laws of nature (the operator Φ) as the driving force to transition A into the O .

5.4. Norm-making is true if and only if its function (N) relies on the real variables of the Actual.

5.5. Norm-making that is uncoordinated with the laws of nature ignores the operator Φ . It projects an Ought for the achievement of which there are no potentials for motion within the Actual.

5.6. A law that demands an unachievable Ought degenerates into a zero vector ($\Delta A = 0$). It retains the form of a normative act but loses the ontological capacity to generate legal reality, meaning it has zero effectiveness.

Conclusion. Based on the presented logico-ontological model, we can formulate a fundamental postulate of norm-making efficacy: if a proposed legal norm contradicts or fails to account for the objective laws of nature (ignoring the operator of motion Φ), its practical realization is ontologically impossible. Consequently, the inverse principle also holds true: if an existing norm has retrospectively failed to achieve the result anticipated by the lawmaker, this indicates not merely «weak enforcement» or a «lack of

political will» as is conventionally argued, but a fundamental error in the very design of the law. Such a norm inherently projected an Ought that contradicted or ignored the laws of nature.

These conclusions allow us to execute a radical paradigm shift in the focus of legal research. They compel us to reformulate the classical, yet methodologically sterile question, «Why do anti-corruption reforms fail?» into a rigorous scientific inquiry: «Do the core mechanisms of anti-corruption laws incorporate the objective principles of the natural sciences, including evolutionary psychology and the biological realities of human behavior?»

Answering this question shifts the analytical focus from axiological moralizing to empirical analysis. It will not only explain the systemic failures of past regulatory frameworks but will also define the only viable, scientifically grounded vector for future anti-corruption norm-making – one that accounts for the evolutionary transitions of human nature and is genuinely capable of actualization within the Actual.