

**The Emotivism of Law.  
Systematic Irrationality, Imagined Orders,  
and the Spirit of Decision Making**

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*Abstract:*

The process of decision making is predictable and irrational according to Daniel Ariely and other economic behaviorists, historians, and philosophers such as Daniel Kahneman or Yuval Noah Harari. Decisions made anteriorly can be, but don't have to be, present in the actions of a person. Stories and shared belief in myths, especially those that arise from a system of human norms and values and are based on a belief in a “supernatural” order (religion) are important. Because of this, mass cooperation amongst strangers is possible.

*Keywords:* systematic irrationality, imagined orders, myths, behavioral economics, philosophy.

## **1. Introduction**

The ethical system called emotivism takes morality as a subjective expression of the feelings and experience of an individual or set of individuals. Both morality as well as rights are about norms in a society or collective, and the state differs inasmuch as it is an armed form of respecting accepted values, identified and defined by actions and mass cooperation. Furthermore, axio-normative aspects overlap here, since the rulership can also act and create immoral law, and simultaneously, *through the passage of time*, it is not ruled out that an act judged as immoral by a community can requalify as being moral (as well as the reverse). It is not necessary for moral action to be captured by the legal apparatus, and in turn, for existing behaviors to not be considered in moral categories, but rather formal ones, which are legally sanctioned.

I accept Thomas Hobbes' claim that Leviathan, as a sovereign, is a power with a monopoly on the use of violence (punishment) in a specific community. As a development of this supposition, I suggest taking into consideration that the means of supervision and punishment are not the only ways to influence human decisions and actions. I do not have in mind the incentive potential of the reward, but the beliefs of people who are parties to the social contract expressed in the form of law. Mass cooperation between strangers is also motivated by extra-legal aspects. Therefore, one should look at the psychological and sociological aspects of the decision-making process, in which

intersubjectively communicative belief seems to be particularly important in a specific imagined order regarding the supernatural order of the world or metaphysics.

In the following deliberation I argue for the recognition of rationales and the value of subjective feelings and experiences of an individual for a reflection on rights in light of the ancient Greek philosopher and rationalist, Plato. From this I continue towards a theory of constructing emotion published by Lisa Feldman Barrett in 2017, while accenting the so-called “emotion paradox.” Next, I expand on the thesis on the predictable irrationality of humans, which was created by the behavioral economist Dan Ariely and on the psychological take of mental heuristics by Daniel Kahneman. In the following fragment, I present the definition of an imagined order according to Yuval Noah Harari. Finally, in summary, I discuss the covered issues with the aim to approximate the spirit of decision making.

## 2. Platonism and the Theory of Constructed Emotion

The justification of reasons or the value of subjective feelings and experiences of an individual towards the law in view of Plato seems to be incoherent with the great privilege of rationality in his philosophy. Especially rationality taken as keeping *distance* away from the body and pleasures, which borders on ascetics. However, this is somewhat shallow, since passion and mania play an important role in his philosophy, especially in managing objects of love, which provide pleasure. The subjective feeling and experiences of an individual should be united with the intellectual-spiritual principal of harmony, which leads towards the most real world of the pure idea of Beauty, Good, and Truth (*transcendentale*) [23, p. 327].

His metaphysical tripartite theory of the soul points towards a certain internal war amidst the parts of the soul exercising valor: the logical, the spirited, and the appetitive, as wells as towards the balancing of dichotomic aspects of the metaphysics of the embodied mind through methods such as physical exercise (the body) and practicing music (the mind as the soul), which are equally consequential, since they function analogously to the tautening and relaxation of a guitar string, which represents the soul. It is reason then, which controls with the help of the spirited, the appetites, in order to maintain just balance generating the valor of a person. Decisions made while only taking into consideration bodily pleasures, compose the character of a person, within whom the rational part of the soul is either too loose (unthinking) or too tight (dogmatic) or not in control, would not be praised, because the highest *rational* value is The-Good – The-True – The-Beautiful, and not hedonistic values. Plato’s program of exercising the parts of the soul (*paideia*) is μουσική (*mousike*), within which he made the distinction between writing stories μουσική δημοδῆ (*mousike demodi*) and philosophy or metaphysics μεγίστη μουσική (*megisti mousike*) [23, p. 372]. The task was to teach the embodied soul how to discover balance after being shocked by ontological change (that is birth, understood as the crossing over from pure spiritual existence to entanglement with a body) and love the *transcendentale* already known *before* birth, just as music reveals harmony by tightening and loosening the string of an instrument.

Nevertheless, rejection of legitimate pleasures is an irrational behavior. The task of reason is not to deny emotion or desire, but to listen to emotions and the ability to reconcile them with reason. However, Plato wrote that the worst is human stupidity, and the ultimate stupidity is the lack of conformity in the individual as to pleasure and distress (emotions) towards rational beliefs. If cravings present reasons for taking any pleasant action and reason rejects them, not integrating them, or attempting to harmonize all elements in the soul, according to Plato, such a person suffers from the disease of nonsense.” [33, 688c-691d]. In other words, stupidity hurts. And the sensation of pain or pleasure, including intellectual satisfaction, is closely related to affect.

Expressions of feelings and experiences of the individual in terms of the ancient philosopher should be reconciled with the rights of πολιτεία (*politeia*, i.e. the State). Then ideas (concepts) and social reality are important, including metaphysics, fairy tales and novels. Once the laws and subjectively experienced emotions are agreed, the state can safely function. The metaphysical order (music of the spheres) provides protection against chaos and non-existence.

## 2.1. The Theory of Constructed Emotion

Emotions are susceptible to social and political control. It is worth pointing out the theory of constructed emotion by Lisa Feldman Barrett, who published her proposal to solve the so-called emotion paradox:

1. People intensely feel and experience emotions every day. We perceive the emotions of others and we ourselves talk about various emotions that we experience, such as joy, sadness, anger, surprise, falling in love, jealousy, etc. We perceive them as separate and discreet (strictly identifiable).
2. There is a lack of psychophysical and neurocognitive evidence for the existence of discrete states described in (1). Psychophysical and neurocognitive evidence points to the existence of affect in the brain and body; emotions are constructed by a pandemonium of brain circuits that cooperate simultaneously (internal conflict) [6], [7], [8].

Barrett's theory claims that emotions emerge in the present-moment of consciousness from more basic components, hence they are not created by innate and dedicated circuits in the brain. In the author's words: "In every waking moment, your brain uses past experience, organized as concepts, to guide your actions and give your sensations meaning. When the concepts involved are emotion concepts, your brain constructs instances of emotion" [7, p. 27]. Emotion is determined by a holistic process of cooperation between many brain circuits. The construction of emotion is conditioned also by interoception, concepts and social reality. An inner view of the human consciousness occurs at the end of such a process and is considerably limited. At any given time, the brain categorizes and predicts the present moment with the help of interoceptive feelings and cultural concepts of emotions. The argument for constructing emotions is based on the fact that affective impressions are more primitive to emotional labeling: categorization, experience and verbal description of any particular culturally constructed emotion. Despite the popularity of recognizing emotions as separate from each other, the affect generated by interoception is, however, gradual and out of focus, as with seeing colors. In the following, all references to emotivity by me is understood as Barrett does.

## 2.2. Platonism

Already from antiquity, philosophers such as Plato believed that law is a matter of social order and harmony, that is, the domain of reason, not pleasure, which is the domain of the body. Plato, however, does not reject the circumstance of the embodiment of the soul and indicates in the book of *The Laws* the possibility of conditioning a person, especially children, for normative recognition of law through the educational aspect of culture (*mousike*) in which a just person develops. The affective aspect is the key here. We read his recommendations for poet-musicians:

So in order that the soul of the child may not become **habituated to having pains and pleasures in contradiction to the law** and those who obey the law, but in conformity thereto, being pleased and pained at the same things as the old man, for this reason we have what we call "chants," which evidently are in reality incantations seriously designed to produce in souls that conformity and harmony of which we speak. But inasmuch as the souls of the young are unable to endure serious study, we term these "plays" and "chants," and use them as such, – just as, when people suffer from bodily ailments and infirmities, those whose office it is try to administer to them nutriment that is wholesome in meats and drinks that are pleasant, but unwholesome nutriment in the opposite, so that they may **form the right habit of approving the one kind and detesting the other**. Similarly in dealing with the poet, the good legislator will use noble and laudable phrases to persuade him –and, failing persuasion, he will compel

him—to portray by his rhythms the gestures, and by his harmonies the tunes, of men who are temperate, courageous, and good in all respects, and thereby to compose poems aright [27, 659d-660e].

What's more, when Plato speaks of magic in the form of "incantations" [39, p. 47] it is about singing, which is necessarily introduced into the State, because it is a tool to control people's attitudes and affective identification (pleasure) in harmony (conformity) with social reality, i.e. towards valor, and not bodily pleasure entangled in the dynamics of the coexistence of pleasure and distress. In addition, Plato recommends vigilance in the face of small, almost imperceptible changes in culture conditioning the emotive dynamics of human interaction with rights [33, 424d-e].

Despite rigorous censorship and control, the influence of propaganda may gain a certain, though limited, range, which is why one should pay close attention to forces normalizing certain ways of expressing, acting and making decisions, using rhetoric and appealing to emotions. If the perfect republic imagined by Plato would not adhere to this rule, the laws of that state should be regarded as symptomatic indications of a degenerated regime. The state legislator would attempt to combat changes in social reality and people's perception of concepts such as justice. Such a threat brings with them changes in emotional attitudes concerning the way of life and professed myths, different from the state narrative. It threatens with disorder and chaos. Then such a state would live like someone, who is in illness and follows their illness: "they will pass their lives multiplying such petty laws and amending them in the expectation of attaining what is best. [...] The life of such citizens will resemble that of men who are sick, yet from intemperance are unwilling to abandon their unwholesome regimen" [33, 425e-426a].

It is worth recalling that Plato did not approve of medical intervention and believed that a disease should develop and end by itself. He allowed for an adaptive selection that eliminates the weakest. The applied methods, which would be a kind of remedy for the disease, were treated as something disturbing the natural processes of life, including illness, as an external agent, which is called a *pharmakon*. Similar views are shared by people who believe in the righteousness of modern views about what is natural, such as anti-vaccine movements, GMO-free, and ineffective drug wars. On the other hand, the law cannot limit itself only to what enables categorizing and bureaucracy, i.e. writing [13, p. 43].

The exception is the *pharmakon* [30, 244a, 245a], [36, p. 212] of philosophers, noble lies in which cultural soil is prepared, developing the imagination of citizens about important concepts such as justice and commonly confessed myths that create social reality. This prevents 'following a disease' or the need to craft legislation that prohibits or prescribes ways to proceed. In this case, only newer laws would be passed, ineffective in modifying the decision-making process of people, changing only the ontological legal status of persons making decisions within illegal practices. Thus, instead of, for example, radically prohibiting abortion, a better legal solution (protecting law and order) is the transformation of cultural and conceptual reality.

Emotivism here refers to moral commands as an expression and extension of human affect and feeling, co-created by social reality and accepted concepts. These concepts are external to innate feelings and as information beings are susceptible to mimetic replication. Meme, understood both in Plato, as representation or imitation, and in the sense of Richard Dawkins and Susan Blackmore, as the basic cultural and technological units. Integrity is a significant phenomenon of the human psyche, but at the same time the psyche is not reducible to righteousness. Thus, decisions previously made by a person may be consistent with activities at a later time provided that the emotional reasons determined by the subjective states of the individual, social and conceptual reality are reconciled with rational considerations, taking into account arguments justifying the opposite. This is evidenced by the fact that people's behavior in some contexts, such as economics, is predictably irrational in the sense that we do not always act because of the ego's interest, despite rationality.

### 3. Systematic Irrationality and Mental Heuristics

Some methods and strategies developed in the field of behavioral economics have created problems with replication or did not result in success when used in uncontrolled conditions, e.g. in medicine, where attempts to encourage patients by doctors with specific impulses to follow the recommendations ended in failure [10]. Perhaps this is related to the inappropriate choice of methodology of science, especially in areas such as social psychology, as indicated by the work of economic behaviorists, including Daniel Kahneman, who responded to the replication crisis in 2014 [20], referring to the less strict methodological standards applied to researchers conducting replication. He also criticizes the lack of contact between the replicators and the authors of the original research. In addition, he points out that elements considered insignificant (such as font and word selection) have a significant impact on the behavior of people, including scientists themselves. Influences of non-substantive aspects of work in a highly rational environment are important, especially with the assumption that pure rationality of science is a myth. With this caveat, I will discuss the concept of systemic irrationalism and then the selected heuristics described by Kahneman.

Science is a highly rationalized system of cooperation between people. Despite this, human inclinations to make mistakes affect the prevailing paradigms. What's more, you can systematize these cognitive errors that we are subject to regardless of our knowledge of these mechanisms, as for example in optical or cognitive illusions. This is mainly because a significant part of the mind is not available to the self-conscious entity, and the unconscious part has much more control. In the words of neurophysicist David Eagleman: "who we are is largely independent of our choice" but ours "(...) the most basic drives are embedded in the circuits of our neurons and thus inaccessible" [16, p. 265]. The embodied mind itself appears emergent in the brain, which is composed of clusters of intersecting small subsystems with overlapping ranges of responsibility and actions [16, p. 165]. It is worth to question the hyper-rationality of a human being.

A person can be considered a being that makes decisions within Ariely's systemic irrationality. We deal with systematic irrationality if and only if there is a particular arrangement of elements with a specific structure that creates significance with extra-rational means. Unreasonable, unjustified, and often stupid behaviors and human decisions are predictable and regular, because it is a systematic or systemic form of irrationality. What's more, rationality is something that arises from irrational components, so rationality as such can be a phenomenon derived from systemic irrationality. Systemicity excludes senselessness and randomness, and systemically organized irrationality is subjected to a formal analysis in the form of scientific research, which may increase the possibilities of predicting and designing effective law in the Platonic spirit, taking into account that these rights can be included in the extramural system. Irrationality also means that transgression is just as possible as transcendence. Behavior motivated by the search for painful pleasure would be a behavioral and systemic problem. It is then problematic to co-create agency and law as a source of pleasure.

It should be noted that it is not only about the human being in the system, but about anything that can be designated by negating pure rationality. The unit is only part of the system, so it is not fully autonomous and there is no question of being distinctive in the nature of essential agency resulting from the spirit of a human. In addition, systemically irrational judgments are highly relative and entangled in cognitive biases. The feminist new materialism can be promising, to which I will return at the end of the article.

An important part of the brain's work involves retrospective narrative creation. Eagleman claims that "we learn, at least in part, about our own views and feelings by observing our behaviors" [16, p. 175]. When we justify these behaviors, the mind makes up the answer. Often, heuristics replace one (difficult) question with other (easy) questions, as Kahneman points out [21, p. 35].

An automatic system of brain components combined with conscious action does not necessarily aim at rational goals. In 1933, psychoanalyst Victor Tausk examined patients suffering

from schizophrenia and what was termed the name “influential machine” [38]. His patients complained that some mysterious device remotely controlled their thoughts, decisions and actions. Similar beliefs are observed today in people who believe in conspiracies, UFOs, certain plane crashes as caused by secret services or other organizations, e.g. Illuminati, Masons, etc. Tausk’s conclusion was that psychosis is not mumble and random statements, but often an ingeniously and artistically constructed bricolage of collective beliefs, preoccupations or aspirations. This is exactly what characterizes content available on the Internet and disseminated by new media. These contents, like the so-called Pizzagate scandal, are fictitious stories that have had real influence on the decisions of some voters. One person even dared to attack a pizzeria with weapons in hand to save children tormented by Hillary Clinton. Another example is Russian interference in electoral, legal and social campaigns with the help of new media and propaganda. It should be noted that these beliefs were based on loose associations and suspicions, not supported by credible evidence.

Once, the attitude towards people with mental disorders consisted either of glorification (craze is the gift of the gods) or condemnation (these demons possessed a human!). Cultural trance and ecstasy were often ritualized ways of reintegrating an individual with their community, environment or harmonizing internal conflict states. Today, not only the mentally ill are marginalized. There are also information bubbles (echo chambers), supporting crooked worlds and insulating them. Anyone who is not involved in the creation of meaning in a given way (often à la bricolage) becomes suspect and exposed to exclusion. Then, for example, in the comments on social networks appear judgements made by systemically irrational heuristics, generated independently of verifiable sources. This demonstrates in my opinion the urgency of understanding the mechanisms and functioning of systemic irrationality of a person immersed in a specific environment under whose influence they remain, but also who modifies it in a mutable way.

One of the mechanisms of systemic irrationality perceived in human decisions and actions is the use of heuristics. This is not new at all [35] Plato already wanted to recognize and understand aspects of the irrationality of the human mind. Ancient philosophy, including Plato's dialogues, investigate many issues related to the problems of modern science, including economic behaviorism. In his dialogues, Plato recognizes various disabilities of the mind and proposes ways to overcome them. Plato's dialogues include what contemporary economic behaviorism calls the confirmation effect as well as phenomena such as heuristics of accessibility, framing, fear of loss, heuristics of representativeness and anchoring

In addition to ancient philosophy, contemporary inquiries can explain certain aspects of human decision-making in a world full of stories, myths and constant changes. One of Victor Tausk’s arguments regarding the “influential machine” refers to confusion between the external (objective) and internal (subjective) world, which concerns the fabrication of the external cause of one's subjective and private thoughts, dreams and delusions. The modern world of the Internet, smartphones, expanded reality, virtual reality, televisions, radio and ubiquitous interactive computers blurs the boundaries between the external and internal world, between perception and reality. Reality is imagined as a gradual, non-sharp, non-binary, dynamic tool and technology that co-creates both the external world and our own imaginations.

#### **4. Stories, Myths, and Imagined Orders**

Yuval Noah Harari is conducting his research trying to answer the question: “How could people conquer the world and dominate the planet?” If one accepts that homo sapiens used to be a small animal along with other animals in terms of domination, Harari’s task is to explain what led us to our current situation on Earth. He makes a simple periodization of human history, in which he designates three parts or three basic revolutions [17]. The first is a cognitive revolution (70-30 thousand years ago), the second is an agrarian revolution (about 10,000 years ago), and the third is a scientific revolution (about 500 years ago). From 2 million to 10 thousand years ago, the world was inhabited by several species of humans simultaneously. The cognitive revolution took place between 70,000 and 30,000 years ago. At that time, people had the same cognitive abilities: they

thought and used the language the way we did. But the language itself is not a sufficient criterion, which can clearly distinguish a person from the background of nature. Each animal uses a code or communication method to describe the physical world. What can make a human stand out here is the way it is used.

One of the theories presented by Harari is that people's language has developed during gossiping. This means that the most important messages contained information about who you can trust. But Harari goes even a step further and claims that the most important feature of human language is the fictional function.

Mythology cannot exist without language. That is why it is worth realizing linguistic factors that may affect individuals' attitudes and beliefs. Especially when it concerns the ways of conceptualizing the law and modifying or maintaining the perceived social reality, as well as making decisions. It is worth exploring the issue of the relationship between cognitive revolution and language. We do not know what triggered the cognitive revolution which contributed, among other things, to the extinction of Neanderthals, the settling of the world by *homo sapiens*, creation of objects resembling works of art or jewelry, and the creation of social stratification (the emergence of trade, legends, myths, gods and religions). The most popular theory is that the reason for changes in the way of wiring the brain are accidental genetic mutations. Each animal has some kind of language, but what distinguishes *homo sapiens*? The theory of language flexibility states that the use of a limited number of sounds to build an infinite number of sentences of separate meaning. The theory of the rumor is that the method of sharing valuable social information. Here the language has a descriptive function that evolved to track the changing relationships between individuals. Harari draws attention to the fiction-generating trait, namely: "(...) the ability to communicate information about things that do not exist at all. According to the current state of knowledge, only representatives of *homo sapiens* can talk about hypothetical and counterfactual possibilities and tell stories that have been made up." [17].

The fiction function has several consequences. Namely: it allows (i) to present non-existent things, (ii) do it collectively and (iii) flexible cooperation with a large number of strangers. Rumors bond groups, exceeding their natural number, i.e. a maximum of about 150 units. It seems that this may correspond to certain features of myths. Myths develop the ability to cooperate in large numbers of communities, enable the modification of social structures immediately and establish cooperation between unknown units. They are the basis of a collective imagination created by stories in which people believe. Religious, national, economic and legal myths are created by stories invented by people. Values exist in the collective imagination of people and we can say that because we behave as if they did (for example the existence of limited liability companies).

Facts can be created by common myths, which is part of the concept that is fashionable lately, namely: post-truth. Post-truth is not a lie. An imagined reality is something that is believed in together and has a real impact on the world as long as the individual collective faith persists. It has been noticed that there are no evolutionary foundations for establishing cooperation between a huge, massive number of strangers, only the evolution of technology (e.g. the invention of writing) can be responsible for it, and the order of imagination can complement this lack. It is also worth remembering that some changes are not necessarily controlled by a lot of people, but by narrow groups. Harari claims that "the leading French lawyers were at the head of the French Revolution, not the hungry peasants." The imaginative orders that contain the common myths organize the imaginary reality, which makes it possible to make decisions and initiate activities without having to get intimately acquainted with others to organize a social hierarchy, which saves a lot of time and energy. The word cooperation usually has a positive association, but Harari emphasizes that cooperation based on the imaginary order has a character of a tool. Just like a hammer, which can be used for building, it also has destructive potential, in my opinion the imaginative orders are the proper object of the philosophy of technology, as social programs regulating people's behavior through systems such as faith in people's sovereignty, or marriage and the way of identifying and expressing emotive aspects. These are elements subordinated to the spheres of artificial instincts and their collection is called culture. Historically speaking, cooperation is a form of directing a

large network of people to oppression and exploitation, the history of humanity is saturated with injustice, and the basis for initiating actions based on social norms creates the confession of the same myths often combined into religious or quasi-religious systems.

Harari defines religion as a system of human norms and values, which is based on faith in supernatural order, which is not a product of human whims and agreements. On the basis of this supernatural order, religion establishes norms and values which it considers to be valid. It must be universal and missionary. Humanistic religions include liberalism, communism and fascism.

Let us compare Hammurabi's Code (1) with The Declaration of Independence of the United States of America (2):

1. "Behold The **righteous** laws, which Hammurabi, the wise king, established and (by which) he gave the land **stable** support and pure government. Hammurabi, the perfect king, am I. [...] The **great gods proclaimed me** and I am the guardian governor, **whose scepter is righteous** and whose beneficent protection is spread over my city. [...] that the strong might not oppose the weak, and that they should give **justice** to the orphan and the widow [...]" [22].

2. "We hold these truths to be self-evident, that all men are **created equal**, that they are **endowed by their Creator** with certain **unalienable Rights**, that among these are Life, Liberty and the pursuit of **Happiness**" [17, p. 138].

Both orders are rooted in and established by faith in supernatural universal and eternal principles (gods). If we were to modify the Declaration of Independence so that it would be compatible with modern science, it should read as follows:

3. We consider the following truths as obvious: that all people have **evolved in a different way**, that they are born with **specific variable qualities**, that these features include **life and autonomy in the pursuit of pleasure** [17, p. 139].

As I mentioned earlier, when a law cites such values as freedom, it should be realized that these are artifacts of the fiction-forming language. From the biological point of view, it is nonsense to talk about freedom, equality, rights, limited liability companies, and the claims about the freedom of people living in a democratic society and the powerlessness of people living in a totalitarian system are illogical. Happiness is, in turn, an emotion constructed partly by biological affect, consciousness, and partly internalized information about reality. The legal wording stems from the imaginative orders of people who, in the mechanism of the vicious circle, internalize the announced values as binding universally and universal principles of reality.

"Culture usually claims that it only prohibits what is unnatural. However, from a biological point of view, nothing is unnatural." [17, p. 184]. With Harari, I stress that there is no point in talking about violations of natural rights, because if it was possible, it would not be a natural law! Everything that is possible is, by definition, natural. No one can voluntarily travel faster than the speed of light or naturally fall up, violating the law of gravity. When there is a reference to the law of nature or its violation in the legal discourse, it is necessary to take such claims in brackets and consider what imaginary order they are based on. Mosquitoes, ticks, stones, volcanoes, oceans, trees in the Białowieża Forest, bacteria, fungi, etc. have no natural rights. This distinction comes from theology or shared myths and stories. Myths and fictions cause that from birth a person learns a given way of thinking, behaving in accordance with cultural patterns, desires of a particular thing and observing certain rules. "Every culture has its own beliefs, norms and values, but these are subject to constant change" [17, p. 202]. Attempting to reconcile internal contradictions in imagined orders drives the change. Since the French Revolution, equality and individual freedom have gradually been considered as fundamental values. Both values contradict each other, although according to Harari, "consistency and conformity is the domain of low volatile minds" [17, p. 204], because it recognizes conflict, cognitive dissonance and contradictory beliefs are responsible for creating thoughts, reappraisals, and critical eyes.

In addition, the laws of nature are stable and we believe that they are rather unchangeable. The imagined order, on the other hand, is constantly threatened by collapse, because myths disappear when people stop believing in them. Another example of an imaginary order used by Harari is the army. You cannot use force to maintain military order, so what keeps it together?

Harari claims that the order of imagination in which both the elite and the security forces believe, embracing values such as a supernatural eternal being (god), or other ways of identifying and organizing cooperation (honor) and engaging strangers who can be trusted (country).

Imagined Orders are characterized by the following traits [17, pp. 142-151]:

1. One cannot admit that the order on which society is based is a biased reality created by stories (about gods or laws of nature). Whereas the imagined order is rooted in material reality (what the natural sciences study).
2. Educate people about: fairy tales, dramas, paintings, labels, political propaganda, architecture, recipes, and fashion (the environment). Order is rooted in the material world (self-reflexive axionormative space). It shapes our desires. (even those we consider selfish).
3. The order is intersubjective. In order to change it, it is necessary to change the awareness of millions of people wholesale and there must be an alternative order in which to believe. Myths are the assimilation of an identical set of ideas on a topic.

## 5. The “Spirit” of Decision Making

Subjective impressions, feelings and experiences of a particular individual provide reasons for maintaining or disproving a given law, depending on the emotions experienced, such as pleasure or distress. This idea is not new at all, because Plato wrote a lot about this issue, including in the works of *The Republic* and *The Laws*. Barrett's contemporary theory allows us to develop ancient ideas. According to her, emotions are learned in so far as the way language is used is conditioned by the cultural environment. The way in which a given law is captured may be either in line with or in contradiction with cultural ideas about justice. Not only laws are modifiable, which is quite obvious, but also the beliefs of the individual, what propaganda, public relations or branding of particular parties, politicians, ideologies, etc. are trying to influence. A grassroots approach that can be considered as neoplatonic, takes into account the emotions of voters and participants of politics and political agendas in order to integrate individuals with a wider collective or community, as exemplified by the amazing election campaign of US senator in 2016, Bernie “Birdie” Sanders, who financed his campaign almost completely from the bottom up. Similar effects can be obtained by using social media. With their help, the current President of the United States, Donald Trump, influenced the emotional incentives of voters more than their rational motivations, involving, among others, neo-reactionary currents and the alt right (new fascism). One could say that his campaign was completely illogical in the sense that it was full of contradictions and yet it won him the election. Rhetoric and political arguments are strategies based mainly on the shortcomings of the human mind and the multitude of cognitive errors or heuristics. A good strategy built on these processes is the use of anecdotes that can be completely fictitious; Rumors are the fuel of politics, and myths are a construction plan of the political system of a given community.

It is not about rationality, but about rationalization. Feelings reign and reason is their servant. Plato suggests that the reverse situation is possible thanks to upbringing and education. Writing master's theses and philosophical dissertations as a rational undertaking should be pleasant, but if it is not, there is something wrong with our reason. Equally pleasurable should be compliance with the law (which comes from the norms of the community), and breaking the rules should be painful. The only person in history who, in my opinion, managed to achieve such a thing was Immanuel Kant. At the same time, I do not rule out that others do not exist with such a disposition, but I find it difficult to perceive it in the reality of publish or perish, where decisions are often external to the individual's will, which results in such significant consequences that the academic world is dealing with an epidemic of mental illness among PhD students. It seems to me that it is not such a *paideia* has been asked for, if it is to be Good for the State. Summoning Plato, it is ultimate foolishness, especially when wisdom is not love, but only a task. I remind you that at the head of the ideal state of Plato are the lovers of wisdom, philosophers. Politics should be pleasant. Perhaps it is not, but it is certainly full of emotions and madmen, which may be close enough to

generate various ideas and alternative proposals that are incoherent but necessary to change (instead of eternal law, which would be in my opinion unsuitable for changing cultural norms).

Society determines which emotions are acceptable at a specific place and time and how they can be expressed. Failure to comply with such expectations causes consequences in the form of punishment. The fact that the decision-making process is related to emotions does not mean lack of control. This problem is evident in the field of the science of cultural bricolage, creating artificial instincts, consisting of narratives about sex identity or gender. Legal decisions are conditioned by such aspects. Women are judged unfavorably if they are perceived as aggressive or in anger in situations that are justified in my opinion, such as loss of work, loss of respect, remuneration, etc. In turn similarly expressed men's emotion is usually perceived culturally as legitimate, adequate to the situation [7, pp. 218-252]. Such a husband in court judgments enjoys a reduced fare, because he behaves like a stereotypical man. The problem is that these stereotypes are social constructions, modern myths or fairy tales, but fortunately, such narratives can be changed by poets-musicians. Of course, there are no biological foundations for beliefs about the natural aggression of men or the modesty of women. Men are not natural stoics nor rationalists, and women are not inherently weak nor empathic. There is diversity among the entire population.

Another example of a linguistic procedure involving emotionality in seemingly neutral laws is the formulation of provisions regarding abortion in order to arouse feelings of guilt, regret, and remorse instead of relief and happiness. The law codifies emotional stereotypes, and emotional damage can be greater than physical damage. The problem with happiness (pleasures) lies in the fact that the creatures educated on the way of blind evolution – people – assign to their lives a meaning which perhaps is only an illusion, but they conform their illusions with the meanings attributed to the prevailing collective illusions. In the words of Harari: “As long as my personal story is in harmony with the stories of people around me, I will be convinced that my life has meaning and in this conviction I will find happiness.” [17, p. 475]. This idea was poetically expressed by W. H. Auden:

We are lived by powers we pretend to understand:  
They arrange our loves; it is they who direct at the end,  
The enemy bullet, the sickness, or even our hand [2, p. 249-250].

Individual decisions are not importable to it, the environment is a constitutive component of our agency and activity in the world. It is still puzzling for me to be “lived” by a force, which I understand as external forces that determine our agency. Usually, we think that the human mind is a type of ghost or some immaterial, intelligent being. This reason is invisible, but present as ghostly or only its trace. Of course, it's not about characters from fairytales or horror movies, but about memes and tremes, or replicators that have the ability to manipulate our thoughts in a way that is beneficial to these entities. These are stereotypes that tell us that a stranger is a legal threat to another spirit, a nation. It is a terrible battle of specters, and traces imprint on material reality on individual units. We are furious with fear, which can be either a punishment for stupidity or a tool for reintegrating a human being and for being compatible with each other.

Important aspects of pressure, resistance and other social movements are covered by the new feminist materialism. The intra-active concept of Karen Barad is at the forefront here. The premise of the concept is that matter is material and discursive, culture and mental habits reveal certain things and cover others, and agency is a changing phenomenon. Matter and meanings are entangled with each other and both are active. Discursive practices are not external to material phenomena [3, p. 152]. The dead matter (e.g. writing) dynamically co-exists and co-shapes meanings, and the meaning reverts to the matter which is animated and transformative, material-semiotic complexity fund single events. One should look at the processes of emergence of law and decision-making and the method of using matter (writing, technology, etc.), material-semiotic, ontology of law and the manner in which it is experienced (composed of matter, meaning or materiality and contexts). Then new materialism draws attention to the lawfulness of law as a processual, material and semiotic

development. This is the way we deal with phenomena such as the perceived level of national security, significantly changing who is perceived as a threat and who is not, how we solve the problem of trust, how the media of imaginary order spreads, what elements will be parts of a system that will be available in heuristic thinking mechanisms, what emotions will be important to us, etc.

These phenomena are like shadows in the myth of Plato's cave. Imagined reality is co-created by fictional language among animals that love gossiping. Culture (social reality), Concepts (Ideas) and subjective emotions (of the divisible individual – a human) are components of interaction (not in the relation of externality to each other, but co-constitutive), creating new, temporal social-emotional hierarchies in which we create discourses, materials and positions. We do not create anything ex nihilo, we rather try to rethink something based on various culturally available tools, such as relying on our own education to change the reality with our behavior. It is the mechanism of the vicious circle, which strengthens the beliefs that something should or should not be done, as in the difficulties associated with climate change.

Changes in the material social environment, i.e. new media and technologies, significantly transform laws and decision-making processes. More and more technologies appear to possess rational properties: they can learn, they are intelligent. Rationality reserved for a person is transferred to the domain of artificial intelligence, including legal services, e.g. [14] a lawyer robot providing free legal advice, specializing in the fight against fines. Intelligence is the ability to understand, learn and use your knowledge and skills in new situations. Such material-semiotic abilities are present among machines. Devices are able to assign a certain meaning to something by manipulating signs, designata, etc. They are already done by computers, but without a mysterious consciousness. The ability to know and appreciate oneself and the environment that is characteristic of a human is still the domain of matter.

New problems and religions include the emerging currents in Silicon Valley, transhumanism, projects connecting brains with each other, like Brainet or the inter-brain network, creating a collective mind. Anxieties troubling people, like the fear of death, motivate them to make such decisions as to make them the problems of engineering and technology, the material-scientific domain. Eternal life is now promised by such undertakings as cryonics in the Gilgamesh Project (2014) or SENS studies, which are forms of posthumanist ideology fantasizing about superhumans, it is the search for immortality and the path of *homo sapiens* into Homo Deus.

It is possible to apply such concepts as an imagined order, systematic irrationality, interaction, as well as old philosophical investigations to the analysis of decision-making mechanisms in various contexts of individual and social life. Not necessarily all human activities are preceded by making a conscious, purely rational decision, because the change of the system and the mechanism associated with heuristic thinking can trigger a change of decision. If it were different, we would not have to deal with phenomena such as seduction, advertising or marketing.

We share religious beliefs that are the foundations of lawmaking, but these are not religions understood exclusively as the largest official denominations, but also all ways of defining norms and values, such as faith in human rights, nation, money, communism, capitalism, liberalism, fascism, etc. These are also forms of faith taken in modern quasi-religions (e.g. posthumanism, dataism).

## 6. Conclusion

As part of the conclusion, I propose the following possible ways to continue the threads taken. First of all, it is worth exploring ancient philosophy in order to seek information on the problematic aspects of humanity. From the perspective of evolution, the people of antiquity are people who lived only yesterday. Human nature has not changed since then. You need at least a couple of thousand years. From the anthropological perspective, the challenges related to the law and emotions are just as valid for past cultures as for us today. Emotions are important elements of the way in which a person understands their surroundings and their own bodily and mental states. Law is not a field created by cool calculations. This is the sphere of human stupidity! Therefore, be

careful of manipulations, such as managing fear. Plato says that a person gets mad with fear. The way to solve this problem is to be brought up by the muses, especially through trance. It's about the reintegration of a person and their community. Today, instead of divine rage and ritual trance, we can reach for the recognition and acknowledgement of emotions as important components of social realities and political rights, to maximally integrate all members of society within the community, while limiting exclusion, including the intra-active technological-material sphere, as well as the one of semantic-significance.

Then, our decisions are exposed to cognitive biases and better explained by systemic irrationality. We are not angels or demons. Everyone has the potential to be the next serial killer or terrorist if systemicity puts emotive elements in such a way that this irrationality will be heuristically accessible. In this sense, it is worth analyzing the mental order in the legal environment and understand what inconsistencies may be. It is worth to design new imaginative orders (along with appropriate dissemination), which in themselves will be binding as rights under normalization and cultural expectations as to the other members of the community. A motivated small group of people is enough. Therefore, you can ask yourself, can we also design emotions?

Finally, considering the theory of construction of emotions, we should realize in the context of the emotive law that behaviors are anchored in the system of concepts. The concepts come from social reality, which has the potential to modify the neuronal (and genetic) human system. We learn from the environment and modify the environment at the same time. This means that symbols or ideologies have meaning, which can take the form of subtle symbolic violence, as in the case of gentle judgments against stereotypical men. It's access heuristics, which means that brain prognosis will be more likely to be experienced. The same applies to problems created by the creators of algorithms that are used legally and in the courts. It turns out that such technologies learn human's cognitive biases, including racism and sexism, and pose a threat to democracy and justice. We have a certain responsibility then, which is why the accountability of the process of constituting agency as such is important. In terms of changing ideas, it is worth expanding the system of concepts with the goal of changing the habits of thinking (combating stereotypes or the alliance of law with new codified stereotypes, stories or myths). Remember that culture programs the brain, which determines experiences and choices, including legal ones.

Philosophy in this area should become a philosophy applied in the sense that emotive legal ethics, the education of judges and the awareness that there is no such thing as pure rationality is urgent. You must develop the emotional competence of those who are responsible for the judgments of the law, as well as those who are the creators of the law. The law is not objective, and legislators should be interested in the fact that cultural and subcultural diversity is responsible for separate standards of emotional experience and expression of emotions.

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