

# THE CONTINUUM COMPANION TO SPINOZA

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## TEXTS

*Ad secundam objectionem respondeo negando nos liberam habere potestatem iudicium suspendendi. Nam cum dicimus aliquem iudicium suspendere, nihil aliud dicimus quam quod videt se rem non adæquate percipere. Est igitur iudicii suspensio revera perceptio et non libera voluntas* (E2p49s).

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F. Buyse

## Lex

The word *lex* and its Dutch synonym *wet* occur in all of Spinoza's works. These words are primarily combined with 'God' or 'nature', but also with 'human', 'Hebrew', 'human reason' or 'pure intellect'. The complex nature of the concept appears from its main discussion in the *Tractatus theologico-politicus* chapter 4, which starts with an overall definition: 'the word *lex* taken in its

absolute sense [as such], means that according to which each individual thing – either in general or those of the same kind – act in one and the same fixed and determinate manner'. Further, a law may depend either on nature's necessity or on a decision of the human will.

As to the first category, these laws follow from the nature or definition of a particular thing. The universal laws of nature, those according to which all things happen and are determined, are the eternal decrees of God, which always involve eternal truth and necessity (TTP 3). Only in this respect is natural law to be called divine law. Although these expressions frequently occur in scholastic and pre-modern discourse as well, the Spinozistic notion of a natural law without a divine lawgiver who promulgates these rules is relatively new. In this respect Spinoza's view is intimately linked to that of Descartes who in the *Principia philosophiae* 2.37 defined the laws of nature as 'rules which may be known by means of God's immutability' and like Newton later on identifies these rules with the laws of mechanical motion.

Spinoza stated that commonly the word 'law' is applied to natural phenomena only by analogy. It seems that in a proper sense we call 'laws' only those rules which depend on human will, i.e. the second category of laws. For as Spinoza clarifies: ordinarily 'law' is used to mean simply a command which men can either obey or disobey, in as much as it restricts the total range of human power within set limits and demands nothing that is beyond human power. 'Thus it is expedient to define law more particularly as a plan of life laid down by man for himself or others with a certain object'. The legislator may establish law with respect to an end to be achieved. This end should not be understood as a goal which should be in conformity with higher, God-decreed law.

Such notions in part sum up the gist of scholastic discourse as is apparent from the contemporary dictionaries. Chauvin for example observed that ‘a law is a rule of a moral action’ and Goclenius stated ‘a law taken as such is a rule and measure of human actions’. Moreover, this linking of law with an end was an intrinsic part of Thomistic tradition. Aquinas in his famous question 90 on ‘the essence of the law’ in the *Summa theologiae* part 1 stated that ‘law is nothing else than an ordinance of reason for the common good’. Spinoza links this notion elegantly to the voluntaristic tradition originating in Duns Scotus and Ockham, by focusing on the will of the legislator, observing: ‘However, as the true object of legislation is only perceived by a few, and most men are almost incapable of grasping it, though they live under its conditions, legislators promise’ rewards and punishments. ‘Thus endeavouring to restrain the masses, as far as may be, like a horse with a curb’. Hence a law is a mode of life ‘enjoined on men by the sway of others’ and ‘those who obey the law are said to live under it and to be under compulsion’ (TTP 4). This conception of law takes human nature as its starting point. Moreover, Spinoza continues his survey of the notion of law by disconnecting the traditionally linked notions of law and morals: ‘sin is action that cannot lawfully be done, i.e. is prohibited by law’ (TP 2.19). Sin cannot be conceived except in a state with its civil law.

A distinct feature of Spinoza’s political thought is that in the first instance he does not argue from the first (quasi-mechanical) conception of law. By observing that ‘laws prescribe or prohibit behaviour ordained to achieve a goal’, he infers that a ‘law which depends on human will is one which men ordain for themselves and for others in view of making life more secure and more

convenient, or for other reasons’; such a law is more properly called *ius* (ordinance). Generally Spinoza follows the common usage of law and right, which imply different perspectives on behaviour. Human laws are imperative general rules regulating human or institutional behaviour. They forbid, prescribe, or enable certain behaviour; in this way they establish a normative order. These civil laws are the basis of rights, for these general rules address persons and institutions which derive the right (or competence) or obligation to act. *Ius* (right) generally expresses the liberty to act in the sense of that part of a citizen’s natural right which is allowed and left by the civil laws, as Hobbes writes in *De Cive* 13.5. It is the liberty left to the subject addressed by this general rule to behave in a certain way, be this subject a citizen, society at large, or (an organ of) the state. In case of a prescriptive rule, for example, an individual may be obliged to behave in a certain way and the state has the right to enforce obedience. In the end, however, for Spinoza one’s right is always determined by one’s natural right; a man’s right extends as far as his power does (TP 2.3–4).

As for ordained law, this is to be divided into human law and divine law (TTP 4.3). Human law is a rule of conduct whose sole aim is to safeguard life and the commonwealth, whereas divine law aims at the supreme good, the true knowledge and love of God. This law is a divine law for it is a way of life ordained by us in as far as we know God. These divine laws consist of divine commands, which are ordained as it were by God, that is by our notion of him in our minds. Thus, the philosophical life may well be called a ‘divine law’ and is dealt with in general ethics. The aim of this divine law, the true knowledge and love of God, can be achieved through the knowledge of natural

phenomena; the greater our knowledge of natural phenomena, the more perfect our knowledge of God's essence. Consequently, in this way, these so-called divine laws are connected to natural law or divine law in the first (proper) sense. Spinoza calls the divine law which is deduced from human nature, the natural divine law. Such laws are universal and exclude the belief in historical narrations, presumably about their promulgation.

As for the other kind of ordained law, human law, Spinoza regards it as an agency to safeguard life and the commonwealth. Civil law, therefore, is an important means by which the state can achieve its end, i.e. the peace and security of the citizens. The law preserves their liberty by coercing citizens to act in a particular way. Law as a means to create security for people by ensuring their peaceful cooperation reflects in a way Machiavelli's statement in the *Discorsi* 1.3 that it is the laws that make them good. Citizens of a state are not in a position to decide what is just or unjust, right or wrong; they must submit their will to that of the commonwealth. For citizens, the state is a cooperative enterprise for their mutual advantage, so they have to obey its commands and the ordinances, which must be taken to be the will of all. Thus, the citizen acts in his own interest by obeying the civil laws. Therefore, he is one who recognizes the true plan of the civil laws and their necessity and acts accordingly in a steadfast spirit and 'on the basis of his own decree, not, in truth, some alien one' (here, the idea of self-legislation – Rousseau, Kant – is dimly visible). Furthermore, the right of 'being one's own judge ceases in the civil state' (TP 3.3). This right rests only with the ruler of the state; the commonwealth has the (civil) right to enact laws and to interpret and enforce these laws (TP 4.5–6).

The commonwealth or the state is the sole author of the laws and, therefore, is not bound by them. However, there are limitations to its power, for the commonwealth is bound by natural law. Civil laws which conflict with nature's necessity go beyond the limits of human power and will not be obeyed. Civil laws should not demand the impossible, be it actual behaviour or a particular attitude towards the law, such as respect for a law which actually moves people to disgust. Otherwise, the subject (citizens) will not be willing to act in one and the same fixed and determinate manner, and the law might not be called a proper law anymore. Civil laws, therefore, should inspire obedience, rather than rely on force.

Thus, civil laws are posited, established by the state, and laws are not determined by moral essences like good or evil. By contrast, traditional natural law theory offers arguments for the existence of a 'higher law.' In the natural law theory of the Middle Ages God lays down express commands for all mankind, which served as the higher standards for positive law. According to Thomas Aquinas human (positive) law, which deflects from the higher law, the law of nature, is not law. Spinoza denies this teleological essence of law, nor does he advocate a voluntaristic conception of law. Unlike Hobbes he views law as not simply *voluntas* or will (cf. *Leviathan* 26). Therefore, the power of the legislator is not unlimited, his commands have to take into account the power of the subjects. This power is determined by the laws of nature, for 'man, whether guided by reason or mere desire, does nothing save in accordance with the laws and rules of nature, that is, by natural right' (TP 2.5). Good laws enhance the citizens' power which in turn increases the power of the commonwealth and the sovereign. Spinoza, therefore, views

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the relationship between state and citizens *ex parte populi*, as Bobbio rightly remarks (1989, p. 144).

## TEXTS

Als de wetten van de natuur machtiger zijn, worden de wetten van de menschen vernietigt. De goddelijke wetten zijn het laatste eijnde om het welke zij zijn (KV 2.26). *Anima secundum certas leges agens* (TIE 88, G II, 35). *Leges naturae extensae* (PPC praef). *Leges naturae sunt decreta Dei lumine naturali revelatae* (CM 2.12). *Leges mechanicae* (Ep 13). *Leges naturae universales secundum quas omnia fiunt et determinantur nihil esse nisi Dei aeterna decreta quae semper aeternam veritatem et necessitatem involvunt* (TTP 3, G III, 46). *Legis nomen absolute sumptum significat id, secundum quod unumquodque individuum, vel omnia vel aliquot ejusdem speciei una eademque certa ac determinata ratione agunt ... communiter per legem nihil aliud intelligitur quam mandatum ... per [lex] humanam intelligo rationem vivendi, quae ad tutandam vitam et rempublicam tantum inservit ... at is qui unicuique suum tribuit, ex eo quod veram legum rationem et earum necessitatem novit, is animo constanti agit et ex proprio, non vero alieno decreto, adeoque justus merito, vocatur* (TTP 4, G III, 59). *Qui omnia legibus determinare vult, vitia irritabit potius, quam corrigibit* (TTP 20, G III, 243). *Leges motus et quietis* (E2p2s). *Communes leges naturae sequuntur affectus* (E3praef). *Naturae leges et regulae secundum quas omnia fiunt* (E3p2s). *Peccatum est, quod jure fieri nequit, sive quod jure prohibetur* (TP 2.19). *Optimi imperii jura ex rationis dictamine institui debent* (TP 2.21). *Nam si civitas nullis legibus seu regulis, sine quibus civitas non esset*

*civitas, adstricta esset, tum civitas non ut res naturalis sed ut chimaera esset contemplenda* (TP 4.4).

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J.L.M. Gribnau

### Liber

Applied to 'cause', 'imagination', 'man', 'multitude', 'Republic', the adjective *liber* is not the opposite of 'necessary' but of 'compelled' (cf. Ep 56). 'That thing is called free which exists from the necessity of its own nature alone, and is determined to action by itself alone. That thing, on the other hand, is necessary or rather compelled which by another is determined to existence and to action in a fixed and prescribed manner' (E1def7). In this respect only God is a free cause and his will a necessary cause (E1p17c2, E1p32). With this definition Spinoza imitated tradition. Chauvin, for example, observed that 'free' in its most general sense means a thing liberated from its restraining ties or impediments. In this sense it can be attributed to inanimate things, such as stars, as he argues by referring to Cicero's *De natura deorum*. Hence, to be free is not to be undetermined or to act without cause, and Spinoza rejects the doctrine of a free, that is an indeterminate, will (E2p48, E3p2s). Men have the illusory belief that they are free because they are aware of their appetites while not knowing the causes which determine them. There is no free will, such as Descartes believed in; all actions are determined by causes and obey the law of necessity (E2p49s). Even in God the infinite will

cannot be called 'free cause' but only 'necessary', because it is determined by the attribute of thought. It does not follow that freedom is an illusion, for one must distinguish the internal necessity of one's nature from external necessities. To be free is not to do as one pleases, it is to live under the guidance of reason.

In *Ethics* 4, propositions 67–73, Spinoza draws the portrait of the free, reasonable man and shows that he does not live alone but amongst the others and obeys the laws of the state. To obey is not the opposite of being free. It depends on the nature of the order, whether it is useful or harmful to the agent who must carry it out (cf. TTP 16). In a free republic, submitting to orders has nothing to do with slavery; it means obeying the law of reason, and thus being free.

### TEXTS

Dat de wille geen zaak is in de natuur, maar een verziëring, men niet en behoeft te vraagen of de wil vrij of niet vrij is (KV 2.16). De waare kennis maakt ons vrij van die passien (KV 2.19). *Rem libere agamus, ejusque causa simus, non obstante, quod eam necessario et ex Dei decreto agamus* (Ep 21). *Definitionem libertatis. Vides igitur me libertatem non in libero decreto ponere. Ex. gr. Lapis* (Ep 58). *Ex libero animo societati parere ... solus ille liber, qui integro animo ex solo ductu rationis vivit* (TTP 16, G III, 181–2). *Ea res libera dicetur, quae ex sola suae naturae existit, et a se sola ad agendum determinatur* (E1def7). *Solum Deum est causam liberam* (E1p17c2). *Voluntas non est causa libera, sed necessaria* (E1p32). *In mente nulla est absoluta, sive libera voluntas* (E2p48); E2p49s. *Qui igitur credunt, se ex libero mentis decreto loqui, vel tacere, vel quicquam agere oculis apertis*