

The Common Economic Protocols

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1.0 INTRODUCTION

This document contains the Common Economic Protocols, followed by a statement of their philosophical and theoretical background. Appended to this document are maxims of law.

The Common Economic Protocols are designed to facilitate justice in non-jurisdictional “locales,” such as in cyberspace.

2.0 THE COMMON ECONOMIC PROTOCOLS

1. Individuals should keep their agreements.
2. Individuals should not aggress against, encroach upon, or defraud others.
3. Violence is a very costly means of solving disputes (both short-term and long-term), and is to be avoided.
4. Free, open, and functional markets are to be preserved. [1]
5. Peace is to be preserved.
6. Progress must not be hindered.
7. Private property is to be respected and protected. [2]
8. All the effects of an action must be taken into account.
9. Self-induced harms are the sole responsibility of the individual in question.
10. Voluntary transaction must be preserved. The exceptions to this principle are:
 1. Necessities: Situations (usually emergencies), where there is no functional voluntary market.
 2. Mistakes: Where the voluntary market is accidentally transgressed with no insult to the market intended.

11. Judgments are assessed for two reasons:

1. To recompense the injured party.
2. To keep secure the survival and primacy of voluntary transactions and the free, functional market. [3]

12. The purpose of law is to facilitate beneficial interaction, and to minimize conflict. The primary principles of which are:

1. Individual liberty (self-ownership).
2. Private property.
3. Free contract.

13. Freedom of trade, freedom of thought, freedom of speech, and freedom of action are but modifications of one great fundamental principle; all must be maintained, or all are at risk.

14. Precedents are not valid as axioms. Legal precedents are valid only insofar as they uncover or express principles of law.

15. Reason is the soul of law. Feelings and emotions are not esteemed above reason.

16. Law deals with individuals only. Law recognizes no group entities, collective guilt, or collective responsibility.

17. The standard for the application of legal principles is the reasonable man. The reasonable man is not a perfect man, but a man of normal ability who is acting reasonably and responsibly.

18. No man's standing in the eyes of the law is superior to any others. The law is no respecter of persons.

19. The law does not require omniscience of anyone.

20. Restitution is preferred above punishment.

21. No man, or group of men, has a right to dispose of another man's life or property without consent.

22. Plain language is preferred over esoteric language, provided that plain language is capable of clarity and accuracy.

23. The default language of the Common Economic Protocols is English.

24. Individuals should be accorded privacy in all areas of life, including their economic affairs. However, privacy may not be used as a tool to facilitate force, fraud or similar offenses.

25. Every man is the sole owner of his own life, and should be left alone to pursue his own happiness, or dispose of it, in whatever manner he chooses, provided that he does not encroach upon other people or their property. (Exceptions are made for infants, persons of diminished capacities, and similar cases.)

26. Markets are to be left alone to solve their own problems. There should be no coercive intervention in market processes.

27. What is hateful to you, do not do to any man.

28. There are no victimless crimes.

Footnotes.

[1] The reasons for this are:

1. Markets are the great interaction centers of mankind. Values are exchanged, merits discovered, and mutually beneficial, survival-improving relationships fostered.
2. Free and open markets are perhaps the most impartial institutions on earth.
3. Free markets make survival (beyond bare subsistence) possible on earth. The free and unhindered transfer of goods and services between people is critical for the cooperation of humans in their mutual goals of survival, happiness, and growth.
4. Market-based competition is more effective in compelling, testing and refining inventions and strategies for human advancement than any other mechanism known.

[2] The reasons for this are:

1. Private and exclusive ownership is necessary for, and supportive of, individual human effort. Human energy and intelligence are the forces which create the means of survival and progress on earth. Raw materials exist without human energy, but are of little value without it. Long experience has shown that self-interest is as close to a biological imperative as anything that we know of; and that non-individual based methods of motivation (as in collectivism) simply do not work. (Fear may at times work, but it is not self-sustaining, is unreliable, and for many reasons it is properly considered immoral; that is, contrary to the broad interests of survival and progress.)

2. Strong protection of private property is necessary as a hedge against envy, and the plunder that rises from it. Where envy holds sway, the accumulation of capital is dangerous and uncommon. Without capital, a great number of important activities cannot be undertaken. Historically, the inability to raise capital has made economic progress extremely difficult or impossible as a practical matter.

3. Private and exclusive property ownership is necessary for the certainty of goods and supplies. This is especially critical as it concerns long-range business planning. (Long-range planning being necessary for a huge number of beneficial commercial activities.) If there is no certainty of goods, lands, or other properties, long-range operations are most uncertain, and would seldom be undertaken, as is the case in primitive societies.

4. Private property, certified by secure title, is of critical importance in the securing, application, and use of credit.

[3] The term "functional market" is used in several places in the protocols, and is deserving of explanation. A "functional" market is a market with sufficient competition and liquidity to operate well. Without sufficient choice, a market is not functional.

2.1 ACKNOWLEDGEMENTS

The title Common Economic Protocols is borrowed from *The Diamond Age*, by Neal Stephenson.

Some of the definitions below are borrowed from previous works by Spencer Heath, Andrew J. Galambos and Richard J. Maybury. The maxims were adapted from Bouvier's 1856 Law Dictionary.

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2. 2 MISCELLANEOUS NOTES

Except if noted otherwise, the male gender used in this document refers to the universal *man*: humans, both male and female.

Some of the protocols are redundant. This was deemed necessary to express some points as clearly as possible, and to address current biases. For example, number 26 is clearly implied by number 4. Nonetheless, the dominant modern impulse is to induce some power or authority to fix a market problem, rather than leaving the market to heal itself.

While the goal of such an action may be benevolent, the result is to bring force into the market; thus, while hoping to solve one problem, a much larger one is initiated.

3.0 PREMISES

The Common Economic Protocols hold the following to be sound premises:

1. Humans are, at their essence, individuals, not corporate entities.
2. Reality is firm and knowable. (Though much remains undiscovered and incompletely described.)
3. The scientific method is man's most reliable tool for determining truth, understanding the universe, surviving, and prospering.
4. Human progress springs from the ability, energy and creativity of individuals, and from synergistic relationships.

3.1 DEFINITIONS

Property: Anything that can be the subject matter of contract.

Coercion: The intentional interference with the property of another.

Crime: The successful interference with the property of another. Successful coercion.

Justice: The elimination or absence of coercion.

Freedom: A condition where an individual's will regarding his own property is unopposed by any other's will.

3.2 LAW AND JURISDICTION

Law is the science of determining what is just. All of the principles and processes of law serve to determining what is just; the purpose of which is to facilitate beneficial interaction between men.

Through history, law has seldom existed in a pure form. In most cases, the right to administer the law has been claimed by a local ruler. This added a layer of complexity to law, which has been accommodated by the use of jurisdiction. Jurisdiction defines the ruling person or group that administers the law and is generally a function of territorial dominion.

The administration of cross-jurisdictional disputes has always been complex and expensive. Nationalism, disagreements and competitive jealousies have sometimes made

them dangerous. However, in a world of states and rulers, jurisdiction seems nearly unavoidable.

In cyberspace, however, jurisdiction has no natural base. First of all, the physical location of an individual using the Internet can easily be masked, as can their identity. Furthermore, users of cyberspace (and humanity in general) are increasingly moving from one physical location to another, as well as owning, controlling and interacting with businesses in multiple jurisdiction. In this jumble, even determining which jurisdiction or jurisdictions have the “right” to control justice proceedings is problematic.

And not only is determining jurisdiction in cyberspace especially difficult, dealing with multiple jurisdictions in actual legal proceedings is prohibitively expensive, especially at the lower end of the scale. Small and mid-sized transactions are effectively unenforceable, since the costs of pursuing a claim in multiple jurisdictions would be worse than a total loss.

The increasing difficulties with jurisdiction, especially in cyberspace, have led to the development of these Common Economic Protocols, which were produced to create a basis for non-jurisdictional law.

3.3 LAW IN NON-JURISDICTIONAL SPACES

Law in the absence of both jurisdiction and centralized enforcement has existed at numerous times. The old common law of England existed relatively free of jurisdiction, as did the Lex Mercatoria of late middle ages commerce. Jewish law, especially as recorded in The Responsa, was the foundation of successful Jewish self-rule for roughly 15 centuries.

Law in the absence of jurisdiction and centralized enforcement has worked quite well, depending upon ostracism, reputation, and outlawry as its primary enforcement mechanisms. Establishing the rule of law in the absence of central enforcement is particularly important regarding commerce in cyberspace, where no direct force is possible.

3.4 APPLICATION OF THE PROTOCOLS

The protocols are intended to form a reference point for commercial activity. Entities may specify the Common Economic Protocols as the governing law for their transactions.

These protocols are designed for wide use in voluntary human interactions. They assume no jurisdictional monopolies on the administration of law.

The Protocols have been purposely kept free of references to specific legal procedures.

As soon as practicable, a professional organization will be formed to certify non-jurisdictional justice providers and to oversee the publication of case law.