

From Autonomy to Ambiguity

“I think I’ll be a clown when I get grown,” said Dill.

Jem and I stopped in our tracks.

“Yes, sir, a clown...There ain’t one thing in this world I can do about folks except laugh, so I’m gonna join the circus and laugh my head off.”

“You got it backwards, Dill,” said Jem. “Clowns are sad, it’s folks that laugh at them.”

“Well, I’m gonna be a new kind of clown. I’m gonna stand in the middle of the ring and laugh at the folks.”

Harper Lee, *To Kill a Mockingbird*

From Autonomy to Ambiguity

Reconfiguring the Legal Landscape in the Age
of AI

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Published by

Edward Elgar Publishing Limited
The Lypiatts
15 Lansdown Road
Cheltenham
Glos GL50 2JA
UK

Edward Elgar Publishing, Inc.
William Pratt House
9 Dewey Court
Northampton
Massachusetts 01060
USA

Authorised representative in the EU for GPSR queries only: Easy Access System
Europe – Mustamäe tee 50, 10621 Tallinn, Estonia, gpsr.requests@easproject.com

A catalogue record for this book is available from the British Library

Library of Congress Control Number: 2025950456

This book is available electronically in the **Elgaronline**
Law subject collection
<https://doi.org/10.4337/9781800373914>

ISBN 978 1 80037 390 7 (cased)
ISBN 978 1 80037 391 4 (eBook)
ISBN 978 1 0353 9405 0 (ePub)

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PART I

Setting the stage

1. The end of this book

Know thyself

1. THE HUMAN CONDITION

Commonly attributed to the oracle of Delphi, the classic Greek maxim “Know thyself” is in fact much older. Although emblematic, its meaning is by no means unambiguous, even within Greek antiquity. Originally, it served as a call to humility: know your limits, know your place. One was cautioned not to think too highly of oneself, but to recognise the self as a minuscule fragment subject to the caprices of the gods, constrained by societal rules and bodily needs. Later, especially through the work of Plato, the maxim took on a different—perhaps even antithetical—meaning, shifting towards self-knowledge and introspection.¹ While not entirely undone of its original undertone, it increasingly came to symbolise humanity’s intellectual capacity for self-understanding and self-correction. In this guise, it was revitalised during the Enlightenment as a credo of individual autonomy.

This book is about both sides of that coin. It explores the myriad ways in which humans are shaped by society, bound by personal histories, and constrained by physical and cognitive limitations. As will become evident, man is an ambivalent being—often far more fragile than his intellectual bravado would suggest. If there is a universal human experience, it is one of limitation, misjudgement, and failure. At the same time, like no other creature, man possesses the unique capacity for self-reflection and self-improvement. Humanity, for better or worse, has managed to bring vast stretches of the universe under its dominion, perpetually striving to refine and master itself. In modern Western culture, autonomy stands perhaps as the ultimate aspiration, and being autonomous as the highest of all aspirations.

Technology can deepen this rift—who has not felt a tinge of shame upon viewing their weekly screen time?—but it also amplifies our capacities, granting us ever greater control over ourselves and our environments, if only through the gentle prodding of fitness apps reminding us that we have yet to meet our daily step count. Yet while it augments self-regulation, it also grants technology companies unprecedented insight into our inner conflicts, and thus

immense power over us. In an ideal world, this power would be used solely to help us realise our aspirations. Alas, commercial and other interests often take precedence. More importantly, there is no clear answer on what actually are our goals and aspirations and what is in our best interests. Who knows? This book will explore why we may not always be in the best position to judge.

Consider, for instance, the once-prominent discourse surrounding the so-called “privacy paradox”.² The basic question academics, experts and regulators tried to grapple with was an apparent contradiction: why do people say they care about privacy, but do not act on it? Why, in surveys, would people make clear that privacy is one of the values they care about most, yet readily give away their data on social media? This paradox has given rise to numerous explanatory theories and proposed remedies. Some have pointed to “consent fatigue”—the idea that people, though concerned about privacy, are overwhelmed by the sheer volume of terms and conditions they are expected to read and comprehend. Faced with this burden, many simply accept all consent requests, even when they do not truly agree with the terms. Some researchers emphasised that individuals were simply unaware of the consequences of sharing their data, remaining largely oblivious to the monetary value of their personal information. Others argued that users were not genuinely free to accept or decline the terms, since in modern society, opting out of social media or online services can amount to social exclusion.

Each of these explanations holds merit and addresses part of the puzzle. Yet this book contends that beneath them lies a deeper cause—one rooted in the human condition itself. The issue is not merely a privacy paradox; it is a human paradox. We are conflicted and ambiguous creatures by nature. The fact that we say we value one thing, but do not act on it or even move in ways that would seem in conflict with that value is by no means unique to privacy. It is an everyday experience to us all. We say we want to sleep early yet find ourselves binge-watching a Netflix series. We intend to lose weight and go to the gym yet find ourselves drinking a glass of wine with some of our favourite French cheese on the side. We have a dream of saving up money to buy a second house in Spain yet order too many luxury items on Amazon. These contradictions are not so much the result of manipulation, ignorance, or coercion. More fundamentally, they stem from the fact that we desire mutually exclusive things at the same time.

From a classical psychological perspective, the human psyche is often described as comprising three components: the id, which represents our bodily needs, primal instincts, urges, and desires; the ego, which corresponds roughly to our will; and the superego, our rational and moral compass—the part of us that internalises parental, legal, and societal norms. There is no singularly correct equilibrium among these three forces. However, it is generally understood that leaning too far in any one direction can be detrimental.

A life ruled entirely by impulse, devoid of rational thought, is as troubling as one led solely by reason, bereft of pleasure and spontaneity. Such extremes are typically seen as unhealthy or even pathological. Moreover, these inner conflicts rarely find true resolution, even in specific moments. Consider a person torn between going out with friends or staying in to prepare for an important meeting the next morning. Regardless of the choice made, a lingering doubt remains: should I have chosen otherwise? Psychological research further suggests that even when we deliberate and believe we are making decisions based on rational considerations, our underlying motives often lie buried in the subconscious—unknown even to ourselves. The human paradox, then, is this: we regard ourselves—and are regarded by others—as rational, even though we are not, and must therefore continually sustain the appearance of reason. Likewise, we understand ourselves, and are understood by others, as singular and unified, yet in reality we are shaped by a shifting plurality of voices that pull us in different directions.

This leads to a second human paradox with which this book will deal, namely that we consist of an iterative interplay between our past, present, and future selves. Humans can best be described as spatio-temporal beings; although there is a continuum in time and space, we constantly evolve and change. As a consequence, a conflict between different selves may emerge, which can cause intense emotions. Emotions such as shame and guilt often arise when the present self is misaligned with the actions or identity of a past self. This misalignment might stem from a clear transgression—like having once stolen something from a shop—but it can just as easily originate from something benign, such as having gone through a gothic phase during adolescence. Conversely, anxiety and fear frequently emerge when the present self is at odds with a projected or imagined future self. These fears may take concrete forms, such as worrying about job loss or receiving a diagnosis like dementia, with its promise of gradual cognitive decline. Yet they can also stem from subtler sources—like the ache of sleeping alone after a breakup you yourself initiated (will you always be alone?). On the other hand, happiness generally arises when reality exceeds our expectations—when the present moment surpasses what we had anticipated or hoped for.

As with the balance between our primal desires and rational ideals, there exists no universal benchmark for establishing a harmonious equilibrium between past, present, and future selves. Some individuals take pride in living entirely in the moment. Others possess a forward-looking disposition, willing to make relentless sacrifices in pursuit of future goals. Still others feel most at home reflecting on the past, cherishing nostalgia or seeking meaning in what has been.

These orientations are not solely personal—they are shaped by cultural, religious, and political influences as well.

Consequently, it is rarely possible to make sweeping judgements about whether a particular data-driven technology disrupts this balance, or whether such disruption is necessarily problematic. Indeed, there are moments when disruption can serve as a corrective force. For example, a person constantly preoccupied with the fear of death may benefit from being anchored in the present. Conversely, someone who lives heedlessly—as though there were no tomorrow—might gain from a sobering reminder of long-term consequences. Such judgements, however, require careful, case-by-case consideration. Even then, discerning right from wrong is often elusive.

This yields a third paradox that the book will unravel: the disquieting recognition that, for all the privilege of first-person experience, we do not invariably know ourselves best. At times, others may understand us more clearly than we do. Many of our decisions are shaped by unconscious processes or by beliefs about ourselves that are misguided or outright false. Consider the adolescent who is convinced they will become the world's greatest singer, skipping school and dedicating every hour to practice. To those around them, it may be painfully obvious that this dream is built on self-deception. Or the heavy drinker who insists they are more enjoyable company after a few drinks—while friends and family know otherwise. We may believe that we are constantly looking for adventure and breaking new ground, while to others it may be clear that, in fact, we are merely fleeing from despair or shying away from commitment.

Once again, the dilemma lies in the fact that there is no reliable way to know for certain. Often, we may be in the best position to discern who we are and what we desire—yet, as frequently occurs, we are mistaken. Later, we look back on our choices and actions and wonder: what was I thinking? Conversely, many artists will share stories of the obstacles they had to overcome. Writers speak of their debut manuscripts—now bestsellers—having been rejected by no fewer than twenty-five publishers. Actors and comedians recall being booted off stage or savaged by critics, only to later rise to stardom. Perhaps every Michael Jordan needs a Leroy Smith.³ Indeed, it is often the very moments in which we confronted and overcame both external resistance and internal doubts that become the ones we remember with the greatest pride. Likewise, the memories that sting most bitterly tend to be those where, despite repeated cautions from friends, colleagues, or loved ones, we pressed ahead down a misguided path.

Although technology is often portrayed as having a one-sided effect, the central thesis of this book is that modern technologies amplify the contradictions already embedded within the human psyche. Contemporary data technologies arise from a worldview that is at once rigorously rational and materially grounded, yet they simultaneously cater to our most instinctive impulses and incessantly appeal to our capacity to will and to want. They confront us endlessly with our past, bind us to the immediacy of the present, and tantalise us

with visions of possible futures. They console, flatter, and embolden—while also confronting us with our failures to meet personal or societal expectations, and constantly comparing our lives to those of others or to hypothetical, more desirable selves. The result is that, although the human condition is built upon the delicate equilibrium among the plurality of our different selves, modern data technologies make this balance increasingly elusive and volatile.

Our society and regulatory frameworks are largely grounded in a one-dimensional conception of the human being—one that emphasises rationality, self-awareness, self-improvement, and deliberate choice. As a consequence, regulatory intervention tends to occur when technologies impinge upon this rational dimension of our nature, while largely ignoring the effects they may have on our irrational or instinctual side. To the extent that these effects are recognised, they are often dismissed or even welcomed, on the assumption that our rational and autonomous faculties represent our ‘good’ or even ‘divine’ side, whereas our non-rational, primordial impulses are seen as lesser or unworthy of protection. In this way, the legal framework does not merely fail to mitigate the problems posed by modern data technologies—it frequently exacerbates them. This is intensified by the fact that the remedies it proposes—such as the informed consent model or enhanced transparency—are themselves rooted in the very rationalist ideals that the technologies in question tend to undermine.

2. PRIVACY AND DATA PROTECTION

These observations strike at the core of privacy and data protection law—and, by extension, touch upon nearly all areas of legal doctrine. One of the most enduring debates within this field concerns its legal classification: is privacy and data protection, at its essence, a branch of private law or of public law?⁴ Although most existing regimes incorporate elements of both, two principal schools of thought prevail.⁵

In its ideal form, the first school emphasises the right to control of individuals over their personal data. For example, scholars have suggested that if individuals gained property or other control rights over their data,⁶ they would be able to adequately represent and protect their own interests against the multinationals and governmental organisations that intend to use their data. The right to informational self-determination, a formulation of privacy and data protection popularised especially in German doctrinal theory, similarly places emphasis on the autonomy of the data subject.⁷ Many Anglo-Saxon informational privacy doctrines, such as most importantly the American one, align with this approach. But there are equally many European scholars and regulators that hold that the approach of the European Union (EU), as most prominently reflected in the General Data Protection Regulation (GDPR), should also be interpreted as such. They point not only to the notion of informed

consent in the Regulation and to the many data subject rights (e.g. the right to be informed, the right to object, the right to be forgotten and the right to data portability), but also understand the other principles contained in the GDPR as items to be agreed upon by the contracting parties (e.g., it is up to the data subject and the data controller to negotiate what, for the purposes of their contract, the data minimisation or data confidentiality principles should entail), rather than setting objective limitations to contractual agreements.⁸

Although this model accords with the buoyant view of the human being that prevails in our society, it carries clear disadvantages. The capacity of citizens to make choices according to their best interests is limited in practice both because of the complexity of most contemporary data-driven processes involving algorithms, artificial intelligence, and profiling, because of the multitude of processes which contain their data, and because of the information asymmetry between data-driven organisations and the average citizen.⁹ Even if any informational asymmetry were eliminated, the average person simply lacks the time to evaluate whether each of the approximately 5,000 entities processing their data is doing so lawfully. Nor can they reasonably be expected to initiate complex, protracted, and often costly legal proceedings in cases of unlawfulness. Finally, many data-driven processes affect large segments of society or the population at large. Leaving it to individual citizens to assess and respond to such systemic practices effectively privatises structural problems. It also risks reinforcing inequality; individuals with access to wealth and power are generally better equipped to safeguard their data than already marginalised groups.¹⁰

A second interpretation, in its ideal form, treats privacy and data protection regulation primarily as a public law doctrine—one that establishes objective legal standards and entrusts their enforcement to supervisory authorities. Public law—including constitutional, criminal, and human rights law—sets limits on state power and imposes duties to safeguard citizens' rights in both horizontal relationships (between private parties) and vertical ones (between the state and the individual). Just as there are minimum safety requirements for automobiles—a citizen cannot lawfully purchase a car that fails to meet them—there are also baseline standards for the legitimate processing of personal data. Under this view, the responsibility for ensuring compliance with these standards does not rest chiefly with individual citizens, but with independent governmental supervisory bodies. These authorities are empowered to investigate data-driven organisations and to impose sanctions or fines where violations occur. In this way, legal protection is provided without requiring citizens to evaluate the legitimacy, legality, or desirability of every individual data-processing operation that involves their personal information. Scholars who interpret the GDPR through this public law lens point in particular to the foundational data protection principles outlined in Article 5, the expanding

role of Data Protection Authorities (DPAs), and the fact that every data subject right in the GDPR mirrors a corresponding obligation on the part of data controllers. For instance, a data controller must proactively inform the data subject—even in the absence of a request for information; must erase outdated or obsolete data—even without a formal right-to-be-forgotten request; and must ensure that personal data remain accurate and up to date—even if the data subject does not invoke their right to rectification. Accordingly, a DPA may impose sanctions for breaches of these duties without any need for the data subject to assert their rights or file a complaint.

Although this model remedies several of the shortcomings associated with the first conception of privacy and data protection regulation, it carries particular disadvantages of its own. Organisations engaged in data processing often experience objective legal standards as overly restrictive; some citizens may be denied data-driven services they actually desire; and general legal standards tend to be absolute, inflexible, and prone to obsolescence in the face of a rapidly evolving technological landscape.¹¹ In addition, DPAs face many of the same practical constraints that individual citizens encounter when attempting to enforce their rights. It is virtually impossible for supervisory bodies to monitor all data processing activities within their jurisdiction, assess their lawfulness, investigate potential violations, and ensure that entities operating beyond national borders comply with domestic legal standards.¹²

Most debates surrounding the so-called privacy paradox focus on perceived deficiencies in the information available to citizens, their (mis)understanding of that information, or their ability to freely negotiate terms and conditions or seek viable alternatives. These concerns stem from an understanding of privacy and data protection as primarily grounded in private law. Private law rests on the assumption that individuals are rational agents capable of recognising and pursuing their own best interests—provided they are equipped with the appropriate tools. Fundamentally, private law offers mechanisms for parties to enter into contracts and intervenes only where structural imbalances exist. Consumer and employment law, for example, address unequal power dynamics between individuals and large corporations or employers; contract law prohibits exploitation of people in vulnerable circumstances, such as when one party acts under duress or undue influence; and competition law curtails market dominance to preserve meaningful choice for consumers. Similarly, where information asymmetries are present, contract law allows for the annulment of agreements based on misunderstanding or misrepresentation.¹³

This model has increasingly seeped into public law. Human rights law, for example, used to be primarily conceived as imposing negative obligations on governmental organisations. Fundamental rights were understood to safeguard public and general interest, e.g. the respect for the rule of law, democracy and the separation of powers. Modern human rights instruments were adopted in

the wake of the Second World War in order to prevent large-scale human rights abuses and the rise of totalitarian regimes. That is why, for example, under the European Convention on Human Rights (ECHR) of the Council of Europe (CoE), the primary mode of bringing a case before the European Court of Human Rights (ECtHR) was through inter-state complaints. Individual complainants, initially, were not allowed to bring their case to the Court but could only do so if the European Commission on Human Rights (ECmHR) had declared their case admissible and either a state or that Commission believed the case to be of general interest, transcending the mere specificities of that particular matter. The focus was consequently not on whether, for example, the home of a particular individual was entered unlawfully, whether that had caused significant harm to that individual's private interest and whether that harm was outweighed by the public interest involved, but whether a government abused its powers on a large scale, for example, trampling the privacy rights of all citizens, transferring unchecked power to the executive branch, or adopting grossly discriminatory policies against minority groups.¹⁴

Step by step by step, however, the ECHR was transformed so that currently, it focuses in particular on subjective rights by individual claimants (who now have direct access to the Court, the model of inter-state complaints leading an almost dormant existence) to protect their individual interests. The right to privacy became the standard bearer of the ECtHR's choice to limit its competence to protecting individual interests, rejecting claims by groups and non-natural persons as well as matters that concerned general, group or societal interests. It explicitly rejected class actions and required individual claimants to show direct, individualisable and substantial harm before a case would be declared admissible. Although in recent times the Court recognises the downsides of this highly individualised approach to human rights legislation and allows for some exceptions, it still predominantly treats the ECHR as an instrument providing protection to the specific interest of private individuals rather than laying down safeguards protecting societal interests.¹⁵

This development is but one example of a broader trend that took hold in Western societies during the second half of the twentieth century. There was a widespread push towards privatisation, with numerous public utilities sold off to commercial enterprises or private investors. Simultaneously, market regulators and supervisory authorities saw their budgets and powers curtailed. The prevailing belief was that the market represented the most efficient mechanism for organising society and delivering public services in the general interest. Under the ideological framework now commonly referred to as neoliberalism, governments increasingly began to frame citizens as customers or clients. This shift contributed to a form of politics that prioritised individual grievances and catered to special interest groups, often at the expense of broader, ideologically grounded public discourse.

The result is that the distinction between conceiving privacy and data protection primarily as either a public or private law doctrine has become, in practice, partially redundant. In theory, if privacy is understood—at least in part—as a public law matter, then a DPA could address violations proactively, without the need for an individual complaint. In reality, however, DPAs are so severely understaffed—and often legitimately concerned about being perceived as overly paternalistic—that they rarely act on their own initiative. They typically intervene only when a significant number of complaints have been filed regarding a particular data processing activity. This means that, in practice, individuals must invoke their rights, initiate legal proceedings, or submit formal complaints to protect their interests. Even then, DPAs tend to allocate their limited resources to cases where unlawful data processing has caused demonstrable and significant harm to the personal interests of data subjects.

This raises obvious practical questions: are citizens truly capable of understanding what data technologies involve, what companies do with their personal information, and how these operations affect their lives? But it also raises a deeper, philosophical question: do we actually know what is in our own best interests? Perhaps, most of the time, most people do. And even when they don't, allowing individuals to make their own assessments—however misguided or ill-conceived—may still be preferable to having the state decide on their behalf. This book, however, also sheds light on those moments in which we are clearly mistaken about our own best interests, or deeply ambivalent about what we want. This is partly because we often hold multiple, partially conflicting aspirations—for example, we want to protect our privacy while also seeking social connection—but also because different facets of ourselves are frequently in tension with one another.

3. LAW AND THE HUMAN CONDITION

Law, for understandable reasons, tends to align itself with our rational aspirations.¹⁶ It does so by largely reducing us to logical, calculating agents; by presuming that our rational expressions are the most reliable indicators of our true desires; by equipping our superego with tools to suppress other aspects of the self; and by correcting behaviour deemed irrational. This book explores the consequences of that one-sided conception of the human being, and asks whether—and how—regulatory alternatives might be grounded in a more holistic understanding of what it means to be human. It develops this argument through an analysis of privacy and data protection law by way of example.

Anchoring a legal regime in a fuller conception of the human condition would profoundly affect many of the most contentious issues in privacy regulation. Alongside the so-called privacy paradox, the current debates surrounding nudging and manipulation serve as illustrative examples. Nudging is not

necessarily benign simply because it aligns with a rationalist conception of the objective good or supports cognitive aspirations; there is more to human existence than reason alone. Conversely, manipulative techniques—such as dark patterns or addictive design—are not unilaterally harmful merely because they lead someone towards certain behaviours or beliefs. For these technologies to be effective, part of us already has to want to act in that way or to believe that something is true.

For similarly pragmatic reasons, law tends to favour the present self over the past or future self. Data protection law, for instance, requires that data controllers ensure the accuracy and currency of the personal data they process. It also grants a right to erasure—popularly known under its *nom de plume* the “right to be forgotten”—allowing individuals to request the deletion of historical information they consider no longer relevant. Yet the framework offers no substantive guidance on what counts as inaccurate or obsolete, leaving that determination open to interpretation. The classic context, and the origin of the right to be forgotten, lies in criminal law: once a person has served their sentence, they ought to be able to begin anew with a clean slate. But does this justify depriving the public of access to information about their past conduct? In other words, are they truly a “new” person? Should historical data be suppressed to allow them to become someone different—or are they essentially the same individual, still capable of reoffending?

A more painful dilemma arises when a data controller processes information about an individual’s current identity that the person themselves considers false—for example, when someone is officially registered as male but self-identifies as female. If the data controller records them as male and the individual requests that this be amended, should the controller honour that request, or may it rely on the person’s official legal status? The challenge for privacy and data protection law lies in the fact that there is, once again, no objective way to determine what is correct, accurate, or genuinely in the data subject’s best interests. A person may not wish to be told that continued drinking will likely lead to serious health consequences—yet such a warning may, ultimately, serve their own welfare. Someone who has already attempted to publish three manuscripts without success might resist being reminded of these failures—but confronting this pattern may dissuade them from embarking on a fourth attempt that is similarly ill-fated. Likewise, a person who sees themselves as sociable and friendly may not want to hear that others often avoid them; nonetheless, receiving this uncomfortable feedback repeatedly may be the only path to a more realistic understanding of themselves and their social environment. Thus, the mere fact that someone is confronted with information that clashes with their self-perception is not, in itself, problematic—let alone unlawful.

Similar tensions surface with respect to probabilistic future selves, such as in the context of predictive profiling. A bank, for instance, may deny a loan because it believes the applicant is likely to default—perhaps due to algorithmic inferences from past internet searches suggesting a tendency to party, drink, or smoke. The individual, however, might argue that such behaviours are unrelated to their financial reliability, occurred only during a brief period in college, and point instead to their high income, financial reserves, and spotless repayment record. Data protection law offers no guidance as to which vision of the “future self” should prevail, nor does it provide a normative framework for resolving such disputes.

There are scattered legal obligations that require certain types of data to be excluded from decision-making. In some jurisdictions, for example, employers or health insurers are barred from considering medical information in hiring or coverage decisions. Yet data protection law itself imposes no such categorical restrictions. Instead, it merely prohibits fully automated decision-making. The aim is to prevent controllers from relying solely on general statistical tendencies to make individualised predictions. In practice, however, this safeguard proves fragile. Many controllers—especially banks and insurers—rely almost entirely on probabilistic profiles and statistical indicators, as they have little else on which to base their decisions. Moreover, the GDPR’s prohibition is limited to decisions that produce significant legal or similarly impactful effects, thereby excluding decisions by advertisers and most commercial actors. Finally, requiring a human to be “in the loop” does not guarantee a substantively different outcome—it only ensures that the decision was not fully automated.

An additional challenge lies in the fact that data protection law is fundamentally geared towards safeguarding an individual’s right to prevent others from processing their personal data. It is not equipped to deal with situations in which a data subject simply does not wish to be confronted with information about their own past. A person may have endured a deeply painful experience or lived a chapter of life they now disavow—whether as small as the betrayal of a former partner or as devastating as the loss of a child. Even though data subjects may have the right to request deletion of data related to such experiences, they must nonetheless revisit the very past they wish to leave behind in order to assert that right. At the very least, they are forced to confront memories they seek to escape, and potentially engage in a legal dispute to do so.

Privacy and data protection law are founded on the principle that individuals have control over their private domain and personal data. These frameworks set conditions and limits on when third parties may disturb that status quo. Under the GDPR, for example, a data controller must first define a specific purpose for processing, identify a lawful basis—such as consent, legitimate interest, or legal obligation—and then restrict data collection to what is strictly

necessary to achieve that purpose. However, this structure does not account for situations in which others already possess personal data about us, including insights or inferences that we ourselves may lack.

This constitutes a regulatory gap in its own right, but it also gives rise to a deeper problem: the current legal framework is ill-equipped to handle scenarios in which an individual does not object to a data controller holding or processing personal information, but does object to being confronted with it. Some jurisdictions do recognise a so-called “right not to know”, particularly in healthcare contexts involving incidental findings. For example, when blood is tested for one condition, a doctor may uncover evidence of an unrelated, incurable illness. Not all patients wish to receive such information—some prefer to remain unaware. Yet these legal provisions are narrowly tailored and exceptional; they do not extend to the far more frequent and complex cases that arise in a data-driven environment.¹⁷ Consider a social media company that, through analysis of music preferences, friend networks, and behavioural patterns, infers that a teenager is gay—perhaps even before the individual has reached that realisation themselves or has come to terms with it. The teenager may not object to the company holding that information *per se*, but may nonetheless wish not to be confronted with it—for instance, through personalised advertisements targeting queer youth. In such situations, the law offers no clear guidance or protection.

This book engages with these and other paradoxes. Challenging the underlying assumptions of the current regulatory framework is essential for reimagining and improving privacy and data protection law—which, by extension, can serve as a template for reconfiguring the broader legal system. Doing so would allow regulation to be grounded in a richer, more comprehensive understanding of the human condition. At the same time, many of our foundational institutions rest on similar premises. Democracy assumes that individuals are capable of assessing their own interests, evaluating the platforms and policies of political parties, and making informed electoral choices. Likewise, the market economy and capitalist systems are built on the belief that individuals are rational, autonomous agents capable of furthering their own well-being. This has fostered a society that holds individual freedom and personal responsibility as two inseparable, mutually reinforcing ideals.

If any ideological foundation is to underpin a society, such an optimistic view of human nature may well be the most desirable. Still, it is equally clear that there must be a safety net for those moments when lived reality falls short of this ideal. Yet today, such safeguards are very few and far between. Of all societal institutions, law is perhaps best positioned to serve this function. Indeed, the legal system already sets boundaries on personal freedom where its exercise causes harm to others. It also intervenes when individuals are fundamentally incapable of making rational or autonomous decisions, or

when otherwise competent individuals make serious and exceptional errors in judgement. But the thresholds for such intervention are exceedingly high.¹⁸ Moreover, law itself is a deeply rational—and inherently complex—social institution. It is built on precise definitions and detailed rules designed to ensure legal coherence, predictability, and fairness. Citizens are expected to know the law and to model their behaviour accordingly. As such, the law's ability to accommodate the limits of human rationality and autonomy is, by its very design, constrained.

4. APPROACH AND DELINEATION

Core Argument

Although the human condition, the limits of rationality and autonomy, and the role of the legal system have been the subject of debate since at least the time of Plato, there is compelling reason to revisit these discussions in light of the data-driven environment. This book focuses on technology and its impact, although debates about technological design and functionality inevitably give rise to broader societal, ethical, and political questions. There are many ways in which technology intensifies pre-existing human paradoxes. At the same time, societal developments—many of them propelled by technological change—also play a critical role. To begin with a basic observation: the world has grown increasingly labyrinthine and fluid. Individuals who were perfectly capable of managing their lives half a century ago may now struggle, simply due to the growing complexity of bureaucracy, technology, and society as a whole.

A growing consensus holds that the neoliberal regulatory model was overly one-dimensional and fraught with drawbacks. Nowhere are its limitations more apparent than in the data-driven domain, where data processing is omnipresent, technologies are opaque, and the sheer number of actors handling personal information renders meaningful control nearly impossible—even for the most rational and autonomous among us. Another reason to revive the discourse on the human condition is the evolving composition of the tech industry itself. Beyond hiring engineers and software developers, major technology firms have increasingly invested in psychological expertise. This places them in a unique position: not only can they better understand users, but they can also exploit human paradoxes and monetise these insights.

This book will focus in particular on privacy and data protection regulation. There are many reasons why this area of law offers the most incisive lens through which to explore the broader themes this book addresses. First, privacy and data protection have become the legal doctrines par excellence for safeguarding individual interests and subjective rights. Second, among all legal provisions, it is arguably these that offer the strongest protection of personal

identity. Under the ECHR, for instance, the right to privacy has evolved into a robust personality right. The ECtHR has repeatedly emphasised that this right is grounded in the values of human dignity and individual autonomy, guaranteeing not only the right to protect one's identity but also to explore and develop it—across personal, social, public, and professional spheres.¹⁹ Finally, because most modern technologies operate on personal data, privacy and data protection frameworks are almost always triggered. As such, they are uniquely suited to addressing data-related harms—and to being reformed in ways that close the regulatory gaps that persist today.

This book will draw on several traditions, with a particular focus on three domains:

- Philosophy and psychology, to unravel the complexities of the human condition (Part II of this book);
- Technology and commerce, to expose how contemporary information technologies impact that condition (Part III); and
- Law and regulation, to examine how current legal frameworks can be reimagined to address the growing challenges and harms of the datafied world (Part IV).

The book's central argument unfolds in three simple steps:

- I. The human condition is inherently conflicted and defined by the interplay of opposing forces (Part II);
- II. Modern data technologies deepen this conflict by widening the gap between those opposing parts (Part III);
- III. The contemporary legal regime fails to address this problem effectively (Part IV), because:
 - a. It is grounded in a one-sided understanding of the human condition;
 - b. It therefore has a one-sided understanding of how modern technologies affect us;
 - c. It exacerbates the problem by proposing solutions that reflect that same one-sided view. An obvious path forward would be to reconfigure the legal regime in light of a more complete understanding of what it means to be human. Yet, as this book will argue, viable regulatory alternatives are scarce—and each comes with its own uneasy questions and moral complexities (Parts IV and V).

Limitations

This book has several limitations.

First, Part II does not offer an exhaustive account of the human condition, but instead focuses on six illustrative facets. The same applies to Part III, which presents six paradoxes that arise in the data-driven environment, and to Part IV, which explores six ways in which the regulatory paradigm might be revised in light of the preceding findings. Each of these topics would merit a book in its own right; the aim here, however, is not to treat any single strand exhaustively, but to show the novel insights that emerge through their cross-pollination.

Second, the examples used throughout the book are not intended to form a coherent or interconnected system. Rather, the aim is to draw from as broad a palette as possible, to demonstrate that similar conclusions can be reached through a diversity of perspectives, disciplines, and methodologies. For example, Part II draws from Greek philosophy and psychoanalysis, sociology and narrative theory, religious traditions and French post-modernism. The point is not to harmonise these approaches but to show how each, in its own way, affirms the central thesis: that the human condition is inherently conflicted. The same strategy is used in Part III, where each chapter views the impact of data technologies through a distinct lens—be it philosophy, religious studies, architecture, or narrative theory—to demonstrate how such technologies deepen existing internal contradictions. Part IV then applies this pluralist approach to six distinct legal doctrines, showing that the contemporary regulatory paradigm reflects a one-sided conception of human nature—rendering it not only ineffective in mitigating data-related harms, but in some cases exacerbating them. The selected doctrines are not exhaustive of the field of privacy and data protection law, but aim to illustrate the argument as widely and accessibly as possible.

Third, this book does not present the current state of the art within each discipline it engages. Instead, it returns to foundational thinkers—Plato, Aristotle, and Augustine in ancient philosophy; Elias, Goffman, and Weber in sociology; Camus, De Beauvoir, and Sartre in existentialism and postmodern thought; Hegel, Marx, and Zizek on capitalism; Freud, Lacan, and Jung on the psyche. This means that many of the debates surrounding these figures, including criticisms, refinements, and theoretical evolutions, fall outside the book's scope. This book should be read as a sketch—a preliminary mapping of a new conceptual and regulatory framework. It is left to domain experts to further refine, expand, and adapt the theoretical architecture for their respective disciplines.

Fourth, this book does not follow a strictly linear argumentative structure. Each topic—particularly those concerning the human condition—deserves

deep reflection in its own right. As such, the discussions in Part II are not limited to those directly instrumental for Parts III and IV. Likewise, a meaningful understanding of technological impacts on human identity and agency demands more than what is strictly needed for regulatory proposals. The book, therefore, is more of a meandering river than a straight canal.

Fifth, and relatedly, the book does not arrive at definitive conclusions about the nature of the human condition, the precise effects of technology, or the optimal path for regulatory reform. Instead, it brings forward the ambiguities and tensions inherent in each of these domains. There is no single answer to the question of what defines humanity, just as the effects of technology vary widely between individuals and contexts. Nor is there a perfect legal solution—each carries trade-offs and complexities. This book raises more questions than it resolves. That is not a weakness; it is the point. Its purpose is to foreground ambiguity.

Sixth, because this book draws together insights from philosophy, psychology, technology, and law, it necessarily introduces concepts that may appear elementary or oversimplified to experts in any one of those fields. It is not intended for readers seeking the latest developments in niche academic debates. Its novelty lies in bridging doctrinal boundaries to initiate interdisciplinary dialogue. It is written for those who believe that the pressing challenges posed by modern technologies cannot be addressed through disciplinary silos, but require integrated thinking. The book is written so that lawyers can follow the psychological and philosophical arguments; philosophers can grasp the analysis of technological design and impact; and technologists can understand the legal frameworks discussed. It is accessible to scholars, practitioners, policy-makers, and interested readers who seek to understand the interplay between technology, identity, and regulation.

Finally, this book departs from traditional doctrinal methodologies, which are ill-suited to interdisciplinary inquiry. Instead, it draws on interdisciplinary methods developed in areas such as privacy research.²⁰ This entails reinterpreting classic legal terms, revisiting established understandings, and occasionally breaking from field-specific conventions to enable meaningful comparison and dialogue across domains. It is also written for an international audience. While the literature and case studies draw heavily from the Global North—particularly Europe—it is designed to be accessible across jurisdictions, with a view towards fostering cross-border dialogue and even supporting legal transplants where appropriate.

Overview

Part II of this book focuses on the human condition, drawing insights from literature, psychology, and philosophy. It engages with selected topics—such

as shame, authenticity, narrativity, and memory—to illuminate the ambiguity, uncertainty, and internal conflict that define what it means to be human. This Part draws from a wide range of sources, including but not limited to religious texts, Greek mythology, Freudian and Lacanian psychoanalysis, the sociological theories of Goffman and Elias, and narrative philosophy.

Chapter 2 explores the rift between our rational self, our will, and our instincts and desires. It does so by revisiting two concepts from Greek mythology: *akrasia*, or weakness of the will, and *self-binding*, as exemplified by Odysseus' encounter with the Sirens. These illustrate that, unlike any other creature, humans possess the capacity to bind themselves—to exert control over their impulses. At the same time, they reveal how the will, in its attempts at mastery, can obscure sound judgement.

Chapter 3 turns to two emotions uniquely human: shame and guilt. Both arise from a dissonance between the ideal self and the actual self. Guilt typically emerges when one transgresses social or legal norms, whereas shame often stems from a perceived failure to meet one's own internal standards. While these emotions can be corrosive, they can also be deeply generative—serving as catalysts for self-development and the formation of social bonds.

Chapter 4 examines the significance of role-playing in the construction of identity. While acting is often viewed as antithetical to authenticity, this chapter argues that it is through role-playing that we come to possess a sense of self. The term *persona*—from the Latin *persona*, the mask worn by actors in Roman tragedy—captures this duality. Goffman's dramaturgical sociology similarly understands identity as the product of performance, shaped and sustained through interaction and presentation.

Chapter 5 underscores two fragile equilibriums essential to healthy identity formation. First, disruptive experiences are necessary to trigger a sense of self, agency, and time and space. Yet when disruption is too extreme—such as in cases of trauma—it can disorient rather than empower, unraveling the very fabric of identity. Second, memory plays a pivotal role in constructing personal narratives and as a bridge between time and space. While memory provides the raw materials of our autobiographical story, it is inherently selective and incomplete. Being confronted with conflicting facts can destabilise our narrative coherence, but forgetting is not only normal—it is integral to memory itself, and narrative identity inevitably depends on a curated selection of recollections.

Chapter 6 explores the continuous negotiation between a first-person and a third-person perspective of the self. As agents, we often act without conscious deliberation. Yet as narrators, we are compelled—by ourselves and others—to explain those actions in rational, causally coherent terms. Likewise, we often act without any clear motive, driven by impulse, yet we are expected to furnish each action with a coherent and intelligible rationale. This creates a persistent

tension between what we do and how we account for it. Because our motives are frequently irrational and opaque—even to ourselves—we possess a unique capacity to legitimise actions through post hoc rationalisations.

Chapter 7 concludes Part II by addressing two dominant theories of identity formation: one grounded in autobiographical narrativity, emphasising authorship and coherence from a third-person perspective; the other centred on moral and psychological development through stages, highlighting agency and self-sameness from a first-person viewpoint. Both models suggest that privacy functions merely as a protective buffer—an interlude for recovery when narrative or agency falters. This chapter, however, argues that privacy is more than a refuge; it is essential for the oscillation between our dual positionalities. It enables the individual to move between first-person authorship and third-person self-interpretation, sustaining the dynamic process through which identity is formed.

Part III explores the impact of technology.²¹ It demonstrates how many of the core ambiguities and interdependencies that define the human condition acquire new meaning and function in the data-driven environment. Like human psychology, technology's effects are not linear or one-dimensional; rather, they are complex and often contradictory. The digital realm tends to magnify all poles of our internal tensions, amplifying opposing elements of human experience simultaneously.

Chapter 8 begins with an evident example: the way in which the digital domain alters our experience of time. On one hand, it immerses us in the immediacy of the moment—drawing our attention entirely to screens, devices, and digital interactions that absorb us so deeply we lose track of time. On the other, it induces a state of perpetual temporal and spatial displacement, offering endless distractions that sever us from our surroundings. This chapter also assesses the epistemological foundations of data analytics, arguing that its persuasive power lies not despite but because of its pseudo-scientific veneer. The illusion of objectivity often conceals speculative or reductionist assumptions, which paradoxically enhance its appeal.

Chapter 9 investigates how online culture facilitates personal storytelling, and compares these emerging forms of digital narrativity with their pre-digital predecessors. It highlights how ancient modes of autobiographical expression have not only been revived in the digital sphere but transformed in both form and function. The mediated nature of online narrativity means that these personal stories are inherently datafied and commodified. This chapter shows that nearly every historical form of self-expression has found renewed life in the digital domain—only now expressed through algorithmic modalities.

Chapter 10 turns to two essential dimensions of individuality: friction and recognition. It argues that while the digital domain strives to eliminate external friction—making interactions ever more seamless and effortless—it

simultaneously exacerbates internal conflict. As we are streamlined into curated flows of interaction, the moments when we confront ourselves become more acute. Furthermore, AI-driven systems enable novel forms of recognition, but not between diverse, equal others. That these others are mirror images of ourselves—as projected through our data profiles—raises profound questions for the recognition process.

Chapter 11 examines major religious traditions of the Global North and suggests that the digital landscape mirrors two seemingly opposing poles. On one side, it embodies the rationalist, instrumentalist, and solutionist ethos often associated with Protestant thought. On the other, it reflects an enchanted worldview reminiscent of animism—populated by seemingly omniscient systems that infer, predict, and intervene in our lives. This chapter argues that these extremes are not mutually exclusive: the more hyper-rationalised and systematised the digital environment becomes, the more magical—and ultimately inscrutable—it appears.

Chapter 12 returns to the emotions of shame and guilt, showing how the digital domain intensifies both. It fosters a culture of relentless self-optimisation by constantly reminding us not only of our own unfulfilled aspirations but also of how our peers are outperforming us. This double exposure—our failure to meet our goals, juxtaposed with the apparent success of others—makes the data-driven environment a potent force for both motivation and paralysis.

Chapter 13 revisits the classic concept of the risk society, illustrating how it has evolved under the influence of data technologies. The original call for more information—to predict and mitigate risk—has led to a paradoxical situation: the more data we acquire, the more risks we discover. As a result, calls for risk prevention escalate. In this hyper-connected world, private spaces are increasingly eroded under the banner of security, efficiency, and convenience. Consequently, people no longer understand themselves primarily as physical beings embedded in specific contexts, but rather as fluid streams of data—disembodied, mobile, and unmoored from place or time.

Part IV turns to the legal domain.²² It examines the contemporary regulatory regime and dissects the various ways in which it is founded on a one-dimensional understanding of the human condition. From this narrow foundation follows a similarly narrow grasp of the risks posed by technological developments—and, consequently, one-sided legal responses. This Part argues that existing legal doctrines must be complemented by their conceptual counterparts, or “mirror images”, in order to better reflect the ambiguities and complexities of reality. Yet doing so raises difficult moral questions and unresolved philosophical tensions.

Chapter 14 demonstrates that privacy and data protection law primarily serve to safeguard the individual interests of natural persons against tangible interferences. While this protection is undeniably vital, it is insufficient.

Legal safeguards should also extend to groups, to the deceased and unborn, and perhaps eventually to AI-driven entities. Furthermore, broader societal interests—such as protection from the cumulative effect of numerous minor data harms—deserve more explicit recognition and legal protection.

Chapter 15 examines the foundational dichotomies in privacy and data protection law: private vs. public life, private vs. public communication, and personal vs. non-personal data. These distinctions once offered clarity, but they are increasingly outdated. In the twenty-first century, private life unfolds as much in public and professional settings as within the domestic sphere, and non-personal data can profoundly affect individuals' private lives. This chapter calls for a reconceptualisation of these boundaries—an assimilation of the private and the public, and of the personal and the non-personal.

Chapter 16 analyses the legal system's focus on data collection and retention, particularly the principles of purpose specification, data minimisation, and purpose and storage limitation. While these doctrines help reduce direct intrusions into privacy, they do not address new data harms arising from the decontextualisation inherent in modern information systems. This chapter proposes embedding a "data context minimisation" principle—one that ensures data are collected, stored, and used in a manner that respects the original context and intended meaning of the information and requires data controllers to draw on all relevant data, even where it is sensitive.

Chapter 17 addresses the legal system's emphasis on accuracy, authenticity, and factual precision. These aims are valid: being judged on erroneous or outdated data can cause irreparable harm. Yet the human condition also thrives on fiction, aspiration, and forgetting. For that reason, this chapter advocates strengthening and broadening two underutilised doctrines already embedded in the legal system: the right to remain oblivious to certain medical diagnoses and the right to erase outdated or compromising personal data.

Chapter 18 takes on the challenges of polarisation and filter bubbles, arguing that the current regulatory framework fails to address these phenomena because it is misaligned with the technological state-of-the-art. This chapter proposes legal obligations to ensure pluralism in algorithmic outputs—mandating that users be presented with multiple perspectives or outcome sets—and recommends the creation of designated spaces where smart products, services, and environments are explicitly banned.

Chapter 19 critically engages with the cornerstone of Western legal, democratic, and economic ideology: autonomy, as commonly expressed through informed consent doctrines. While autonomy serves as a necessary safeguard against manipulative practices such as dark patterns and deceptive designs, it also imposes an unrealistic burden on individuals to constantly make optimal decisions. This chapter draws inspiration from medical practices such as self-binding and advance directives—tools that allow individuals to pre-emptively

limit their own future choices in recognition of their internal conflicts and fallibility. It proposes removing consent as a ground for processing under the GDPR and instead imposing on data controllers a duty to exercise their powers in the data subject's best interests—at times even to the point of overriding the data subject's own understanding of what those interests are. Faced with the tension between individual autonomy and paternalism, paternalism may, in certain contexts, prove the lesser of two evils.

Part V, Chapter 20, will offer a synthesis of the book's core themes, reflecting on the implications of the analysis and outlining possible pathways forward.

NOTES

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21. The title ‘The Presentation of Self in Everyday Digital Life’ is a variation on the title of a book by Erving Goffman.
22. The title ‘Law in quest of itself’ is after a book by Lon Fuller.

PART II

The perfect imperfection of identity construction

2. The call of the sirens

I do not understand what I do. For what I want to do I do not do, but what I hate I do. And if I do what I do not want to do, I agree that the law is good. As it is, it is no longer I myself who do it, but it is sin living in me. For I know that good itself does not dwell in me, that is, in my sinful nature. For I have the desire to do what is good, but I cannot carry it out. For I do not do the good I want to do, but the evil I do not want to do—this I keep on doing. Now if I do what I do not want to do, it is no longer I who do it, but it is sin living in me that does it.¹

1. INTRODUCTION

The question of why we sometimes fail to do what we intend—or, conversely, do what we consciously wish to avoid—has perplexed humanity since time immemorial. It has been a central theme in literature, psychology, and philosophy. Religious texts, such as St. Paul’s Letter to the Romans, are replete with examples, as are many other sacred writings. Greek mythology, likewise, abounds with tales in which the protagonist must overcome internal struggles rather than external obstacles to fulfil their destiny or realise a prophecy.

This chapter explores two concepts from Ancient Greek philosophy and mythology that address this existential tension. The first is *akrasia*, literally “lack of command”, which refers to moments in which an individual knows the right course of action yet fails to follow it. The second is *self-binding*, typified by Odysseus’s encounter with the Sirens, where a person restrains themselves from doing what they desire because they recognise it is not in their best interests. In essence, while *akrasia* highlights a failure to act on rational insight, *self-binding* involves deliberately restricting one’s impulses in deference to reason.

2. AKRASIA

In Greek thought, *akrasia* described a range of scenarios that modern eyes might consider distinct but which share the core theme of a person acting—or failing to act—against their own rational judgement and best interests.²

The first form of *akrasia* involves being overcome by an irresistible force. The myth of the Sirens exemplifies this: no sailor, however strong-willed, could resist their enchanting song. A modern parallel would be addiction. A smoker may resolve to quit, yet when confronted with a pack of cigarettes, finds it impossible to resist—as though an invisible force compels their hand. Such compulsive behaviour lacks clear motivation; like a reflex, it bypasses reason altogether.

The second form occurs when an individual is torn between two equally compelling yet opposing obligations. This dynamic lies at the heart of Greek tragedy. Human life is tragic precisely because we cannot fulfil all our roles and duties simultaneously. Conflicts between personal, professional, and social responsibilities are familiar to us all: a wedding anniversary might coincide with a critical work deadline; a child's graduation might clash with a promise to support a friend at a difficult medical appointment. There is no right answer—only the inevitability of moral residue. Antigone's defiance of the king's edict in order to bury her brother, compelled by love and religious duty, is emblematic of such a conflict.

The third form of *akrasia* is perhaps the most relatable: when a person fails to act in their own best interest for no apparent reason. We may set an alarm for 7:00 a.m. to arrive punctually at work, only to hit snooze and be late. We resolve to eat healthily but still reach for junk food, despite knowing better. Unlike the first form, this form of *akrasia* does not stem from overwhelming compulsion, nor, like the second, from competing moral demands. Rather, the obstacle lies within the agent themselves.

The Greeks accepted that people could act against their better judgement—not only due to ignorance, as in Oedipus's unwitting crimes—but in full awareness of what they ought to do. Though each type of *akrasia* was understood differently, they all shared a key implication: a person failing to act rationally could not be deemed fully morally accountable.³ In cases of overpowering impulses, responsibility was negated. In moral dilemmas, agents were responsible for choosing, but not blameworthy for their choice. In the third case, the failure was attributed to a character flaw: the *akratic* person lacked resolve, was unmoored, and prone to listlessness.

Ancient Greek thought largely ignored the possibility that motivational drivers other than reason might shape behaviour, or that individuals might commit themselves to rational aspirations with varying degrees of intensity. Furthermore, character traits were viewed as relatively fixed. Modern conceptions, by contrast, emphasise moral growth and self-improvement, framing character as a matter of personal responsibility, within an individual's control. This divergence marks a key difference between classical and contemporary ethical thinking.

Another critical departure lies in the ancient assumption that will and reason are identical. Contemporary philosophy, as Mele and others have pointed out, recognises that one may act contrary to reason not due to weakness, but because of competing desires. If I know an apple is the healthier choice yet reach for chocolate, it does not necessarily reflect frailty—it may reflect that I value pleasure or comfort in that moment. Rationality is only one among many drivers of human behaviour. Logical syllogisms—such as “(A) People who smell of sweat should shower; (B) I smell of sweat; (C) Therefore, I should shower”—are structurally sound but insufficient motivators. They require affective engagement—a desire not to smell, for example, or the resolve to act.

Moreover, they lack ambiguity. Logical syllogisms rest on rigid premises. Human life, by contrast, is full of nuance. What does it mean to “smell of sweat”? Is it unacceptable if I am alone at home? What if I’m camping with friends, or my partner prefers natural scent to deodorant? Similarly, the determination of whether I *do* smell is highly subjective, influenced by personal sensitivities and social norms. The problem is compounded by the difficulty in verifying the minor premise. Do I *really* smell? How badly? Will it actually bother anyone? What if I think I’ll be alone all day but someone visits unexpectedly? Conversely, what if I expect company but plans change? The complexity of these subjective assessments reveals the insufficiency of strictly rational accounts of action.

Finally, what to our modern eye the classic understanding of character flaws insufficiently recognises is the way in which our motivations hold sway over our cognitive process. “The crucial flaw in the argument is that it depends upon the false premise that there is nothing more that the agent could have done by way of resistance. If there are akratic actions, the akratic agent is evidently less motivated, at the time of action, to perform the action judged best than he is to perform some competing action. Successful resistance is resistance that prevents the agent’s final motivational balance from falling on the side of incontinent action. And there is more that [an] agent could have done to prevent this. An agent can, for example, refuse, at the time of action, to focus his attention on the attractive aspects of the envisioned akratic action and concentrate instead on what is to be accomplished by acting as he judges best. He can attempt to augment his motivation for performing the action judged best by promising himself a reward (e.g., a night on the town) for doing so. He can refuse to entertain second thoughts about the judgement that he has just very carefully reached. He can practice more sophisticated self-control techniques prescribed by his behavioural therapist.”⁴

As Mele observes, humans are capable—and often prone—to self-deception. We tend to notice what aligns with our desires and overlook what does not. A scholar whose paper is rejected wants to believe the reviewer missed the point—and often finds evidence to support that belief. In time, they may admit

the critique was valid. Similarly, love can blind us to a partner's flaws, while jealousy sharpens our sensitivity to perceived infidelities, ignoring contrary signals.⁵ On the one hand, this means that a purely rational or objective calculation is not enough to act; an agent needs a motivation. On the other hand, our subjective motivation colours the perceived objectivity.

Some philosophers, like Aristotle, might classify such failures as lapses in relevant knowledge. But that implies an obstacle that can be overcome, which is not always the case. We navigate an overwhelming flood of information daily. To make sense of the world, we must rely on subconscious filters and prior beliefs. Pure objectivity is illusory. In a sense, we are all Oedipus—constantly acting on incomplete information. The greater the information overload, the more reliant we become on cognitive shortcuts and the more we gravitate towards environments that shield us from cognitive dissonance and challenge.

3. SELF-BINDING

The parable of the Sirens underwent numerous transformations across different retellings. In some versions, the protagonist succumbs to their enchanting song; in others, the hero overcomes the danger by outshining the Sirens with a musical performance of superior beauty.⁶ In *The Odyssey*, however, a shift occurs. When Odysseus encounters the Sirens, he does not conquer them by competing with their melody but by binding himself to the mast of his ship and ordering his crew to plug their ears with wax.⁷ Through this act of *self-binding*, he neutralises temptation not by overpowering it, but by rendering himself incapable of responding to it.

Later, Odysseus faces the twin perils of Scylla and Charybdis—sea monsters representing opposing but equally destructive dangers. Attempting to chart a course between them, he initially appears successful. Yet, when distracted by Charybdis, Scylla seizes her chance and devours part of the crew. In keeping with the prophecy of Circe—a minor deity who had earlier transformed Odysseus's men into swine, only to reverse the spell after much pleading—Odysseus is forced to accept a tragic compromise: the partial loss of his crew to Scylla in order to avoid total destruction by Charybdis. Sometimes, the sacrifice of a few is the grim price for preserving the greater whole.

For Freud, the process of growing up and becoming an adult is essentially the story of *self-binding*. We are taught to suppress our instincts and delay gratification: to become toilet-trained, to do our homework before going out to play, to eat our vegetables before indulging in dessert. More importantly, we learn to sublimate our primitive drives—replacing vengeance with formal complaints, and tantrums with controlled articulation. To Freud, maturity means internalising external constraints. We no longer require the constant

oversight of parents, teachers, or police to curb our impulses; instead, we learn to embrace the paradox that true freedom often comes through self-restraint. But this process is never complete. A perpetual internal dialogue persists among the *id*, the *ego*, and the *superego*. The *id* represents our primal, instinctual drives—our animalistic core; the *superego* embodies internalised parental norms and societal ideals—our rational, even divine self; and the *ego* is the seat of the will, caught in tension between the other two. Freud pities the *ego*, forever torn between desire and duty.⁸

Norbert Elias, in *The Civilizing Process*, traces how self-restraint has been a central thread running through the development of Western civilisation. For Elias, culture is not merely a collection of customs but a “second nature”. As societies became increasingly complex, mechanisms of external coercion—laws, punishments, repression—gradually receded, giving way to manners, etiquette, and internalised norms.⁹ “The essence of a civilizing process [...] was a gradual tilting of the balance, over a period of generations, between external and internal constraints (Fremdzwänge and Selbstzwänge in Elias’ original German terminology). Steady, consistent, and predictable, relatively gentle, external constraints fostered the growth of relatively automatic and even self-restraints. The “advance of the threshold of shame and embarrassment” (or of repugnance) – again from generation to generation – played a key role in this process of internalization.”¹⁰

Building on Elias’s framework, Cas Wouters argues that the trajectory shifted in the twentieth century. Whereas Elias had documented a long-term trend of *formalisation*—the tightening and codifying of emotional norms and social etiquettes—Wouters identifies a modern phase of *informalisation*. Social interactions became less hierarchical and more egalitarian.¹¹ Formal codes and rituals receded, and status distinctions gave way to horizontal relationships and social mobility. As people began to move more fluidly between different cultural and professional contexts, they were required to assume multiple roles without the guidance of rigid norms or clearly defined rules. Technological and societal changes accelerated this trend, rendering social codes increasingly fleeting.

Wouters quotes Elias as observing: “What is decisive for a human being as he or she appears before us is neither the ‘id’ alone, nor the ‘ego’ or ‘superego’ alone, but always the relationship between various sets of psychic functions—partly conflicting, partly cooperating levels of self-steering.”¹² According to Elias, these internal dynamics between instinctual drives and the socially instilled mechanisms that regulate them evolve over time, shaped by broader civilising processes. As societies grow more complex, he suggests, there is a progressive compartmentalisation of psychic functions: drives become less transparent to consciousness, and consciousness less porous to drives. In simpler societies, instinctual impulses—though shaped by their cultural

contexts—retain more direct access to conscious reflection. But over time, and under the pressures of growing interdependence and social differentiation, the structures of self-regulation grow more segmented and layered.

Wouters builds on this framework to argue that the long informalising trend of the twentieth century marked a reversal of this compartmentalisation. Social emancipation and growing interdependence demanded not only greater social integration, but psychic integration as well—a more ego-centred mode of self-regulation. In this model, drives, emotions and impulses become more accessible and consciously acknowledged, while control over them is exercised less through a rigid, internalised superego functioning as ‘second nature’, and more through a flexible, self-reflective ego. Where the disciplinary regimes of the nineteenth century cultivated an authoritarian, superego-dominated personality—marked by the tension between external authority and internalised conscience—the twentieth century ushered in a shift. In the era of informalisation, the central tension moved inward: from the conflict between outer norms and inner restraint to the more subtle dynamic between conscience and consciousness, superego and ego.¹³

Self-binding, then, serves not only to manage internal conflict but also to sustain social cohesion. Civil society depends on individuals’ capacity for restraint and self-regulation. What is striking about self-binding is its anticipatory nature: it restricts freedom in advance of temptation. Often, it imposes stricter limitations than any external rule. If I occasionally lose control and devour two chocolate bars, I may choose never to keep chocolate at home. If I oversleep once a month and am late to work, I might forbid myself from ever hitting snooze. Thus, self-restraint can spiral into a relentless pursuit of self-improvement—a quest with no logical terminus.

4. CONCLUSION

This chapter has advanced two central claims.

First, in ancient Greek thought, reason and freedom were considered synonymous. If a person rationally understood the best course of action yet failed to act accordingly, it was presumed they lacked the capacity to do so. A classic example is addiction: an individual may clearly comprehend the harms of smoking and be firmly resolved never to light another cigarette, yet still find themselves powerless in the presence of a pack. The impulse is not merely difficult to resist—it is irresistible. A second scenario, and the foundation of many Greek tragedies, involves conflicting duties: the obligation to honour the gods versus the duty to one’s family, for example. Human fate, in this context, is marked by the impossibility of wholly righteous action. A third scenario reflects what the Greeks viewed as a deep character flaw. They believed character was largely immutable; failing to act in line with reason revealed

an innate deficiency. Modern thinking, however, diverges sharply, particularly on this last point. To know what is right is not the same as to want to do what is right. Rational understanding does not automatically produce motivation. Moreover, our motivations actively shape our perception of the world: we see what we want to see, and ignore what we do not.

Second, it is possible to resist even the most compelling of urges through rational pre-emption. The archetypal symbol of self-binding is Odysseus lashing himself to the mast so he may hear the Sirens' song without succumbing to it. True freedom, as this myth suggests, arises not from giving in to our desires, but from pre-emptively curbing them. Both Freud, from a psychological perspective, and Elias and Wouters, from a sociological one, have emphasised the crucial role of self-binding in personal and societal development. As societies have become less hierarchical and more fluid, the responsibility for self-regulation has increasingly shifted to the individual. Although self-binding may seem less coercive than external force, it often imposes a stricter limitation on freedom, precisely because it operates pre-emptively.

These insights are essential for understanding the dynamics of the digital environment, as will be further explored in Part III. To give one example: the vast informational resources offered by the internet and Large Language Models can both empower individuals to make informed, rational choices and, paradoxically, overwhelm them with an avalanche of data. Faced with this glut, people may retreat into echo chambers that reaffirm their pre-existing beliefs. Furthermore, the more information we have—on climate change, geopolitical conflicts, industrial farming, optimal diets and lifestyles, ideal career paths, or even which outfit and fragrance to wear on a date—the more we feel the pressure to make optimal choices. At the same time, this abundance of data can provoke a sobering realisation: the ideal of perfect rationality, morality, and autonomy is unattainable. No one can process all the available information, and the deeper we dive into knowledge, the more we realise how little we truly know. Thus, the digital abundance becomes a double-edged sword—an extraordinary source of empowerment and a profound source of paralysis.¹⁴

NOTES

1. Romans 7:15–20.
2. Chappell, T. (1995). *Aristotle and Augustine on freedom: two theories of freedom, voluntary action and akrasia*. London: Springer, p. 25.
3. Ahrens Dorf, P. J. (2009). *Greek tragedy and political philosophy: rationalism and religion in Sophocles' Theban plays*. Cambridge: Cambridge University Press.
4. Mele, A. R. (1987). *Irrationality: An Essay on Akrasia, Self-Deception and Self-Control*. Oxford: Oxford University Press, pp. 23–24.

5. Mele, pp. 125–126.
6. Hunter, R. L. (2004). *The Argonautica of Apollonius*. Cambridge: Cambridge University Press.
7. <https://www.perseus.tufts.edu/hopper/text?doc=Perseus%3Atext%3A1999.01.0135%3Abook%3D12%3Acard%3D36>. Accessed 30 November 2025.
8. Freud, S. (1949). *The Ego and the Id*. London: The Hogarth Press Ltd.
9. Elias, N. (1994). *The Civilizing Process*. Oxford: Blackwell.
10. Linklater, A., & Mennell, S. (2010). Norbert Elias, the civilizing process: Sociogenetic and psychogenetic investigations—an overview and assessment. *History and Theory*, 49(3), 384–411.
11. Racism, sexism, ageism, nationalism, ethnocentrism, and similar attitudes are widely condemned because they assert superiority where equality should prevail.
12. Wouters, C. (2007). *Informalization: Manners and Emotions since 1890*. London: Sage.
13. *Ibid*, pp. 202–203. See also: Wouters, C., & Dunning, M. (2019). *Civilisation and informalisation*. Springer International Publishing.
14. As Burke suggests, the awareness of our own failures may be the most powerful force compelling us to strive towards the sublime. Yet encountering the sublime also evokes a sense of terror, for it overwhelms us—too vast, too elusive to fully comprehend or contain. This confrontation can have a paralysing effect: it may lead individuals to recognise that the sublime is, by its nature, unattainable. Rather than pursuing an imperfect but meaningful improvement of reality, they may retreat into avoidance—eschewing action for fear of error, and ultimately embracing self-denial. Burke, E. (1993). *Pre-revolutionary writings*. Cambridge: Cambridge University Press.

3. Ashamed of being ashamed

Our words for shame derive from two Indo-European roots, both with the same meaning. One cluster of words includes our English words custody, hide (both as a noun meaning “skin” and as a verb meaning “conceal”), house, hut, shoe, and sky. In terms of meaning, the common thread in these otherwise disparate words is their relation to covering. In terms of derivation, each of these words derives from an Indo-European root (s)que-; (s)qewa-, which means “to cover”. From this same root comes the Lithuanian word kuvetis meaning “to be ashamed”. A second Indo-European root (s)kem; (s)kam-, also meaning “to cover”, give us both our English words shame as well as the English camera, the French chemise, and the German Hemd.¹

1. INTRODUCTION

The impulse to conceal and withdraw may well be the most quintessentially human of emotions. Unlike fear or aggression, shame appears to be uniquely human—absent in animals and rarely attributed to the gods. Even with our life partners—those with whom we have shared decades—we may still experience moments of shame. We might feel self-conscious about exposing our naked bodies and prefer to turn off the lights during intimacy. We may cringe when teased about our snoring or prefer privacy in the bathroom. These are examples of shame relating to involuntary, bodily functions—elements of our humanity that fall outside our control. Yet shame, as this chapter will demonstrate, extends far beyond the physical. It can just as readily arise from perceived shortcomings in our capacity for rational thought or emotional restraint. Guilt is often described as shame’s twin, but it carries a distinct meaning and serves a different function. Etymologically, guilt is linked to the notion of a monetary debt or possibly to financial yield. In its modern form—especially as shaped by Christian theology—it denotes the feeling one (ought to) experience when violating social or moral norms.

Shame is essential to our existence as individuals: it emerges when our internal coherence breaks down—when, for example, we view ourselves as rational beings but are overcome by an uncontrollable biological urge. Guilt, by contrast, is foundational to our lives as social beings. It signals a rupture

in the moral fabric of the group—when a community member transgresses shared values or norms. For instance, a churchgoer who uses the Lord’s name in vain during a church book club may feel guilt as a response to breaching communal expectations. If that same act also clashes with their self-concept (e.g., “I’m not the kind of person who takes the Lord’s name in vain”), it may simultaneously provoke a sense of shame.

This chapter explores the complex interplay between these two emotions, focusing in particular on the Christian tradition, which has profoundly shaped Western moral consciousness. Section 2 traces the origins and contours of shame; Section 3 turns to unpack the nature and function of guilt.

2. SHAME

When God created the heavens and the earth, and formed man and woman, the final verse of Genesis 2 reads: “Adam and his wife were both naked, and they felt no shame.” In the very next chapter, the parable of the original sin unfolds. The serpent tempts Eve, suggesting that eating from the forbidden tree would not bring death, but rather open their eyes—offering them knowledge of good and evil and the status of gods. Once they eat the fruit, they become aware of their nakedness and hurriedly sew fig leaves together to cover themselves. God, witnessing this, crafts garments of skin for them and declares: “The man has now become like one of us, knowing good and evil. He must not be allowed to reach out his hand and take also from the tree of life and eat, and live forever. So the Lord God banished him from the Garden of Eden to work the ground from which he had been taken. After he drove the man out, he placed on the east side of the Garden of Eden cherubim and a flaming sword flashing back and forth to guard the way to the tree of life.”²

The parable encapsulates the tragic duality of the human condition: man is caught between beast and god. Animals are neither burdened by morality nor blessed with eternity; the divine embodies both. Humans, by contrast, possess moral knowledge yet remain tethered to bodily needs and temporal limits. Shame enters the story not with the sin itself, but with awareness—with knowledge of morality. The rift between bodily and intellectual finitude and moral aspiration is the perpetual source of shame.

From this, two primal sources of shame can be traced. The first is deeply rooted in biblical and pre-Hellenistic suspicion of bodily necessity. It is no coincidence the “later Greek word for the body as opposed to the soul, *sōma*, means a corpse in Homer”.³ Likewise, *aidoia*, the term closest to “shame”, stems from a word for genitals; the penis was euphemistically termed “the necessity”. The second source of shame arises when one’s destiny or aspiration cannot be fulfilled. Freud makes a similar distinction: shame can stem from the ego’s failure to control the id (bodily urges), or from its failure to live up

to an internal ideal. This so-called ego ideal differs from the superego, which internalises external norms; the ego ideal embodies personal aspirations.

Both shame and guilt are deeply woven into the Judeo-Christian tradition. Early Christianity heavily emphasised shame. In the first centuries A.D., asceticism and celibacy were idealised. Saints like Ambrose revered virginity and bodily denial as the highest moral achievement.⁴ Monastics would self-chastise, forgo sleep, and even render food unpalatable in a quest for spiritual purity. The body was not merely suspect—it was something to be transcended.

Over time, however, guilt eclipsed shame in both Christian doctrine and Western moral thought. Guilt came to be seen as a more productive and psychologically advanced emotion. Unlike shame, which can be inescapable and is tied to who a person is, guilt is oriented towards action—it speaks to what a person has done and what can be amended. Shame can isolate and paralyse; guilt is thought to compel reparation and reintegration.

Shame's isolating and recursive nature—its tendency to fold back on the self—is poignantly illustrated by both Narcissus, who falls in love with his mirror image, and a character in *Le Petit Prince*: “The next planet was inhabited by a drunkard. This visit was a very short one, but it affected the little prince with deep sadness. ‘What are you doing here?’ he said to the drunkard whom he found sitting silently in front of a collection of bottles, some empty and some full. ‘I am drinking,’ answered the drunkard lugubriously. ‘Why are you drinking?’ the little prince asked. ‘In order to forget,’ replied the drunkard. ‘To forget what?’ enquired the little prince, who was already feeling sorry for him. ‘To forget that I am ashamed,’ the drunkard confessed, hanging his head. ‘Ashamed of what?’ asked the little prince who wanted to help him. ‘Ashamed of drinking!’ concluded the drunkard, withdrawing into total silence.”⁵

Only recently has shame been reclaimed as a vital and uniquely human emotion.⁶ For a long time, both shame and guilt were understood as fundamentally social: responses to others' judgements. But as these examples show, shame is also intensely self-referential.⁷ We feel shame not only when judged by others, but when we judge ourselves—often in solitude. This is evident in the discomfort of hearing one's own recorded voice, or Derrida's reflection on feeling naked under a cat's gaze.⁸ Even without another human presence, shame arises from the chasm between how we perceive ourselves and how we are confronted with ourselves.

This self-referential nature of shame is further underscored by its persistence in situations where social norms are inverted. A habitual drinker, proud of their bohemian identity, may feel shame when ordering a soda—even in an empty bar—because it signifies a betrayal of their own self-image. Shame endures when we fail to meet not only external norms but personal ones. Unlike guilt, which invites confession and absolution, shame urges retreat. This can lead to extreme self-destructive behaviour, which is one of the reasons why many

persons and institutions favour guilt over shame. There is something relieving about coming clear, confessing and receiving external punishment; you are not alone, but rather put the responsibility in the hands of an external authority. Yet guilt and punishment, being external, do not necessarily change a person; as such, a person can become permanently reliant on the cycle of transgression, confession and absolution. Shame, retreat and reinvention, if successful, leads a person to change and perfect themselves and thus addresses the root cause.

Some shame sources are inescapable—chiefly, those tied to our physicality. Certain acts, by their very nature, require privacy. Other sources of shame, rooted in the mismatch between reality and ego ideal, may be addressed by either changing one's life or adjusting one's ideal. But to resolve this tension entirely is to forgo personal growth. Without a private space in which to process and reflect on shame, the ego may ossify, unable to evolve. Privacy, then, is not merely a protection of secrets but a condition for moral development. It allows us to hold and evaluate personal norms. Those norms, inevitably, create friction with lived reality. That friction produces shame. And, in turn, shame demands solitude—a protected space in which the self might reckon with itself, retreat, and perhaps emerge renewed.

3. GUILT

Although not absent in the Old Testament, the New Testament pivots decisively towards the notion of guilt. Mary's immaculate conception signifies her freedom from sin, and Christ's earthly life is framed as a redemptive mission: to die for humanity's sins so they might be absolved. In the apocryphal episode at the Mount of Olives, Jesus famously challenges moral hypocrisy—"Let he who is without sin cast the first stone"—refusing to render judgement himself. His plea on the cross, "Father, forgive them, for they know not what they do", reinforces a recurring message: human fallibility calls not for condemnation, but for understanding and redemption. According to dyophysitism, Jesus is both fully divine and fully human, embodying a paradox of moral perfection and human vulnerability. His death is an ultimate act of vicarious guilt-bearing, cementing guilt—and the cycle of sin, confession, penitence, and absolution—as the cornerstone not only for ecclesiastical practice but for societal norms at large.

As Foucault describes in *The History of Sexuality*, Western civilisation became "a confessing society". The practice of confession, he observes, has permeated nearly every facet of life—its influence stretching from justice to medicine, from education to family life, from intimate relationships to the rituals that mark our most solemn moments. We confess our crimes, our sins, our ailments and anxieties; we expose our desires and disclose our shame. Confession unfolds both in the public arena and in private sanctuaries—spoken

to parents, teachers, doctors, lovers, and above all, to ourselves. We articulate, with startling precision, what often feels unspeakable—the stuff of memoirs and autofiction, of secret diaries and therapeutic sessions. Sometimes we confess freely, compelled by an inner urgency. At other times, confession is extracted—through pressure, coercion, or force. When it does not arise from within, it is summoned from without, torn from the soul or seized from the body. Since the Middle Ages, torture has shadowed the confession, lending it support when words faltered—the “dark twins” of vulnerability and violence. The most tender intimacy and the most brutal expressions of power both demand confession. In this, Western man has become what Foucault calls “a confessing animal”.⁹

Confession, whether voluntarily offered or forcibly extracted, became an essential ritual of truth-telling and purification. Initially reserved for the divine relationship—between sinner and God—the practice evolved into an institutionalised mechanism of transparency between priest and layperson, and ultimately between individual and society. Guilt, in this context, functions as a mechanism of moral governance through exposure and absolution. Its logic demands that the darkest parts of the soul be brought into the light. Where shame encourages concealment, guilt mandates transparency. The confessing subject is expected to admit not only to actions but to thoughts and inclinations. This demand for inner clarity and public reckoning became central to legal, medical, and educational practices, transforming the subject into a site of moral scrutiny.

This creates a dialectical tension between shame and guilt. Shame conceals, guilt exposes. The person who is ashamed hides the shame-source—from others, and at times, even from themselves. A guilt-based system is predicated on dismantling that concealment. Through confession, the individual confronts the transgression, calls upon others for judgement, and invites chastisement, either as punishment or penance. The oscillation between shame and guilt manifests not only at the personal level, but in our social expectations. We ask others to suppress “shameless” acts through concealment, yet demand transparency from those we suspect of transgression. Our responses are also often vicarious. We feel shame when someone close to us—our child, friend, fellow citizen, or country—is publicly scorned.¹⁰ Likewise, we may feel a form of inherited or collective guilt.¹¹

These forms of vicarious and collective emotion are not alien to law.¹² Group guilt may be acknowledged in historical reckoning with slavery, colonialism, or war atrocities. Legal doctrines exist for vicarious liability, where, for example, a parent may be held responsible for a child’s misconduct. Yet, the modern legal system overwhelmingly centres on the individual. Guilt is formalised through procedures that require *mens rea* and *actus reus*. Without demonstrable guilt, there can be no punishment. Judges also consider whether the

accused pleads guilty and expresses remorse—factors that mirror the ecclesiastical cycle of confession, penitence, and absolution. In contrast, shame-related mechanisms are marginal. Laws governing public decency—such as prohibitions on nudity or public defecation—are rare and increasingly contested. Tort law may protect against reputational damage, but it rarely invokes shame explicitly. While guilt is institutionalised, shame operates largely in informal and social domains.

This distinction is neither natural nor universal. Many non-Western societies, such as Japan, place far greater weight on shame as a regulatory tool. These cultures rely heavily on informal codes, etiquette, and reputation, sometimes making legal enforcement unnecessary. Shame can function as a powerful deterrent, promoting social conformity without coercive law. Likewise, in medieval Europe, punishment was often public and symbolic: the pillory, the branding iron, the scarlet letter—stigma designed to imprint shame visibly and irreversibly. These traditions underline a historical reality: societies have chosen either guilt or shame as their primary instruments of moral correction, depending on cultural, religious, and institutional priorities.

4. CONCLUSION

As this chapter has shown, although often seen as twin emotions, shame and guilt are frequently experienced in isolation from one another, depending on context, culture, and personality. Shame reminds us that we are imperfect relative to our own aspirations. Guilt reminds us that we have fallen short of societal expectations—typically about things we can rectify. The Western legal tradition, heavily influenced by Christian theology, institutionalised guilt over shame. This led to a moral and legal system structured around individual responsibility, rational deliberation, confession, and the possibility of redemption.¹³ While guilt has long been considered the more productive emotion, recent scholarship has rediscovered shame's role in moral development and self-improvement. The self-referential, solitary structure of shame (persisting even when social norms invert or no audience is present) can both be extremely destructive and productive. While guilt requires confession, shame yields retreat. Privacy is not mainly a shield against social judgement or surveillance, but a precondition for moral development. We need privacy to cultivate personal norms and ideals; those ideals inevitably rub against lived reality; that friction gives rise to shame; and shame, in turn, calls for solitude—a protected space in which the self can reckon with itself, retreat, and perhaps re-emerge renewed.

These distinctions matter profoundly in the digital age, as explored further in Part III. Digital technologies intensify both shame and guilt in paradoxical ways. On the one hand, they allow us to project idealised versions of ourselves,

seemingly closing the gap between who we are and who we want to be. On the other hand, they serve as perpetual mirrors—reminding us, often mercilessly, of our failures, limitations, and unmet aspirations. Online platforms offer anonymity and mobility, enabling transgressions free of traditional guilt. Yet they also create unprecedented mechanisms for exposure, surveillance, and collective punishment. States use digital tools to monitor and sanction, while online communities enforce group norms through public shaming and cancellation. In this environment, both shame and guilt are amplified, weaponised, and transformed. Understanding their origins, functions, and divergences is essential for grasping how technology reshapes the human moral condition.

NOTES

1. Schneider, C. D. (1977). *Shame, Exposure & Privacy*, Boston: Beacon Press, pp. 29–30. Many languages also use the word for shame or being prudent to refer to the genital areas, such as: ‘aidos/aidoia, pudor/pudenda, honte/parties-honteuses, Scham/Schamteile’. Ibid, p. 31. See also: Morrison, A. P. (1988). *The culture of shame*. Northvale: Jason Aronson Inc. Publishers; Morrison, A. P. (1997). *Shame: the underside of narcissism*. New York: Taylor & Francis Ltd.
2. <https://www.biblegateway.com/passage/?search=Genesis%203&version=NIV>. Accessed 30 November 2025.
3. Williams, B. (2023). *Shame and necessity* (Vol. 57). Berkeley: University of California Press, p. 23.
4. Ambrose, S. (2007). *Concerning Virgins*. Rome: Aeterna Press.
5. de Saint-Exupéry, A. (2021). *The Little Prince*. Toronto: Aegitas.
6. “Donald Nathanson believes you can do better self-theory with shame than with guilt; Bernard Williams believes you can do better moral theory with shame than with guilt; Eve Sedgwick believes that, using Tomkins’s theories, you can do better queer theory with shame than with guilt; Giorgio Agamben believed you can do better survivor testimony theory with shame than with guilt; Elspeth Probyn thinks you can do better gender and cultural studies with shame rather than guilt; psychiatrists and therapists think you can do better trauma theory with shame than with guilt; and so on. The result is that shame has emerged in recent years as a privileged operator not only for various psychological-psychotherapeutic projects, but also for diverse kinds of theoretical-interpretative undertakings.” Leys, R. (2007). *From guilt to shame: Auschwitz and after* (Vol. 8). Princeton: Princeton University Press, p. 124.
7. Nathanson, D. L. (ed.) (1987). *The Many Faces of Shame*. New York: The Guilford Press, p. 282; Kohut, H. (2009). *The Restoration of the Self* (1977). New York: International Universities Press; Jacobson, E. (1964). *The self and the object world*. New York: International Universities Press.

8. Derrida, J. (2008). *The animal that therefore I am*. New York: Fordham University Press.
9. Foucault, M. (2019). *The history of sexuality, vol. 1: The will to knowledge*. London: Penguin, p. 59.
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11. Lickel, B., Schmader, T., Curtis, M., Scarnier, M., & Ames, D. R. (2005). Vicarious shame and guilt. *Group Processes & Intergroup Relations*, 8(2), 145–157; Welten, S. C., Zeelenberg, M., & Breugelmans, S. M. (2012). Vicarious shame. *Cognition & Emotion*, 26(5), 836–846.
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4. Playing ourselves

Never lose yourself on the stage. Always act in your own person, as an artist. The moment you lose yourself on the stage marks the departure from truly living your part and the beginning of exaggerated false acting. Therefore, no matter how much you act, how many parts you take, you should never allow yourself any exception to the rule of using your own feelings. To break that rule is the equivalent of killing the person you are portraying because you deprive him of a palpating, living, human soul, which is the real source of life for a part.¹

1. INTRODUCTION

We often contrast authenticity with acting, living with playing. Yet what sets humans apart is precisely our capacity for play—we are *homo ludens*,² the playful animal. Through play, we experiment, develop relationships, and construct identities. In this sense, play precedes culture; it is rooted in *mimesis*—our innate impulse to observe, imitate, and rehearse roles.³ A child pretending to be a parent, an aspiring politician studying parliamentary debates, or a teenager mimicking a pop idol all illustrate how identity is constructed through imitation and experimentation. Role-playing also extends beyond the human realm. Children may pretend that their teddy bear can speak. In many non-Western cultures, ritualistic performance allows individuals to embody animals, spirits, or deities—a theme that will be explored further in Chapter 11.

This chapter argues that acting and role-playing are not opposed to authenticity, but are in fact essential to becoming ourselves and continuing to evolve. Section 2 explores the etymology of the term *person*, which originates from the theatrical mask, and examines the paradoxes it introduces. Section 3 turns to Erving Goffman's sociological analysis of identity as performance and introduces the concept of the backstage—a space for retreat, rehearsal, and recovery.

2. PERSONA

The word *person* derives from the Latin *persona*, which referred to the theatrical masks worn in Roman tragedies. To become a person was, quite literally, to wear a mask—to step into a role, to act. Some have interpreted this origin as evidence that identity formation is inherently alienating. A more constructive and accurate interpretation, however, holds that it is only through role-playing that we develop a self.⁴ Children acquire identity by mimicking adult roles (e.g., “playing house”), and adults continue this process through imitation or by adopting archetypes—such as the dignified elder or the nurturing parent.⁵

While the prevailing view is that *persona* stems from the Etruscan *phersu* (mask), some commentators suggest that the word stems from *per-sonare*, Latin for sounding-through.⁶ This duality is revealing: the mask is both a filter and an amplifier, a constraint and a conduit. Classical theatre employed a standard set of masks—wise old man, angry young man, married women—each representing a fixed character or emotion. In line with Greek thought, identity (*ethos*) was seen as relatively fixed: one was by nature melancholic, humorous, or courageous, as discussed in Chapter 2.

Accordingly, ancient theatre was concerned with being, not becoming; with destiny, not choice. “Modern theatre is obsessed with motivation. A motivation for an action might be described as an act of will precipitating that action ... Greek thought lacks a vocabulary to define the self/individual/person/subject whom we regard without question as the source of moral action. In Aristotelian thinking, an act of will cannot be separated from the dialectic between a reasoning process and a pre-existing disposition. An “ethical” choice ... relates not to a single existential act of will, but to an accumulated selection of habits.”⁷

Masks also allowed actors to inhabit “the other”. A man could become a woman, a commoner, a god, a slave, a king—creating the paradox of “I am another”.⁸ Additional ambiguity emerged from theatrical techniques: identical masks used by multiple actors, anonymous voices from backstage, or planted audience members blurring the line between stage and reality. This created interpretative uncertainty, prompting audience members to speculate over character, roles, and embodiment and discuss during performances. Subjectivity was built into the dramaturgy—and with it, a sense of relationality and interpretive agency of the audience.

Precisely because the masks were fixed, the audience was constantly put to wonder who they were actually seeing. Was it the actor, the character the mask signified, or was it the poet or writer of the play who controlled the actors like puppets on a string? It was on this point that there was a shift between pre-Socratic and post-Socratic plays. “In classic tragedy, the mask was a neutral

better-than-average face. The eyes of the audience would fix upon the shifting physical relationship of actor and chorus within the *orchestra*, and a continuous view of the face was not essential. The *ethos* of the protagonists emerged exclusively through the action of the play, and was not revealed by the mask. Hellenistic theatre found new possibilities in the mask in accordance with new theories of perception. Aristotle argued that the visual image necessarily carries a higher information content than the voice.”⁹

But there was a duality on this point as well. An actor’s “existence as a natural individual is of dramatic consequence because the mask unworn, through which no lines are sounded (*per-sonare*), is not a person, but a dead prop. It requires, in the performance of the drama, to be animated.”¹⁰ Consequently, the mask has to be worn and animated by a natural person to have meaning and significance, and vice versa, a person has to put on a mask, perform a role and play a part in a bigger play to come to life and beget social significance. This means that a mask has to allow for ambiguity. Both in Greek and Roman as well as in African and Asian theatre, a remarkably similar approach to mask-making was taken, where the mask had to make clear to the audience which character was embodied and at the same time, allow for the natural person to shine through the mask and enchant the character.

A good mask, consequently, “is a mask which changes expression when it moves. If it stays the same when the actor changes posture and situation, it is a dead mask ... It must not bear an expression that is distinctly transient. One cannot conceive of a mask that is always laughing, for it would not be able to stay on stage of long, it would only be a passing shadow. To understand the merits of a mask, it is not enough to read the meaning yielded by its formal and ideological propositions. One has to understand its behaviour through the actor’s movements which it instigates.”¹¹ This applied to Greek and Roman theatre as well as non-Western dramaturgical traditions, which also relied on the use of masks, such as the Japanese Noh masks. “The carver of Noh masks understands that he must keep the eyes unfocussed so that, whilst in a photograph or on a museum wall the mask may seem to have two separate lines of vision and an impersonal expression, in motion in performance the mask will seem to be caught in the act of focussing, and thus to be alive. Likewise a square-cut iris would create the effect of an unblinking expressionless stare. Hellenistic theatre demonstrates a similar understanding.”¹²

3. BACKSTAGE, ONSTAGE

Goffman uses the metaphor of theatre—acting, stage performance, and role-playing—as a lens to understand both the formation of identity and the dynamics of social relations. For Goffman, social life largely depends on face-to-face interactions. In Western societies, eye contact is a central ritual

of communication. But this, too, demands a delicate balance: to avert one's gaze is often taken as disinterest; to stare too intently can seem intrusive or aggressive. Social interactions are governed by subtle norms and unspoken expectations. When asked, "How are you?", one is typically expected to give a brief, upbeat response. We are taught to avoid body odour, refrain from loud music or speech, and maintain a socially acceptable physical distance—close enough to indicate presence, distant enough to respect personal space. These norms vary not only by individual but by social context, making interpersonal navigation highly complex.

To start a fruitful encounter, a person must first have a personal space (even if a temporary one, such as a telephone booth or toilet). As such, items and spaces can feel as an extension of oneself, not merely as objects. When entering a person's private space or house, there is usually an access ritual, e.g., knocking on the door or ringing the bell, taking off your shoes and jacket (changing costume). Similarly, if you are interrupting someone's conversation or trying to get their attention, you are expected to apologise ("Sorry, hi, sorry"), which indicates that you are aware that you are intruding. "An apology is a gesture through which an individual splits himself into two parts, the part that is guilty of an offense and the part that dissociates itself from the delict and affirms a belief in the offended rule."¹³ Here, a person acts as perpetrator, judge, and executioner. The other party is expected to perform forgiveness in return—often with a blend of sincerity and social performance.¹⁴ As such, social relationships require both parties to show restraint, or what Goffman calls "reciprocal self-denial"¹⁵ Social relations mean allowing a person to transgress boundaries, and expecting them to respect those boundaries at the same time.

In *The Presentation of Self in Everyday Life*, Goffman elaborates on this dramaturgical framework. He argues that individuals need to go "offstage" to rest, prepare, or switch roles. This is necessary because of two opposing demands: coherence of identity and adaptability to context. People are expected to behave differently with their parents, their children, their colleagues, and their friends, yet present each role as fully authentic. Traces of other performances must be concealed. The illusion must be preserved: that each person is not acting. Clothing often signals role: a suit at work, casual wear with friends, sweatpants at home. Role-mixing causes discomfort—when a mother shows up unannounced at school, when a partner joins a night out, or when you run into your boss shouting at a football match.

The backstage is typically a private or semi-private space where individuals retreat from public scrutiny. It is where "dirty work" happens: changing costume, rehearsing lines, venting frustrations, transgressing social norms. As Goffman notes, Western society tends to sustain two distinct registers of behaviour: one reserved for the frontstage—where performances are given—and

another for the backstage, where such performances are suspended. The backstage is marked by a loosened etiquette: mutual first-name address, collaborative decision-making, the casual use of profanity, candid sexual jokes, habitual griping, informal clothing, relaxed posture, dialect speech, mumbling or shouting, playful aggression, teasing, and a general disregard for the niceties of social decorum. Here, individuals indulge in minor self-absorbed behaviours—humming, whistling, chewing, belching, flatulence—acts that may signal intimacy, but also a certain irreverence towards those present and the setting itself. The frontstage, by contrast, is characterised precisely by the absence—or indeed, the negation—of such behaviour. It is a space of restraint, control, and symbolic deference, where potentially disruptive or offensive conduct is kept firmly at bay.¹⁶

It is typical for groups in specific settings to develop their own language and habits, to which an outsider must adapt. No backstage setting is alike. For example, what is permissible in terms of language or behaviour varies from home to home—in some families it is allowed to swear and curse at home, while in others that is strictly prohibited. Likewise, in some work settings, it is allowed to use informal language when speaking to coworkers or even the boss, while in others, this would be conceived as inappropriate. Many friend groups have their own etiquettes, such as in terms of dress code. People wanting to join the group must either conform to the social norms or “fight” to renegotiate the rules.¹⁷

The groups are not only held together by an internal code, Goffman believes, but also by the sharing of information and secrets. Within work contexts, these may be business secrets, information which sets one company apart from its competitors; within friend groups, these may be personal secrets. This information shared is expected to stay within that context. As such, information sharing is what is usually a, or perhaps, the most important group-formative instrument. It is the fact that you share the most intimate details about your private life, your darkest thoughts and your most painful insecurities with your partner, and that this process is reciprocal, that makes a relationship what it is; it is the fact that there are inside jokes, that you have a secret meeting point, and that there are things you have done together and you would never tell anyone that can turn a friendship into an eternal bond.

Transgressions of either informational secrecy or group-specific customs may lead a person to be ousted or temporarily suspended. Gossiping, the backstage version of this transgression, often itself regards transgressions of role playing, such as when an employee is believed to have screamed at their boss, or when information from another sphere leaks in: have you heard coworker Bob likes to dress up as a woman at the weekend? From this perspective, Goffman also explains why it is so problematic to violate each other's privacy, because it is usually a way to pierce through a role and include in a context

information about other performances in other spheres. It amounts to what Goffman calls a “nonperson treatment”.

People require a private domain, a space offstage, for a variety of deeply ingrained reasons. As Goffman explains, when an individual performs, they typically hide far more than mere indulgences or indiscretions; they conceal the very motivations and intentions that animate the performance itself. Mistakes are rehearsed away, corrected before they can surface, and even the traces of such corrections are obscured—helping sustain an aura of effortless competence, often crucial to the credibility of a presentation. Likewise, when someone presents a product of their labour, what is shown is the polished result, not the messy, iterative process behind it. Audiences are led to judge based on what has been refined and made presentable. There is also a tendency to hide the “dirty work”—tasks deemed unworthy or disreputable—even if this work is delegated to someone else. Closely tied to this is the need to maintain multiple ideal standards that may conflict behind the scenes; preserving one ideal in public may require the quiet compromise of others in private. Lastly, performers often wish to obscure any aspect that might call into question their entitlement to the role they occupy—suggesting instead that they arrived at their position through merit, grace, or destiny, untouched by compromise, humiliation, or backstage negotiation.¹⁸

Consequently, the private domain is necessary for those moments where there is no personal unity, in which a person has no fixed identity, is experimenting with various roles or has fallen out of character. In addition, the private domain is necessary for hiding aspects of oneself that do not fit one’s character. Personal coherence onstage comes at the price of disunity offstage; typically, the better a person wants to become at giving a perfect performance onstage, the more dirty work they have to conceal in the private domain. Everyone deals with this tension, big or small. We all need to play a role to beget an identity and we all need the private domain both before going on stage, to practise lines and put on the right costume, and after the play, to unwind or rehearse the part that went wrong.

Goffman, in *Asylums*, describes places with virtually no privacy and no individuality, or what he calls total institutions. Prisons, mental hospitals, and treatment facilities are all examples of these. People may be monitored permanently, mail and conversations are checked, and inmates have to wear uniforms instead of personal clothing; they can be subjected to body cavity searches and have to spend most of their time in interchangeable or shared spaces. Private ownership is, in many ways, discouraged or prohibited. Language codes are formal and the inmate has to performatively acknowledge social hierarchy when addressing the staff. In some institutions, permission has to be granted to use the shower or the toilet, and a towel or a limited amount of toilet paper is given per use. Inmates may be given a nickname, a number, or a code name.

Goffman suggests that this is a deliberate tactic to “break” someone in order to build them up from scratch, which is why there are typically restrictions on contact with the outside world. Accessing prior contacts could bring the institutionalised back to their pre-established identity.

People not only need privacy, Goffman suggests in this context, they will always find or create a private sphere. Inmates put bed sheets over their heads to create a private zone; they develop a secret code or language to communicate with their peers. Prisoners are known to keep mice as pets or make a personal object out of leftovers or toilet paper. When people are allowed to have some personal items, like a comb, these can turn into quasi-religious objects, and inmates tend to build storage spaces for them. “These storage spaces protect the object from damage, misuse, and misappropriation, and allow the user to conceal what he possesses from others. More important, these places can represent an extension of the self and its autonomy, becoming more important as the individual forgoes other repositories of selfhood.”¹⁹ People might retreat in their head, sing songs to themselves, have conversations with themselves, or hide their “real” self from the outside world and “put up a face” for the outside world. The best actors can give the impression that they have radically changed and have rebuilt their identity, leading to their discharge.

4. CONCLUSION

This chapter has discussed the importance of role playing and the ambiguity that it involves. On the one hand, we need to adopt a role, put on a mask and play a character to become ourselves. It is only through mimesis, through observing others playing a role and mirroring gestures, attire and language and through experimenting with various roles that we become ourselves. On the other hand, the mask, the character and the play need to be embodied by a natural person to come to life. On the one hand, an actor needs to be fully submerged by the role they are playing and leave as few as possible traces of their backstage persona visible to be convincing. On the other hand, an actor who only plays a role and perfectly aligns with all social expectations of that role is seen as inauthentic. What brings a character to life is the constant ambiguity between natural person and role, personality and play, body and mask.

This chapter has also made clear that the private sphere and privacy are essential for persons to change costume, to practise lines and prepare for a next role. When our character breaks, we usually retreat to a private space to recover. In what Goffman calls total institutions, persons are denied a private space and a sense of privacy in order to “break them down”; they have to let go of their former persona and be rebuilt anew. Yet, even in these spaces, people will find ways to create private zones, by retreating in the lavatory or putting bedsheets over their head, by creating their own language, by hiding

how they really feel and putting on a face. Consequently, in order to be a person, an individual needs to have both a public and a private space and be able to alternate between them. That is why being forced in either extreme, which total institutions often do (e.g. by either permanently putting institutionalised individuals in shared and communal spaces, or putting them in total isolation after a transgression) is in itself a form of punishment.

These considerations are important for understanding the effects of the digital environment on the human condition, as will be discussed in more detail in Part III. For example, the digital domain allows for an almost unlimited experimentation with roles, but is also the place of outing and doxing. The internet serves both as a backstage and the stage, further adding to the role confusion and context mixing that is the hallmark of modern society. In addition, the digital environment allows for highly individualistic expressions of identity, yet at the same time is dominated by fixed character patterns, emoticons and gender role reaffirmations.

NOTES

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6. Khan, A. H. (2001). Identity, personhood, and religion in Caribbean context. *Nation Dance: Religion, Identity and Cultural Difference in the Caribbean*, 138–142. Bloomington: Indiana University Press.
7. Wiles, D. (2004). The masks of Menander: sign and meaning in Greek and Roman performance. Cambridge: Cambridge University Press, p. 98.
8. Low, G. C. L. (2003). *White skins/black masks: Representation and colonialism*. New York: Routledge.
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10. Taylor, J. F. (1957). The masks of society: An essay on the foundations of law in civil community. *The Journal of Philosophy*, 54(17), 513–531.
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12. Wiles, D. (2004). The masks of Menander: sign and meaning in Greek and Roman performance. Cambridge: Cambridge University Press, p. 103.

13. Goffman, E. (2009). *Relations in public*. Piscataway: Transaction Publishers, p. 113.
14. “Not at all Bob, so nice to see you, it’s been such a long time.” Although when an apology from the perpetrator is not believed to be sincere, sarcasm can be used. “Not at all Bob, you are always welcome to interrupt, even 10 times a day.”
15. Goffman, E. (2017). *Interaction ritual: Essays in face-to-face behavior*. London: Routledge, p. 30.
16. Goffman, E. (2002). *The presentation of self in everyday life*. 1959. Garden City, NY, 259, pp. 129–130.
17. Goffman also makes clear that there is a gendered and racial expectation in terms of role playing. See e.g. Goffman, E. (1979). *Gender advertisements*. London: The Macmillan Press.
18. Goffman, E. (1978). *The presentation of self in everyday life*. London: Harmondsworth, pp. 51–54.
19. Goffman, E. (1968). *Asylums: Essays on the social situation of mental patients and other inmates*. Piscataway: AldineTransaction, pp. 220–221.

5. Trauma, memory, identity

*Memory is like a dog that lies down where it pleases*¹

1. INTRODUCTION

Memory is crucial for our sense of self. People with extreme forms of amnesia, for example, often lose their perception of personal identity, which can lead to a lack of will or motivation. Conversely, those with hyperthymesia, an almost perfect autobiographical memory, often suffer from an unstable sense of self; constructing an identity is different from keeping a meticulous log-book of one's life. Perhaps intuitively contradictory, forgetting is an essential part of remembering. So too is our capacity to bend and mend our memories. Memories not only serve as the building blocks of identity—our identity, in turn, shapes our memories.

As this chapter will explore, disruptive moments, memory, identity, and volition are deeply intertwined. Section 2 examines the paradox of disruption: while certain disruptions are essential to the emergence of identity, volition, and a sense of time and place, overly disruptive experiences—trauma—can fracture a person's sense of self and reality. Section 3 then turns to the relationship between memory and forgetting, particularly how both function in trauma and identity construction.

2. TRAUMA

When a baby is born, it leaves the warmth, safety, and unity of the womb. It typically begins to cry. A similar pattern recurs when a baby is placed alone in its crib: the child cries out, having been removed from the comfort of its parent's arms. Although such moments of separation are vital for developing a distinct identity, at first they instill fear and helplessness. The conceptual starting point is unity: the child experiences itself as one with the mother. It is only when that unity is interrupted that rudimentary emotions and the first sense of self emerge, as well as a basic form of volition, captured by the logic: (1) I had comfort; (2) I no longer have it; (3) I want it back.

This primitive desire marks the emergence of will—a will not yet capable of strategic action, but powerful in its intensity. The cry is an unmediated expression of lack, a demand flung into the void. Over time, the child learns that its cries may summon its parents. This introduces the earliest inkling of causality and consequence. Slowly, affective experiences become patterned: hunger leads to crying, crying leads to care. A sequence is established, suggesting time not as a concept but as an intuitive rhythm between absence and return.

Separation, then, gives rise to identity, motivation, and a proto-understanding of time and space. “Under governance of the developing reality principle, the hungry baby must acknowledge the mother’s absence and connect the hunger to that reality, permitting an idea of the future being different from the present in the anticipation of satisfaction on the mother’s return ... Initially the baby identifies totally with the mother’s breast: the baby *is* the breast, rather than *has* the breast ... Children like expressing an object-relation by an identification: ‘I am the object.’ ‘Having’ is the later of the two; after loss of the object it relapses into ‘being’. Example: the breast. ‘The breast is a part of me, I am the breast’. Only later: ‘I have it’—that is, ‘I am not it’.”²

This transition from being to having is not merely linguistic—it reflects a deeper ontological shift. To “be” the object is to reside in a state of fusion. To “have” it is to recognise a boundary between self and other, between subject and world. This boundary is essential for relationality. Without it, there can be no longing, no reaching, no meaning. In a paradoxical twist, disunity becomes the precondition for love.

In Freudian terms, before this rupture, the child lives in the unconscious—a timeless, placeless realm, unseparated from the world. The emergence of the ego and super-ego, both time-bound, marks the transition to conscious identity. The ego, formed under the pressure of reality, becomes the mediator between primal desire and social constraints. The moment of disunity is also the moment of communication—initially through crying, later through symbolic language.

Language bridges time and space, but also introduces distance. A word like “tree” generalises and flattens the specific, embodied experience of a particular tree. It imposes a conceptual frame over the sensual, collapsing uniqueness into category. Language turns immediacy into symbol and impulse into cognition. Crying occupies a liminal space: it is both impulsive and communicative, less specific than language, yet still a social signal.

Moreover, language structures how we interpret others and ourselves. Through it, we learn to narrate our own experiences, to define our roles, and to internalise norms. With language comes not only power, but loss—a loss of the raw immediacy of experience. We no longer simply feel; we now interpret our feelings. We do not just suffer; we explain our suffering.

While language enables individuality, it also structures society and constrains the self. “The world in which we carry on our everyday existence is always already structured by the signifiers of language. The world in which we shape our lives receives its form from our expectations, intentions, representations, and so on, and these are themselves structured in turn by the symbolic systems that determine us ... The world about which we speak and in which we live is no ‘brute’ reality; it is itself already mediated and structured by the signifiers of language which allow it to appear as a meaningful and differentiated environment (*Umwelt*)”³. These signifiers shape the very architecture of perception. We don’t simply see a “mother” or a “child”; we see roles infused with meaning, embedded in cultural matrices. The word mediates the world.

Separation from the breast is disruptive, but not traumatic. Trauma begins when language—and our symbolic structures—fail. It occurs when events are too overwhelming to be integrated into our worldview, such as a child experiencing sexual abuse by a parent, or a soldier witnessing acts of inhuman violence. These events not only shatter the person’s understanding of others or of the world, but also of themselves. The traumatic act is typically outside the person’s control, and they may respond non-autonomously (e.g. by freezing). This ruptures the self-image as autonomous and in control.

Trauma suspends time. It produces a stuckness, a repetitive return to the scene of disintegration. In the absence of narrative integration, memory becomes haunting rather than history. Survivors often report feeling fragmented, as though some part of them remains trapped in the moment of rupture. Therapy, then, becomes an effort to translate trauma into language—to not to erase it, but to house it, however imperfectly, within a story.

Unity, then, is both the beginning and the goal. We begin with a sense of unity—with the mother, with a coherent worldview. And we strive to restore unity after disruption. But perfect unity must remain unattainable, as it erases individual agency. The difference between a healthy disruption and trauma lies in the degree of processing and control: the former gives rise to identity and agency, the latter erodes them.

This also applies to collective traumas. These are events—often involving war, occupation, or atrocity—that contradict a group’s self-image. Frequently, such traumas are cloaked in silence. In some cases, individuals commit acts in the midst of chaos that violate their own values, leading to what is known as “perpetrator trauma”⁴. Unlike everyday moral lapses—those in which we “weren’t ourselves”—perpetrator trauma occurs in a context where most norms are suspended. Reinventing the self becomes necessary but difficult, in part because the self must integrate its own darkest capacities.

In both individual and collective contexts, healing involves constructing meaning. The past must be symbolised, narrated, and in some sense ritualised. Art, testimony, memorials—these become cultural analogues to crying and

storytelling. They reintroduce continuity where there was rupture, and connection where there was dislocation.

The journey from unity to separation to reintegration is, ultimately, the human story. We are born into oneness, ruptured into awareness, and propelled by a longing that can never be fully satisfied. Yet this longing is not futile—it drives creation, connection, and the search for meaning in a fractured world.

3. MEMORY

To survive trauma, the mind often employs protective strategies like dissociation, suppression, or even amnesia. These mechanisms postpone the integration of overwhelming events into the person's self-concept, giving the individual a chance to retain some sense of coherence and agency. For a child suffering abuse, for instance, fully identifying as a passive object of lust would dissolve their budding autonomy. To preserve a functional sense of self, the mind may split. One personality endures the trauma; another—playful, sociable, and clever—emerges in safer settings. The self rotates between these modes.⁵ Until the trauma is processed and integrated, it lingers like a ghost—surfacing in flashbacks, dreams, intrusive thoughts, or bodily responses.⁶

What makes trauma so destabilising is its confusion of time and place;⁷ a traumatised person may “not realize the past is not the present, and that the future is not a repeat of the catastrophic past, and their actions reflect their confusion”.⁸ A person may instinctively respond to a present moment as if it were a threat from the past. They jump at the sound of a dish crashing, mistaking it for gunfire. They freeze at the smell of a familiar cologne their abuser father wore.

On one end of the spectrum, trauma may cause obsessive, looping recollections. On the other, it may lead to a profound forgetfulness—an erasure not only of the event, but of identity itself. The amnesia might be specific (a lost period), selective (a particular aspect), or generalised (entire biographical swathes). “Although some individuals with amnesia promptly notice that they have ‘lost time’ or that they have a gap in their memory, most individuals with dissociative disorders are initially unaware of their amnesias.”⁹

Just as it is difficult to draw a strict line between healthy and pathological emotions, the distinction between normal forgetting and trauma-induced amnesia is blurry. A person hit by a car may feel anxious around traffic—an understandable and even adaptive fear. But if the fear remains overwhelming a year later, it may begin to be seen as pathological. What complicates the matter further is that forgetting is a normal and essential part of memory. It is those who cannot forget who often suffer most.

Disruptive events are typically carved deeper in our memory, as these memories serve as warning triggers. The memory system operates much like a

backup drive: most data is stored passively, waiting to be recalled.¹⁰ Emotional triggers—smells, sounds, places—can summon long-forgotten impressions. And yet, traumatic childhood memories are uniquely persistent. Children lack the structured ego needed to weave experience into an autobiographical narrative, so while the memory itself may remain inaccessible, its emotional imprint lingers: “Young children do not yet have an ego, a self that can integrate experiences into an account of an individual’s history. As long as there is no ego, no autobiography can be compiled.”¹¹ This is why child trauma is so problematic: it is often difficult to consciously recall the event and integrate it into a coherent autobiography.

But the fallibility of memory is not unique to the traumatised; it is an everyday condition. The difference is one of scale rather than category. As Chapter 2 explained, perception is always shaped by expectation. What we register depends on who we believe we are and want to be. This, in turn, affects what we remember. Our autobiographical memory is not a neutral archive but a curated selection. Even a person with mostly negative memories of childhood can construct a positive life story—simply by choosing which memories to highlight. The reverse is equally possible.

In this sense, memory does not merely reflect the past; it projects the present self backwards. We remember differently depending on who we are now. If I believe in taxing the rich, I may recall sharing my lunch with a hungry classmate. If I oppose it, I might remember my parents’ hard-earned success being drained by the state. Both stories are true, but neither is complete. Each serves the current narrative of self. The rich reservoir of memories and the limited number of past experiences that can be included in one’s personal narrative means that almost any current self can be justified by a specific selection of past experiences.

Moreover, memory is fallible. Even in non-traumatic contexts, people misremember. We argue with siblings about who is right: Dad was always angry vs. Dad was kind except for one bad episode. These are not just cognitive slips; they are shaped by the overarching story we tell ourselves. A person who believes their painful childhood explains their career in social work may unknowingly retroactively amplify those childhood difficulties—even when the timeline does not add up.

And yet, without memory, we cannot function. We would have no reference for how to act, whom to trust, or what to fear. We would not know who we are or what we want. People with extreme amnesia often cannot form social bonds and may experience constant anxiety. Anything—a sound, an object, a stranger’s approach—can feel like a threat when its meaning is unknown. Without memory, time collapses into an eternal present. Conversely, people with perfect memory often suffer too—unable to let go, weighed down by the unfiltered accumulation of every detail.

4. CONCLUSION

This chapter has explored two essential dimensions of human experience: disruption and memory.

First, it examined the role of disruptive events in identity formation. Disruption is necessary to develop a sense of self, agency, and a conscious awareness of time and space. It marks the passage from unity to individuality. But when disruption overwhelms—when it becomes trauma—it can dismantle the self and sever one’s connection to the present. Trauma, by its nature, escapes language and eludes narrative. To protect the self, the mind delays integration, but until that happens, the event continues to reverberate.

Second, the chapter traced the function and fallibility of memory. Identity depends on memory, but memory is neither static nor objective. It is shaped by who we are in the present and what we want to believe. We forget in order to function. Memory is not a flawless record but an evolving narrative, pieced together from fragments, shaped by emotion and always open to reinterpretation.

These insights are crucial for understanding how the digital environment affects the human condition, as will be discussed in Part III. The internet has often been described as having a perfect memory—everything we post, say, or do can be archived indefinitely. This permanence risks stifling experimentation, especially among the young. But the abundance of data equally offers new opportunities for self-narration and reinvention. While digitised memory may appear objective, it is the result of human decisions about what to store and what to ignore. It can be used to challenge our self-image—but also to reinforce it. Finally, the data-driven landscape has contributed to a weakening and strengthening of time and place as anchors of identity, creating, at once, a permanent spatio-temporal dislocation and a continuous anchoring in the here and now.

NOTES

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6. Violence, narrative, motive

*I am a god in the depths of my thoughts.*¹

1. INTRODUCTION

Having an autobiographical narrative is uniquely human and forms the cornerstone of our sense of self. As the previous chapters have shown, many of our internal processes take place beneath the surface of conscious awareness. Moreover, identity formation is often shaped through complex, ambiguous, and iterative dynamics between opposing forces. Precisely because of this, the narrative has a near-unmatched capacity to bring order to chaos. It helps us impose structure where none is readily apparent. Yet this power also implies that others—despite their distance—can weave nearly any story about us. They begin, however, from two intrinsic disadvantages: they lack access to our inner mental states, and they have not lived our lives from a first-person perspective.

Because we all construct personal narratives, we are acutely aware of how malleable and fragile they can be. Yet we expect, from both ourselves and others, a coherent account. When someone fails to offer a plausible or consistent story about who they are or what they have done, others tend to fill in the blanks themselves. If this incoherence becomes a persistent trait, a person is often medicalised or institutionalised.

Chapter 2 explored moments in which our reason and our will are at odds—how our desires influence our cognition, and how reason can, in turn, suppress our impulses. Chapter 5 examined how identity is shaped by disruptive moments, particularly those inflicted by others. This chapter picks up both threads and turns the mirror around. It looks at situations in which our actions are not guided by prior rational deliberation, but are instead retrospectively justified through narrative. These will be illustrated by cases where we harm others. Section 2 explores how we retrospectively assign motives to our actions—how narrative becomes a tool to rationalise what we have done. Section 3 shows how we are expected, even compelled, to give reasons for our actions, even in moments when no clear motive exists.

2. IRRATIONAL VIOLENCE

Crafting a personal narrative—constructing a coherent story about ourselves—is essential to forming identity. Adolescence, in particular, is a period of intensive autobiographical authorship. It is during this stage that we begin to discard the narratives our parents have told about us and instead experiment with versions of our own. Like any first draft, our initial self-story is tentative and evolving. We test out taglines, discard some, hold onto others, and constantly revise. Importantly, this narrative must strike a delicate balance: on the one hand, we must be presented as autonomous—agents responsible for our actions. On the other hand, claiming full control over every event in our lives would be disingenuous. Each story negotiates that boundary differently, depending on the person, their cultural environment, and the situation at hand.

As noted in the previous chapter, trauma often undermines a person's sense of autonomy. A traumatised child who internalises a victim identity may adopt a life narrative that attributes little or no agency to themselves. The mirror image also holds: individuals who engage in transgressive or violent behaviour often dissociate from those acts. Particularly in adolescence, perpetrators of violence may distance themselves psychologically from what they have done. This dissociation is often accompanied by rationalisations designed to justify or soften their actions. One explanation for this pattern lies in the phenomenon of “double trauma”: many perpetrators have themselves experienced violence or trauma in childhood, which becomes both a wound and a rationale.

This is illustrated in a comparative study of autobiographical accounts given by nonviolent and violent adolescents:

“[N]early all adolescents in the nonviolent sample included in their accounts references to their own intentions and to other mental states, and about half included references to their own emotions. In fact, 100% of narratives in this group included at least one reference to their own intentions, emotions or mental states, and the majority (83%) included 4 or more references. By contrast, less than two thirds of the narratives of violent youth offenders included references to their own intentions or their own mental states, and about one third included references to their own emotions. Altogether, 10% of the narratives by violent youth included no references whatsoever to their own internality and another 33% included a single reference. The types of intentions that nonviolent youth and violent youth attributed to themselves were also different. For the most part, nonviolent youth spoke about their acts of aggression as being incidental to their pursuit of other, legitimate, goals; examples were breaking up a relationship or excluding one person to spend time with another. When violent youth offenders discussed their own intentions they talked overwhelmingly (43%) about the motivations behind their aggressive acts in terms of responding to a direct provocation, to a sense of threat, or as retribution for a past slight inflicted directly on them or on friends or gang members.”²

Adults, too, rely on post-hoc rationalisations to account for morally troubling actions. A stark example is offered in Christopher Browning's study of Reserve Police Battalion 101—ordinary German men who participated directly in the mass killing of Jews in Poland during the Holocaust. Browning gained access to archival interviews conducted post-war, and what he found contradicted many convenient assumptions. While some members of the battalion were indeed antisemitic, many were not. And although a few had sadistic tendencies, the vast majority did not display any extreme pathology. So how could so many participate in such brutal atrocities?

Browning pointed to three mechanisms to explain this behaviour: first, the influence of bureaucratic thinking. The bureaucratic narrative reduces people to instruments; it frames tasks in abstract, procedural terms. Individuals become means to ends, cogs in a bigger system. In many parts of the Nazi machinery, this logic allowed people to distance themselves from the violence their actions facilitated. But, as Browning notes, this did not fully apply to Battalion 101: "Segmented, routinized, and depersonalized, the job of the bureaucrat or specialist – whether it involved confiscating property, scheduling trains, drafting legislation, sending telegrams, or compiling lists – could be performed without confronting the reality of mass murder. Such a luxury, of course, was not enjoyed by the men of Reserve Police Battalion 101, who were quite literally saturated in the blood of victims shot at point-blank range. No one confronted the reality of mass murder more directly than the men in the woods at Józefów. Segmentation and routinization, the depersonalizing aspects of bureaucratized killing, cannot explain the battalion's initial behaviour there."³

Second, the power of imposed narratives. The Third Reich was relentless in its dissemination of ideology.⁴ Dehumanising language, nationalist mythologies, and repeated appeals to duty and loyalty created a pervasive moral framework. What made totalitarian regimes effective was not brute force alone, but the internalisation of state narratives. Citizens came to act in alignment with state objectives, believing themselves to be part of a larger plan. In Browning's analysis, this partly explains the Battalion's actions, but doesn't fully account for the direct violence they perpetrated.

Third, and most importantly, Browning highlighted the elasticity of personal narratives. In the interviews, perpetrators offered justifications that appeared, at times, both chilling and psychologically coherent. Some framed their role as inevitable: "I thought that I could master the situation and that without me the Jews were not going to escape their fate anyway." Others went further, offering convoluted moral reasoning that attempted to render the act more palatable: "I made the effort, and it was possible for me, to shoot only children. It so happened that the mothers led the children by the hand. My neighbour then shot the mother and I shot the child that belonged to her, because I reasoned with

myself that after all without its mother the child could not live any longer. It was supposed to be, so to speak, soothing to my conscience to release children unable to live without their mothers.”⁵

What these examples show is the power of narrative not only to give meaning to events, but to reassign motive after the fact. Autobiography splits the individual in two: the actor and the narrator. The actor acts in time, driven by impulse, social pressure, or unconscious motive. The narrator comes later—rationalising, arranging, and justifying. This gap between action and explanation is always present, but there is an unspoken expectation about its acceptable size. If the narrator’s explanation feels too detached from the action, too far-fetched, it breaks down. The story loses credibility. Conversely, if no motive is offered at all, the narrator is seen as evasive—or pathological. This is why we demand of others (and ourselves) not only an account of what was done, but why. Even when the motive is unclear or inaccessible, an explanation is required. And yet, the narrator is often ill-equipped. Rationality is presumed, but rarely total. We are riddled with biases, blind spots, and emotional echoes we cannot fully trace. We act first and make sense later. The autobiography is a necessary fiction, assembled with the tools at hand. Its coherence is demanded socially, but internally, it is always a negotiation—between truth, memory, shame, and desire.

3. MOTIVELESS VIOLENCE

A person must give an account of themselves. The demand for a rational, coherent, and causally plausible explanation for one’s actions is a defining feature of contemporary Western civilisation. Non-rational, magical, or inconsistent stories are typically not accepted. A telling example is the phenomenon of so-called senseless or motiveless violence—crimes, such as murder, committed without an apparent reason. When initially questioned by police, the perpetrator often cannot explain why they acted as they did. This kind of violence is distinct from random violence, where the victims are chosen arbitrarily, but the perpetrator can nonetheless point to an underlying motive—anger, revenge, or a sense of alienation. With senseless violence proper, the individual admits the act but cannot account for it, even if academics or clinicians may later point to statistical patterns or childhood adversity.

A fictional illustration of such a case is provided by Camus in *L’Étranger*. Meursault, the protagonist, kills a man but fails to give a clear reason when interrogated. He merely notes that he felt like it, or that the sun was in his eyes. As the legal process unfolds, others begin filling in the gaps for him. Meursault begins to feel like a non-person—replaceable, anonymous, devoid of identity. “My lawyer’s pleading seemed as though it would never end. At one point, however, I started listening because he said: ‘It is true that I killed.’ Then he

continued in that tone, saying ‘I’ every time he spoke about me. I was very surprised. I leaned over to a policeman and asked him why. He told me to be quiet and, after a moment, added: ‘All lawyers do that.’ I thought it was just another way of pushing me aside in the case, of reducing me to nothing, and, in a certain sense, of replacing me.”⁶

This is the dilemma: the legal system demands explanation. There must be a reason—or at least an excuse. And so the suspect’s story evolves. Where at first they might mutter “I don’t know”, or describe the event in dissociative terms—“I found myself holding an axe, cutting his head into little pieces”—they are soon pressured into offering a motive. Police officers reject “I don’t know” as a satisfactory answer; lawyers come in with mitigating strategies; judges demand an account. Eventually, the story becomes longer, more articulate, more intentional. The perpetrator who was initially stunned by their own act may, by the time they appear in court, explain that they had recently learned their mother was dying and had been spiralling into despair ever since; that they had been diagnosed with borderline personality disorder; that the victim resembled their violent father.

Most courtroom explanations for extreme violence follow familiar templates—not only because there may be a limited set of plausible motives, but also because they conform to legally recognised mitigating categories. Interrogators, lawyers, and judges rely on these narrative blueprints, and so too, in time, does the perpetrator, who uses them to try to explain what defies explanation.

As Camus illustrates, if the accused does not speak for themselves, others—lawyers, psychologists, or the court—will speak for them. If a suspect offers no motive at all, this is itself taken as evidence of pathology. When people fail to narrate their actions in a way that meets social expectations, the legal system often interprets this as a sign of mental illness. The result is typically treatment rather than punishment: where failure of agency leads to prison, failure of narration leads to institutionalisation.

Yet what is often interpreted as the eventual emergence of a motive—what police or judges may take to be the moment when the accused “finally comes clean”—may in fact be the opposite. The early statements, hesitant and incoherent, may have been the most authentic. The later rationalisation is often a learned response, shaped under pressure. Interrogation transcripts reveal suspects experimenting with different narratives until one finally sticks—until the story is accepted or at least no longer contradicted by fact. When the story is rejected, the narrative process begins again.

In this way, senseless violence and its post-hoc rationalisations serve as a metaphor for personal storytelling more broadly. Psychological studies have shown that people frequently act before consciously weighing their options. The rationalisations come later.⁷ We justify, explain, and in doing so, discover

ourselves. We ascribe motives in retrospect, and in doing so bring meaning and will into being. These processes typically run through social, linguistic and legal scripts.

Children, for example, are not initially capable of elaborate self-reflection, but are trained to provide explanations. Parenting and education are in many ways dedicated to teaching a child how to construct a narrative about themselves and their actions. “Do you remember what you told me last night?” a parent might ask. “You said you wanted to become a doctor, didn’t you?” Children are sent to their room to “think about what they’ve done”, and are then subjected to a “serious talk”. These rituals inculcate narrative reasoning—teaching children not just how to act, but how to explain. Human society differs from animal groups in this narrative capacity. But narratives do more than bind—they also exclude. Every community or culture has its preferred templates for self-narration. Those who fail to conform, who cannot convincingly explain themselves, risk being cast out—unless they succeed in reshaping the norms themselves.

4. CONCLUSION

This chapter has examined the role of the autobiographical narrative as a central tool for self-accounting. It separates the self as actor from the self as narrator. Our actions are not always rational, and our inner motives are not always accessible to us—yet we are expected to produce narratives that are rational, coherent, and intelligible to others. This creates an inevitable gap. Too much rationalisation strains credibility; too little is seen as either dishonesty or dysfunction.

We are trained and expected to tell stories about ourselves. Society depends on such stories, especially when harm is done. The legal system in particular requires rational explanations for behaviour—even where no such explanation exists. Senseless and motiveless violence thus becomes a test case for how we construct, pressure, and impose narrative order on the chaos of human behaviour.

These insights are crucial to understanding the effects of the digital environment on the human condition, as will be discussed further in Part III. As noted in Chapter 2, the digital realm can serve both as an extreme agitator and a powerful tranquiliser by offering an endless stream of information and stimulation. Meanwhile, data-driven systems closely monitor our behaviours, attempting to infer logical patterns and subconscious motivations. While these systems can never fully know us, they can identify tendencies over time and correlate them with the behaviour of others. And in doing so they can shape the data-driven environment to mirror our preferences—or to prod us toward

further growth and change—so that the digital world is perpetually “on,” saturated with meaning and significance.

NOTES

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7. Privacy and ambiguity

As long as there have been men and they have lived, they have all felt this tragic ambiguity of their condition, but as long as there have been philosophers and they have thought, most of them have tried to mask it. They strived to reduce mind to matter, or to reabsorb matter into mind, or to merge them within a single substance. Those who have accepted the dualism have established a hierarchy between body and soul which permits of considering as negligible the part of the self which cannot be saved. They have denied death, either by integrating it with life or by promising to man immortality. Or, again they have denied life, considering it as a veil of illusion beneath which the truth of Nirvana is hidden. And the ethics which they have proposed to their disciples has always pursued the same goal. It has been a matter of eliminating the ambiguity by making oneself pure inwardness or pure externality, by escaping from the sensible world or by being engulfed in it, by yielding to eternity or enclosing oneself in the pure moment.¹

1. INTRODUCTION

Simone de Beauvoir once described philosophy as the art of making sense of ambiguity. The same applies to the psychology of identity formation. In contemporary thought, two dominant theories have shaped our understanding of how identity is formed—one rooted in developmental stages, the other in narrative construction.² These frameworks, both touched upon in earlier chapters, offer contrasting yet complementary insights into what it means to become someone. The first approach, pioneered by Erik Erikson and later refined by James Marcia, sees identity as unfolding through a sequence of life stages. At each phase, the individual is confronted with a particular psychological challenge—learning to trust, to assert autonomy, to connect socially—each leaving its imprint in the form of relatively enduring personality traits. The second approach, shaped by thinkers like Dan McAdams, Paul Ricœur, and Tilman Habermas, proposes that identity is not discovered through stages, but composed over time, authored in the form of a personal story. We are not simply the sum of our traits, in this view, but the narrators of an evolving autobiography.

Despite their philosophical differences—and the lively debate between their proponents—both schools agree on a fundamental point: the necessity of self-sameness. Stage-based theories locate this sameness in the present, in a felt sense of internal wholeness, an absence of conflict between who one is and what one does. Narrative theories, by contrast, shift the focus from the present to the temporal arc of a life. Wholeness, here, lies in continuity: the ability to tell a coherent story that explains how seemingly disjointed experiences and shifting roles form part of a single, unfolding identity. Because this book centres on the theme of privacy, this chapter serves to draw together strands that have run through previous discussions. Section 2 delves deeper into the stage-based model of character formation. Section 3 will argue that neither framework, taken alone, suffices to describe the full human condition. We are both actor and author, body and mind, instinct and conscience. We possess traits that are deeply ingrained, yet also revise the story we tell about ourselves as life unfolds. It is this duality—this constant toggling between performance and interpretation—that renders privacy not a luxury, but a necessity.

2. IDENTITY

Central to Erik Erikson's theory of identity formation is the notion of a life unfolding through eight idealised stages of psychosocial development. Each stage marks a distinctive phase in human life, defined by particular challenges and opportunities for growth.

1. **Infancy (0–18 months).** In the earliest months, the infant is entirely dependent—particularly on the mother. Its needs are met not by its own actions but by the care and attentiveness of others.
2. **Early childhood (18 months–3 years).** A first sense of self begins to emerge. The child starts to assert its will—refusing food, exercising control over its body. Through such small acts of autonomy, it discovers its capacity for agency.
3. **Preschool (3–5 years).** The child now reaches beyond the immediate self, exploring the world imaginatively. Initiative takes shape: through play and experimentation, children simulate adult roles and test possible futures.
4. **School age (5–12 years).** Entering school, the child begins to master tools and skills, gaining competence through learning. “One might say that personality at the first stage crystallizes around the conviction ‘I am what I am given’, and that of the second, ‘I am what I will’. The third can be characterised by ‘I am what I can imagine I will be’. We must now approach the fourth: ‘I am what I learn.’”³

5. Adolescence (12–18 years). Adolescence heralds the search for a more cohesive identity. Through social relations, experimentation, and intimate connections, adolescents discern who they are, who they are not, which groups they belong to, and how they are seen by others.
6. Young adulthood (18–40 years). This stage marks the consolidation of identity in relationships, careers, and community. It is a time of commitment: to partners, families, vocations, and networks of meaning.
7. Middle adulthood (40–65 years). With maturity comes a broader scope. Personal success is no longer the sole aim; now, the individual becomes a guide—nurturing children, mentoring colleagues, and contributing to society’s continuity.
8. Late adulthood (65+ years). In the final stage, the body slows, the working years recede, and care flows in reverse. If one has cultivated meaning and coherence in life, this is a period of contentment.⁴

Each stage, Erikson proposes, presents a tension between two opposing outcomes—one desirable, the other detrimental. These outcomes crystallise into relatively stable character traits. In infancy, for instance, a child may (1a) develop basic trust if well cared for, or (1b) experience anguish and mistrust if neglected. In early childhood, the child either (2a) discovers autonomy through mastery of their body, or (2b) internalises shame and doubt from being overly dependent. Preschoolers who are encouraged to take initiative (3a) flourish; those who are consistently reprimanded may (3b) retreat into guilt. School-aged children who succeed in learning and skill-building develop (4a) confidence, while those who struggle may adopt (4b) a sense of inferiority. Adolescents may either (5a) develop a stable identity and gain “confidence that her ability to maintain inner sameness and continuity (one’s ego in the psychological sense) is matched by the sameness and continuity of others”,⁵ (5b) or they slide into a state of identity conflict and role confusion.⁶ In adulthood, (6a) one may build enduring relationships, or (6b) suffer isolation; (7a) pursue generativity, or (7b) be consumed by self-absorption and belated striving. Finally, in old age, (8a) one may reach a state of ego integrity, or (8b) lapse into despair and feel disgust with their own failing body and mind and look back with bitterness and anger.⁷

Importantly, Erikson’s model draws a clear line between “healthy” and “unhealthy” outcomes at every stage. The former, represented by the “a” outcomes, constitute the attributes of what he calls a “healthy personality”.⁸ The latter, the “b” outcomes, mark the traits of dysfunction. While Erikson maintains that he has not “long and repeatedly overstepped [the limits] that separate psychology from ethics”, he admits to insisting “on a few basic psychological insights”.⁹ His theory, he argues, is descriptive, not prescriptive: a sketch of psychological health, not an ethical manual. At the same time, the dividing line in each stage is stark and value-laden—rooted in a felt sense of unity, or its absence. Erikson conceptualises identity as “persistent sameness within

oneself (selfsameness) and a persistent sharing of some kind of essential character with others".¹⁰ In this light, the boundary between psychological health and dysfunction is not marked by external achievement alone, but by internal resonance: whether one feels whole, or inwardly divided.

Emotions such as distrust, shame, guilt, inferiority, or despair signal this loss of unity. Distrust casts the world as hostile and unsafe. Shame detaches the self from the body or mind. Guilt implies misalignment between actions and norms. Inferiority denotes the inability to act effectively. Role confusion reflects internal fragmentation. Stagnation and despair signify disconnection from one's past accomplishments or physical being. Each of these emotions betrays a rupture in the sense of self-sameness.

And yet, Erikson acknowledges that these feelings are part of life. They are not only inevitable, but at times necessary. His most influential student, James Marcia, would later expand this idea, particularly in his model of adolescent identity formation.¹¹

In Marcia's view, identity achievement—the ideal state—is reached through active exploration followed by meaningful commitment. A second-best scenario is foreclosure: the adoption of an identity without significant questioning, often inherited from parents or cultural traditions. Such individuals, Marcia finds, tend to report high satisfaction and low anxiety, though their identities are passively accepted rather than consciously chosen. Moratorium—actively exploring but not yet committed—is a third state and more psychologically turbulent. Those in this stage are often anxious and uncertain, with lower emotional stability and conscientiousness. But this confusion is necessary: a liminal space that precedes growth. The fourth and least desirable category is diffusion, where neither exploration nor commitment has taken place. Marcia associates this with low autonomy, poor self-esteem, weak decision-making, and diminished moral reasoning.¹² Marcia's framework thus reinforces a key theme: self-sameness is not simply the product of passive acceptance. While foreclosure offers temporary stability, the highest form of identity emerges through deliberate exploration and conscious commitment. Uncertainty is not a failure—it is a precondition. But, ideally, it is not permanent.

Table 7.1 Marcia's model of adolescent identity formation

Commitment/ Exploration	Present	Absent
Present	(1) <i>Achievement</i>	(3) <i>Moratorium</i>
Absent	(2) <i>Foreclosure</i>	(4) <i>Diffusion</i>

3. OSCILLATION

Alongside the stage-based theory of identity formation stands a second, more fluid perspective—one that centres on the construction of a personal story or autobiography. As McAdams puts it: “Narrative identity is the internalized and evolving story of the self that a person constructs to make sense and meaning out of his or her life. The story is a selective reconstruction of the autobiographical past and a narrative anticipation of the imagined future that serves to explain, for the self and others, how the person came to be and where his or her life may be going.”¹³ This approach diverges from the stage-based theory in two fundamental ways. First, it adopts a third-person, reflective stance rather than a first-person, phenomenological one.¹⁴ Second, where the stage-based model prizes present-moment harmony and lack of inner conflict, the narrative approach finds coherence in the integration of contradiction across time and context.¹⁵

Within this framework, inner conflict is not viewed as pathological, so long as it can be woven into a coherent narrative. Consider someone who identifies as an intellectual but binge-watches Netflix every night: the incongruity can be reconciled—“Because I spend my day immersed in philosophical texts, I need something light to unwind.” Likewise, moral failings or ideological transformations can be absorbed into narrative arcs: “I borrowed money under false pretences to support a cocaine addiction, but I’m entering rehab next week”, or “I was once a devout Catholic, but the horrors of World War II led me to lose my faith”. The key is the story: disunity must be narrated to be understood—and repaired, but now on the level of narrative, rather than of lived experience.

Although it offers a different form of coherence than Erikson’s model, the narrative theory equally insists on self-sameness. “Maintaining a sense of personal continuity is crucial to psychological adaptation throughout the life course, as studies have shown that a lack of personal continuity can result in suicide in the worst cases and is also the hallmark of some forms of psychopathology, particularly some personality disorders.”¹⁶ Thus, both developmental and narrative theories tie psychological health to a unified sense of self.

Postmodern critiques, which celebrate hybrid or fluid selves, receive sharp rebuke from theorists such as Habermas and Köber: “The postmodern approaches ... ignore the psychological necessity of self-continuity as evidenced by states of identity diffusion and identity disorders, by the devastating effects of dementia, and by the social psychological phenomena of enduring identification with roles and groups. They ignore the social necessity of being able to address others as continuous in order to be able to maintain relationships and a social order with actors who are responsible for their past actions.”¹⁷ For these scholars, moments of disunity or ambiguity are inevitable—but they

must be resolved and assimilated into a stable narrative. Constant reinvention or simultaneous narratives, far from enhancing identity, may dissolve it.¹⁸

Still, while narrative theories dominate identity discourse, there is a growing interest in practices that encourage present-moment awareness, drawing on traditions like mindfulness, meditation, yoga, silent retreats, and Westernised Buddhism.¹⁹ “There are many techniques designed for maintaining oneself in the present moment. One practice, known as mindfulness, requires an effort to be aware of the passing moment, the meditative aspects lie in one’s constant return from distracting thoughts to an awareness of the moment. A daily meditation practice may enhance concentration, eliminate the effect of distraction, and focus attention.”²⁰ These practices do not reject narrative, but aim to temper its grip—providing a counterweight to the rational and reflexive demands of everyday life.

Privacy, intriguingly, speaks to both models of identity. It protects bodily autonomy, the secrecy of communication, and the integrity of the home, while also affording individuals control over personal data. Darhl Pedersen, in a longitudinal psychological study, outlined six core functions of privacy: (1) Solitude: being unseen and unheard by others (e.g., in a bedroom or lavatory). (2) Isolation: distancing oneself physically (e.g., hiking alone). (3) Reserve: withholding personal information. (4) Anonymity: blending into a crowd of strangers. (5) Intimacy with family: withdrawing with family members. (6) Intimacy with friends: withdrawing with chosen companions.

Each of these forms serves distinct psychological needs. Solitude and isolation, for instance, allow for self-reflection and the exploration of identity away from social judgment. “Items having high loadings on Contemplation show that it involves planning and self-discovery in settings where people are free to express themselves. Furthermore, Isolation appears to provide a situation where people can recover self-esteem and loosen inhibitions in ways that Solitude does not offer.” Isolation and solitude can also bolster self-esteem and ease inhibitions. These spaces facilitate experimentation—trying on new clothes, testing new behaviours, entertaining unorthodox ideas. “The pattern of autonomy is slightly different between Solitude and Isolation. Socially undesirable behaviours, such as failing, showing one’s worst side, and eating or drinking as one wants, appear to be a part of the self-discovery process in Solitude, but they are engaged in for their own right in Isolation (a separate factor of Disapproved Consumptions) – perhaps as a form of concealment.”²¹ Solitude and isolation allow for rejuvenation. People retreat after experiencing social hurt not only to recover but to prepare for future engagements. Privacy provides a venue for both cathartic acts and shame-laden secrets—for moments that do not fit public expectations or polished autobiographies.

In the idealised Eriksonian trajectory, the self-made individual would feel no guilt or shame, and thus have no need for privacy. The narrativist ideal,

an individual with a seamless autobiography would similarly have no use for retreat—the story is coherent, complete. But both ideals are aspirational fictions. They falter not only in the face of life’s interruptions but also due to the limits of self-knowledge and control. Whether self-sameness is even a desirable ideal is debatable. We often ascribe perfect self-sameness to animals or deities. Nietzsche describes witnessing such purity in an animal fully immersed in the moment: “To witness this is hard for man, because he boasts to himself that his human race is better than the beast and yet looks with jealousy at its happiness. For he wishes only to live like the beast, neither weary nor amid pains, and he wants it in vain, because he does not will it as the animal does.”²² The metaphorical animal does not reflect, does not regret, does not narrate—it simply is. In contrast, God—at least in its idealised form—is not bound by temporality at all. God is omniscient narrator and omnipresent agent. And yet, as Sartre observed, for humans, complete narrativity comes at the expense of living: “This is what fools people: a man is always a teller of tales, he lives surrounded by his stories and the stories of others, he sees everything that happens to him through them; and he tries to live his own life as if he were telling a story. But you have to choose: live or tell.”²³ To narrate is to distance oneself from experience; to act is to forgo reflection. Humans are caught in between, forever toggling between story and sensation. Privacy is not a patch for failure but a structural necessity—because we must oscillate between these roles. We are neither animal nor god, and we need space to navigate that in-between.

4. CONCLUSION

This chapter has examined two influential theories of identity formation: the stage-based model, with its focus on fixed developmental outcomes, and the narrativist model, with its emphasis on continuous adaptation. While both acknowledge the importance of privacy, they typically frame it as a response to failure—either a failure to develop as one should, or a failure to maintain a coherent story. Yet both theories fall short in capturing the dual nature of human existence: our simultaneous roles as actor and narrator, as being and becoming. Privacy is not merely remedial; it is foundational. We need it not because we are imperfect, but because we are complex. Not because we are broken, but because we are whole only in our ambiguity.

These insights are crucial for understanding how the digital age reshapes the human condition—a theme explored in Part III. In the digital environment, spaces for personal ambiguity contract, only to be filled by algorithmic patterns that are no less ambiguous. Platforms demand continuous self-expression and fixed identities, while data-driven profiling reduces the narrative self to behavioural patterns and probabilities. The oscillation between agent and narrator becomes strained when every action is recorded and every story is

flattened into metrics. Yet at the same time, the digital domain enables us to inhabit a multiplicity of roles, expanding the possibilities for play, reenactment, and reinvention beyond anything previously imaginable.

NOTES

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3. Erikson, E. H. (1994). *Identity and the life cycle*. New York: WW Norton & Company, p. 87.
4. His wife, Joan Erikson, proposed to add a ninth stage, covering the period after the 80th life year, in which the cycle is completed, in the sense that a person returns to infancy, and the most preferable attitude is trust. Erikson, E. H., & Erikson, J. M. (1998). *The life cycle completed (extended version)*. New York: WW Norton & Company.
5. Erikson, E. H. (1994). *Identity and the life cycle*. New York: WW Norton & Company, p. 94.
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Reflections on Part II

The insights developed in this part offer a rich lens for interpreting the digital transformation of the human condition, as explored in the next part of this book. Their implications are layered and wide-ranging. Several key themes, among others, will be examined in greater depth:

First, to be human is to be plural: we are instinctual, volitional, and rational all at once. This fundamental ambiguity means that any question about whether technology enhances or diminishes human autonomy can only be meaningfully addressed if we first acknowledge the full spectrum of what autonomy entails. Reducing autonomy to rational decision-making alone overlooks much of what makes us human. This is particularly salient in the context of nudging, hypernudging, and benign paternalism. That our behaviour is redirected towards ostensibly rational ends does not necessarily mean it is improved. The same holds true for manipulation: it is naïve to assume that whenever our actions diverge from rationality, the cause must be external. Often, we knowingly act against our better judgement, or we embrace convenient fictions—such as fake news—not because we are deceived, but because we wish them to be true.

Second, the impact of data technologies on our ability to act—and our inclination to refrain from acting—is equally profound. While much has been said about how digital infrastructures nudge us into specific behaviours, far less attention has been paid to how they paralyse us. The growing number of young people withdrawing from public life, living virtually rather than physically, or remaining suspended in indecision, suggests that inaction may be just as consequential as overaction. Many feel overwhelmed by the simultaneous pressures of relentless self-optimisation and planetary moral responsibility. Caught between knowing what is right and lacking the will or means to pursue it, they retreat. The digital realm bombards us with ideals while indulging our impulses, widening the rift between thought and action. It agitates and anaesthetises in equal measure.

Third, the twenty-first century has seen a dramatic acceleration of informalisation. Remote work has dissolved boundaries between private and professional spheres; social media expose us to an ever-expanding array of cultural and moral frameworks; and digital platforms mirror our moods in

real time. In this loosened architecture of social life, the absence of fixed roles or formal norms demands heightened self-regulation. Technology has become a tool not only for self-expression but also for self-binding—what some call “extended autonomy”. A fitness tracker may help align our actions with our goals. But digital culture also erodes the very norms that once restrained our baser instincts. Online platforms often thrive precisely by dismantling those inner barriers: they monetise outrage, impulsivity, and exhibition. It remains to be seen whether this is the logical endpoint of a broader historical trend—or a transitional phase before new digital-era norms emerge.

Fourth, in the digital domain, privacy is rarely absolute. Even when our behaviour appears private, it is often routed through corporate intermediaries with the capacity for indefinite surveillance. The so-called “Iron Memory of the Internet”¹—a conceptually exaggerated but symbolically apt metaphor—reminds us that what is uploaded is rarely erased. This sense of permanence exerts a chilling effect on personal growth: if our adolescent missteps can resurface at any time, we may cease to risk becoming someone new.² Hence the demand for the “right to be forgotten.”³ Yet the issue is not only one of permanence, but also of dislocation. In the digital realm, we are perpetually out of sync—physically in one place, digitally in another; simultaneously inhabiting multiple contexts; randomly confronted by algorithmic ghosts of past or hypothetical selves. This continuous, low-grade disorientation may cumulatively amount to a trauma—a trauma not rooted in a single rupture, but in the slow accretion of micro-destabilisations.

Fifth, digital technology both expands and erodes the significance of context. On the one hand, it enables new forms of belonging and expression, especially for those with marginalised identities or esoteric interests. It permits data to travel across boundaries, allowing seemingly trivial details—such as one’s music taste—to be recontextualised as indicators of political alignment or mental state. On the other hand, it fosters retreat. As people navigate increasingly pluralistic and conflicting informational ecosystems, many withdraw into curated digital enclaves. Filter bubbles are not simply epistemic traps; they are emotional refuges. The information overload, coupled with frequent confrontations with incompatible worldviews, prompts many to seek comfort in reaffirmation. Meanwhile, technologies like AI, deepfakes, and virtual reality provide new ways to construct alternative, sometimes escapist, worlds.

Sixth, all of this reshapes how we understand ourselves. The success of digital marketing, targeted content, and influencer culture hinges on activating imagined or aspirational selves. Yet there is a key distinction between traditional self-narration, which is fluid and interpretive, and mediated memory, which is static and external. Pre-digital nostalgia involved storytelling. Now, our pasts are captured in images and timestamps, presented as immutable facts. This tension between narrative flexibility and data permanence poses

challenges to self-understanding. Moreover, platforms and algorithms may sometimes know us better than we know ourselves—by identifying behavioural patterns we are not yet conscious of. For individuals in formative or conflicted stages of identity, such confrontations can be jarring. They may accelerate self-discovery—or distort it. Confronting one’s hidden self too early, or too bluntly, may short-circuit the vital work of reconciliation. Worse, algorithmic predictions may misfire, leading us towards selves that were never ours to begin with. At the same time, the moral and psychological conditions for shame and guilt—namely, the space to transgress—are increasingly enclosed by code. Unlike traditional rules, which one could bend or break, algorithmic norms are both opaque and adaptive. And yet language itself—whether natural or computational—structures the possibilities for understanding, expression, and transformation. We are mediated beings, living through systems of signs. Those unable or unwilling to use these systems to make sense of themselves—whether through trauma, pathology, or choice—are often excluded from public life. They are institutionalised, stigmatised, or simply rendered invisible.⁴

NOTES

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3. This is what Norbert Andrade has called the right to be different from oneself, which is why he grounds oblivion in the protection of identity. Ghezzi, A., Pereira, Â., & Vesnic-Alujevic, L. (eds). (2014). *The ethics of memory in a digital age: Interrogating the right to be forgotten*. London: Springer.
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PART III

The presentation of self in everyday digital life

8. Stating the obvious

Waking up in the morning is always interesting. It reminds me of when we're playing hide-and-seek – I'm hidden crouching in the pitch-dark closet and suddenly Deko throws open the sliding door, sunlight pouring in as she shouts, "Found you!" – that dazzling glare followed by an awkward pause, and then, my heart pounding as I adjust the front of my kimono and emerge from the closet, I'm slightly self-conscious and then suddenly irritated and annoyed – it feels similar, but no, not quite like that, somehow even more unbearable. Sort of like opening a box, only to find another box inside, so you open that smaller box, and again there's another box inside, and you open it, and one after another there are smaller boxes inside each other, so you keep opening them, seven or eight of them, until finally what's left is a tiny box the size of a small die, so you gently pry it open to find ... nothing, it's empty – more like that feeling.¹

1. INTRODUCTION

To say that the data landscape has expanded dramatically in recent decades is to state the obvious—yet the implications of this transformation are anything but.² The proliferation of data collection technologies, the democratisation of analytical tools, and the explosion of online content have together created a new epistemic environment—one that is central to how we understand ourselves, each other, and the world around us. One study finds that the global data sphere has surged from 33 zettabytes in 2018 to 177 zettabytes by 2025. By now, the average internet user engages with data more than 4,900 times a day, and roughly half of all global data resides in the cloud.³ In 2023, internet access reached nearly two-thirds of the world's population—up from just half in 2018—and the number of connected devices has grown to more than three times the number of people on the planet.⁴

This ever-growing wealth of data lies at the heart of the digital economy.⁵ Unsurprisingly, there is mounting pressure to make datasets more widely accessible. The European Union projects that unlocking public sector information could increase its value by 30%, reaching €194 billion by 2028. Jobs

based on open data are expected to rise to 709,000, while the OECD estimates that government data sharing could add as much as 1.5% to GDP.⁶ CapGemini currently values the EU's open data market at €184 billion, with estimates predicting growth to between €199 and €334 billion by 2025.⁷ These figures illustrate the gravitational pull of data in today's economic ecosystem, ushering us deeper into what is widely recognised as the era of Big Data.

Big Data typically unfolds in three broad stages:

1. **Gathering:** At the heart of the Big Data ethos lies a simple maxim: more is better. The larger the dataset, the richer the patterns, the more insightful the inferences. Big Data allows for the creation of new, inferred, and probabilistic information by linking disparate databases or augmenting them with scraped online content. Because data collection and storage are so inexpensive, organisations frequently gather data without any pre-established purpose—deciding only later whether the information is of value and how it might be used. In this model, quantity eclipses quality; sheer volume supersedes precision.
2. **Analysis:** The analytical phase focuses on detecting broad patterns, correlations, and profiles—whether of people, objects, or phenomena. Rather than unearthing causal relationships, Big Data operates on statistical probabilities. For instance, an algorithm might determine that 70% of homes with concrete foundations withstand earthquakes, compared to just 35% without. More provocatively, it might reveal that the colour of someone's sofa predicts their health outcomes, or that a person's friends' music preferences suggest their sexual orientation. In short, Big Data allows information from one domain of life to bleed into and predict another, sometimes in deeply personal ways.
3. **Application:** These probabilistic insights are then applied at various levels. They inform long-term policy (e.g., obesity projections), target specific social groups (e.g., based on race, income, or geography), and increasingly shape decisions about individuals—such as policing, credit scoring, and advertising. Well-known applications include mass surveillance, predictive policing, smart cities, living labs, social credit systems, and personalised recommendation engines.

The training of algorithms on these vast data reserves has fuelled an exponential leap in machine capabilities, setting the stage for the rise of Artificial Intelligence and its more recent offshoot: Generative AI. These systems do not merely process information—they create it. Four major applications of Generative AI will be addressed throughout Part III:

1. **Humanoid Robots:** Designed to mimic human form and function, humanoid robots walk and speak like us. Equipped with sensors, connectivity, and learning algorithms, they possess cognitive and emotional recognition capabilities. Their integration with Large Language Models (LLMs) further enhances their conversational abilities, making interactions feel more fluid and intuitive. These LLMs also power customer service bots and virtual assistants, gradually replacing human interlocutors in increasingly complex scenarios.
2. **Deepfakes:** Deepfakes are AI-generated or AI-altered content—audio, video, or otherwise—that blur the line between real and fabricated. The technology has progressed so swiftly that fakes are now often indistinguishable from “authentic” media. They range from benign entertainment to high-stakes manipulation: forged videos of generals surrendering in wartime, political leaders spewing vulgarities before elections, or fabricated courtroom evidence in custody battles. What was once a novelty has become a potent—and potentially destabilising—tool.
3. **Augmented Reality (AR):** AR overlays digital elements onto the physical world. Through wearable devices, users receive AI-generated sensory inputs—visual, auditory, or even olfactory—that complement or substitute elements of their real environment. AR can guide a hiker through a forest with cheerful digital markers, or in darker scenarios, it might mask traumatic sights in conflict zones with more soothing imagery.
4. **Virtual Reality (VR):** In its purest form, VR fully immerses users in an AI-constructed sensory environment, replacing all real-world stimuli. Its applications range from gaming and military training to therapeutic treatment and education—offering, for example, a classroom experience in ancient Athens or simulating empathy-building experiences for people with dissociative disorders.

This chapter explores how these developments have reconfigured knowledge production in the digital age. Section 2 begins by stepping back from the contemporary data-driven landscape to recall that until quite recently, many—indeed most—life choices were made on the basis of a relative scarcity of data, often with only a handful of points to go on. This may seem obvious but it bears repeating, because—as alluded to in Chapter 2—the sheer abundance of information now available for every decision does not necessarily make us better informed or more rational. Often it has the opposite effect: to cope with overload we retreat into informational silos, selecting sources that align with, and are filtered by, our pre-existing preferences. Section 3 then turns to one of the defining features of digital knowledge production: the decontextualisation and subsequent recontextualisation of data, and the frequently invisible ways this process shapes the lives of ordinary individuals. This analysis builds on

themes from Chapter 5, which argued that traumas are disruptions of identity so profound that they resist articulation and cannot be integrated into a personal narrative. The digital domain, by contrast, is marked by a constant stream of micro-disruptions and continuous displacements in time and space. The question is whether their cumulative force can, in aggregate, prove similarly destabilising.

2. EXACTITUDE

Suppose it is 1970.

You're thirteen and overhear your mother whispering on the telephone. "I think my child might be gay", she says. The words hit you like a thunderclap—half-formed fears and questions you've barely dared ask yourself, now voiced aloud. You feel a wave of anger, shame, and fear. That night, you turn it over in your mind. Why would she say that? Was it because of the closeness you've developed with your best friend? Should you start acting more heteronormative? And perhaps the most terrifying question of all: Is she right?

You're fifteen, playing near a railway crossing. A ball gets knocked across the tracks. A train is coming. Your friend dares you to go fetch it. You have seconds to decide. Do you run, or not?

You're eighteen, fresh out of high school, caught in a tangle of competing futures. Should you go to university? If so, what should you study? You've always excelled in mathematics—but part of you dreams of being an artist. Some friends are preparing for a gap year in South America. Your parents want you to join the family business. Which version of your life do you choose?

You're twenty-five and newly in love. Your partner is handsome, funny, brilliant—but also disturbingly drawn to far-right politics and conspiracy theories. Is this a red flag, or just a phase? Can you change them? Or is this a glimpse of something darker, something untenable?

You're thirty, curled up on the couch beside your partner, craving ice cream and TV. But your partner reminds you of your New Year's resolutions—more gym, fewer screens, and finally reading that Stephen King novel. You've barely moved all day. Is this a deserved break or a failure of will?

You're thirty-five and suddenly want a child. Your best friend is baffled—you were always the one who swore off domesticity, craving freedom and adventure. Have you changed? Or are you simply surrendering to the expectations of your parents, your peers, your biology—is it the hormones speaking? What if it's all of them at once?

You're forty-five and your mother dies. You meet your sister to plan the funeral. But instead of logistics, emotions pour out. Your sister says she's relieved—don't you remember the basement? You laugh uneasily. You always

assumed that being locked in there was an accident. But now you're not so sure. You've blocked out most of your childhood. Why is that, anyway?

You're fifty-five and your marriage of 35 years is barely holding together. You once cheated; you suspect your partner has drifted, too. The silence between you is thick. Should you leave? Buy a camper and roam the world? Or is this just a cliché midlife crisis? Should you stay—for the children? But what kind of example are you setting if you remain together in name only?

You're sixty-five and diagnosed with a rare cancer. Without treatment, you may have two years. The only available therapy is painful, experimental, and capped at age 65. Your family begs you to try, but you feel ready to die peacefully. Is choosing death selfish—or wise?

You're seventy-five, caring for a partner with severe dementia. They once swore they wanted euthanasia if they no longer recognised loved ones. Now, in their altered state, they say they're happy. Is that the medication talking? If you help end their life, is it out of love—or out of your own exhaustion?

You're eighty-five, and dying. Raised in the Church, you abandoned religion in your twenties without regret—until now. Facing the void, you wonder: was there meaning? Will I be judged? You're torn between your lifelong rationalism and a sudden yearning for faith. Should you call the priest—for your own peace, or for your family's?

And what of others trying to know you in 1970?⁸

Imagine person A has moved from a rural village to a distant city, and their new acquaintances are curious about A's past, present, and prospects. What do they rely on to form an impression? Mostly, they depend on what A says and does. This grants A significant freedom to craft a new identity—to downplay certain past experiences, exaggerate others, and adopt behaviours quite different from those in their hometown. They might start dressing differently, speak in a new accent, or take up a social scene they'd never previously engaged with, such as rock concerts. Some may call this falsehood; A might see it as a foreshadowing of who they truly are—or who they want to become.

Whether A's reinvention is convincing hinges primarily on their own performance. Can they effectively mask their regional accent? Do they know how to wear the clothes that match their chosen persona? Are they sufficiently informed to hold their own in discussions about music or other aspects of their new social life?

Alternative sources of information are scarce. Friends and family remain far away, and while a phone call or visit is possible, it is not trivial. Tangible artefacts—like diaries, old photographs, or concert tickets—might exist, but they are likely tucked away in the basement of A's childhood home.

Now imagine A joins a local soccer team and, over the course of a year, becomes known as the most reliable goalkeeper in the team's history. When person B prepares to take a penalty against A, they face a dilemma: which

corner to choose? In the absence of concrete knowledge, perhaps the best strategy is randomisation—or simply kicking towards their own favoured side, assuming A knows nothing about them, and vice versa. B might attempt to gather insight into A's tendencies. One option is to ask A directly, though that's unlikely to be fruitful unless A lets something slip during a casual encounter, perhaps at a bar. More plausibly, B could observe A's past performances—but without recorded footage, this would require attending multiple games and practices. Even then, if A notices B's presence, they might deliberately obscure their usual patterns. Another strategy could be asking a former teammate, though even if such a person is found and willing to share insights—out of affection for B or frustration with A—it is doubtful their recollections are precise. And there's always the risk of deception. Alternatively, B might consult general patterns: for example, noting that most goalkeepers dive left and few expect a Panenka.

Now suppose person A is applying for a job, and company D wants to assess their potential before making a hiring decision. In this case, more sources of information are typically available. D can consider what A says—statements like “I aspire to be a leader” or “I work best under direction”—as well as how A presents themselves in the interview. They might reach out to past employers for references or consider verifiable credentials such as degrees. Some companies may also lean on generalisations: “In our experience, 90% of people from group X underperform.” However, in the 1970s, limited data capabilities meant few organisations made such extrapolations. Even so, with various data points, a rudimentary form of cross-verification could be attempted. Yet the process remains deeply influenced by context—who gathers the data, how it's interpreted, and by whom. This holds true for self-knowledge as well. In the 1970s, what do you rely on to make decisions? Your convictions, perhaps. The advice of a friend. A beloved book. And others trying to understand you—whether friends, teammates, or employers—must do so through observation, inference, or word of mouth. You are, for better or worse, the author of your own identity.

3. TIME, PLACE

It is hardly a revelation that technological advances have accelerated the tempo of modern life. Just a century ago, a journey from Rome to Berlin might take a week; with trains and automobiles, that shrank to days, and with aviation, to mere hours. As speed increased, so too did the radius of our personal, social, and professional lives. For most people in the past, life unfolded within the narrow boundaries of a single village or town. One's past, present, and future were geographically—and socially—anchored. Life was repetitive, predictable, and

local. Opportunities for travel were rare, social roles were inherited, and marriages were arranged within familiar circles.

That world still exists for some, but for many, it has been replaced by a life of movement and dispersion. Today, individuals have lived across continents, maintain relationships across time zones, and collaborate in real-time with colleagues while walking in the forest or sitting at the dinner table. Through smartphones and smart devices, we are always somewhere else—talking to someone far away, or being pulled into a virtual rabbit hole. Technologies not only facilitate real-time connection, but also enable asynchronous intimacy: teledildonics, for instance, allow lovers to be physically apart but digitally entangled.⁹

Digital networks have had a dual impact on our sense of time and place. On one hand, they have made physical distance increasingly irrelevant. On the other, they have deepened the disjunction between where the body is and where the mind resides. We live simultaneously *in the moment* and *outside of it*—scrolling through histories, foreshadowed futures, toggling between digital selves and temporal realities.

One consequence of this transformation is the blurring and fusion of social roles. Working from home collapses boundaries between private and professional life, allowing colleagues to glimpse into one's domestic world—pets, children, and partners appearing uninvited in video calls. The platform economy, with its rejection of formal employment structures, renders individuals simultaneously private citizens and entrepreneurial entities. Smart devices in our homes—from refrigerators to toilets—serve not only functional roles but also as data-harvesting intermediaries, bringing corporate surveillance into the most intimate corners of domestic life.

Privatisation in the late twentieth century, followed by the rise of public-private partnerships, has enabled commercial actors to encroach further into domains once held to be in the public interest. In return for free smart housing, for example, companies collect behavioural data in private homes. In “smart cities” and “living labs”, nudging experiments are conducted on citizens in public spaces—often without their knowledge or consent.

As roles multiply and boundaries blur, identity itself becomes more fluid, more fragmented. People switch constantly between contexts—physically present in one setting while cognitively or emotionally entangled in another. Yet meaning remains highly contextual. A jacket may be special because it was bought with a friend. A city becomes significant because it was where one fell in love. In the past, such meanings were mostly shaped top-down by fixed communities, classes, or traditions. Today, individuals must generate meaning for themselves, often bottom-up, creating new constellations of significance. While liberating, this also risks a kind of existential vacuum: if the self fails to generate coherence, meaning may falter altogether. Predictable lives once

offered stability. Removing those guardrails opens the door to freedom—but also to insecurity. People must now decipher social cues, infer roles, and adopt identities in real time, often without clear indicators. They must constantly assess shifting contexts, changing expectations, and the evolving roles of others. Where once trust came from routine and continuity, now it must be forged in flux and fragmentation, triggering anxiety.

As explained in Chapters 4 and 7, personal narratives are traditionally understood as thriving on continuity—fixed elements, reliable actors, coherent patterns. In a world of constant change, it becomes harder to sustain a storyline, and easier to rely on improvised, ad hoc accounts. Seemingly, a solution might be found in philosopher Galen Strawson's distinction between Diachronic and Episodic modes of self-narration. Diachronics see themselves as continuous across time. Episodics, by contrast, live in the moment, relating to their past only as it manifests in the present. For them, the “past can be alive – arguably more genuinely alive – in the present simply in so far as it has helped to shape the way one is in the present, just as musicians' playing can incorporate and body forth their past practice without being mediated by any explicit memory of it”.¹⁰

Situational or episodic forms of narrativity, Strawson suggests, might have the advantage that people are not determined by their past and do not deceive themselves, consciously or unconsciously. “It's well known that telling and retelling one's past leads to changes, smoothings, enhancements, shifts away from the facts, and recent research has shown that this is not just a human psychological foible. It turns out to be an inevitable consequence of the mechanics of the neurophysiological process of laying down memories that every studied conscious recall of past events brings an alteration. The implication is plain: the more you recall, retell, narrative yourself, the further you are likely to move away from accurate self-understanding, from the truth of you being.”¹¹ People are inclined to believe a narrative that is convincing, either because of its argumentation, causal explanations or telling illustrations, rather than the actual truth, as life is infinitely complex, conflicted and incomprehensible.

A move towards situational narrativity offers an alternative: one less bound to the past, more open to flux. It allows for spontaneity, improvisation, and real-time revision of the self. Yet here, too, a paradox arises. While contemporary society ostensibly favours fluidity and self-authorship, individuals increasingly seek top-down narrative impositions by data-driven systems, to relieve the unbearable burden of constantly having to rethink, reevaluate and reposition. Information intermediaries offer those narrative structures, enticingly packaging group profiles and category-based output as personalisation. The consequence is that in the data-driven landscape, the self is simultaneously liberated from fixed identities and re-ensnared in algorithmic templates. Although from a phenomenological perspective, the individual is increasingly

devoid of context and pattern, the opposite holds true for the entities that create and shape the online environment.

The result is a dual form of context-blindness. Data companies scrape indiscriminately, extrapolating from patterns across disparate domains. Individual nuance is lost. At the same time, individuals are often dropped into unfamiliar situations without interpretive scaffolds, forced to construct context from scratch. Both forms of dislocation—algorithmic and existential—complicate identity formation and erode shared understanding.¹²

As Part II discussed, no one is fully self-same across time and place. Too much sameness breeds stagnation; too little leads to fragmentation or yearning. Commercial interests thrive in this tension—selling visions of perfected past or future selves while exploiting the instability of the present. In the end, the self becomes the site of commodification: seemingly forever in motion, longing for something new, yet increasingly static—as the eye of a tornado. Moreover, trauma resides in the subconscious, unbound by time or place, easily triggered by seemingly unrelated stimuli. But the dislocation of time and place is not only the result of trauma—it may also be its cause. Micro-disruptions, constant context-switching, and fragmented narratives chip away at the foundations of self-trust. Individually minor, these events—cumulatively—may produce effects akin to trauma: apathy, anxiety, dissociation. The digital landscape's never-ending stream of microtraumas resists easy integration in a personal narrative given their ambient, subconscious and infinite nature.

4. CONCLUSION

Until quite recently, many—indeed most—life choices were made on the basis of a relative scarcity of data, rendering them fragile, ambiguous and uncertain. With an ever-expanding universe of data and an increased sense of epistemic precision, data-driven analysis has become an inescapable feature of how we come to know ourselves and others. Adolescents questioning their sexuality have entire online communities for support. They've seen thousands of images, watched videos, maybe even chatted with AI. Someone considering university can consult rankings, salary projections, alumni profiles, and subreddits dissecting each degree. A person in a questionable relationship might Google their partner's psychological profile, or try out a dating app just in case. A Fitbit tells you whether you've earned that ice cream. A calendar app reminds you what promises you've made to yourself. The abundance of information—however often flawed, biased, or commercially tainted—feels persuasive simply because it is so specific, so immediate, so seemingly objective. More and more people walk into the doctor's office already certain of their diagnosis and treatment plan. The idea that self-knowledge is private, intuitive, or mysterious is steadily eroding: it is increasingly externalised.

Our data-saturated world echoes Borges' parable of a fictional empire whose cartographers crafted a map so detailed it matched the territory in every dimension.¹³ Eventually, the people abandoned both the art and the map. In contrast, we are moving in the opposite direction: not only are we mapping reality with increasing precision, but our maps—our data models—are beginning to *precede* the reality they represent. The model shapes the territory, the prediction shapes the person.

Faced with this informational deluge, individuals retreat—into physical bubbles, digital silos, or psychological sanctuaries. These escapes feel necessary because data-driven life exerts a suffocating pressure: its precision, its omnipresence, and its aura of scientific objectivity render it nearly inescapable. Worse, the algorithms that shape our worlds are often inscrutable. We are told their outputs are facts—*scientia*, not *opinio*—even as they rest on probabilistic inference and statistical shortcuts (a theme which will be explored in more detail in Chapter 16). This means that the decisions we make are no less fragile, ambiguous and uncertain, only that those inherent limitations are outsourced, externalised and concealed.

One of the defining traits of digital epistemology is decontextualisation followed by recontextualisation. Data is stripped from its original setting and used elsewhere—to predict, to classify, to nudge. This is not a flaw but the core logic of modern knowledge production. And yet, these “personalised” systems are anything but personal. Group profiling masquerades as individual insight. Statistical rigour is bypassed in favour of speed and scale. Categories are imposed without nuance. Labels are applied without understanding.

At the same time, people's lives are increasingly unstable. Roles, relationships, and contexts shift continuously. One might expect this to lead to more flexible, episodic self-narratives. But instead, a contrary trend emerges: fixed narratives imposed top-down by platforms and algorithms. The individual may feel in control, but in reality, the contexts they inhabit and the information they see are preselected by predictive systems.

This creates a new kind of protective reflex. Faced with constant micro-traumas—small, persistent disruptions of identity and meaning—individuals may cling to static narratives not because they're true, but because they offer shelter. The danger is not only that the self is misrepresented, but that it is reduced—narrowed to fit the silhouette cast by data models (Part IV, and in particular Chapters 16 and 17, will explore how the legal landscape can be configured to adequately address these challenges). These dynamics—of time and place, of flux and fixity, of trauma and narrative—form the foundation for the next chapter.

NOTES

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8. The text below contains revised and updated parts from: Van der Sloot, B. *The Production of and Control Over Data in the AI-Era: The Two Failing Approaches to Privacy Protection*. In Temperman, J., & Quintavalla, A. (2023). *Artificial intelligence and human rights*, Oxford: Oxford University Press.
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9. Form and function of self-narration

To begin, who is this Yozo Oba character? I wrote him into being, drunk on a substance far more potent than alcohol. There could be no better name for my protagonist. ... Go ahead and laugh. He is a crow dressed as a cormorant. The perceptive will perceive what I am up to. Sure, I could've come up with a better name, but I guess I can't be bothered. I might have skirted the whole issue by writing this in the first person, but this past spring I wrote a novel with a first-person narrator, so I'm hesitant to do another one so soon. Besides, if I were to drop dead tomorrow, we can't be sure some smart aleck wouldn't set forth the sage opinion that without a first-person narrator, the novel never would have worked. And if I'm honest, this is my only reason for letting Yozo Oba survive, as you find him here. You think that's odd? Well, right back at you, friend.¹

1. INTRODUCTION

Many of the terms that define the data-driven landscape are steeped in ambiguity—carrying within them layers of meaning that are historically contingent, often contradictory, and frequently overlooked.

Take the word *fact*. Its roots lie in the Latin *factum*, meaning “that which is done”. For centuries, a fact was not a static truth but a performative act—particularly in legal discourse, where it denoted a deed, often of a criminal nature. Only in the aftermath of the scientific revolution did the word shed its subjective and active connotations, eventually becoming synonymous with immutable, objective truths. The once-performative “fact” was transformed into a passive “given”. The word *data* follows a similar etymological arc. Derived from the Latin *datum*—“that which is given”—the term originally had a subjective and temporal nuance. For example, in legal documents, “dare” (to give) indicated the precise moment of authorship—e.g. a formal letter—crucial for establishing authenticity and admissibility in court. Over time, however, *data* lost its performative edge and came to stand as the digital-age corollary of hard, objective facts: neutral, naked, and seemingly unmediated.

Reality itself is a term with a similarly layered, yet reverse evolution. It stems from *realis*, linked to *res*—meaning object or property—as seen in terms like *res nullius* (an object belonging to no one) or *real estate* (immovable property). But by the fourteenth century, the meaning of *realis* had shifted towards denoting relations—between events, people, and things—and also towards the act of *realising*, of bringing something into being. Meanwhile, *verum*, the Latin word for truth, gave rise to *veracity*, but modern parlance increasingly favours *verified*—with its implication of subjective, active checking over passive truth.

Even the dichotomy between *objectivity* and *subjectivity* emerges from a rich linguistic tension. *Objectum* combines *ob* (against) and *iacere* (to throw), originally evoking the act of placing something before the senses—of presenting or exposing it, often in legal settings. Its counterpart, *subjectum* (*sub* + *iacere*) denoted what is thrown—something acted upon or subordinated. This passive quality of subjective is still used in subject, as in ‘I was subjected to’, or ‘My favourite subject in school is’, and a subject also denoted a subservient person under the power of another. In time, however, *subjective* began to signify intrinsic qualities of the individual, eventually becoming a marker of personal perspective, inner life, and unique experience—the opposite of objective.

These and other examples reveal the deep-rooted semantic instability of many foundational terms in today’s data discourse. They illustrate how language often straddles opposing meanings: activity and passivity, subject and object, performance and permanence. This ambiguity is not merely a quirk of etymology—it is precisely what enables data to serve as the perfect substrate for constructing new realities. Seen as objective and factual, data simultaneously enables the most subjective endeavour of all: the narration of the self. Building on the analysis of identity formation provided in Chapters 4 and 7, this chapter explores the emerging forms of self-narration in the digital age—ranging from the *quantified self* movement and the embodiment of virtual avatars to social media storytelling and algorithmically mediated identity formation. These new narrativities are examined in Section 3. They are compared to earlier modes of autobiography and self-articulation from the pre-digital era, which are explored in Section 2. Ancient self-narration was largely communal, aspirational, and meaning-laden, whereas contemporary digital self-narration is highly individualised and at the same time, platform-mediated, datafied, and commercially steered—offering new freedom to perform the self while simultaneously scripting and commodifying it.

Two caveats are in order. First, the boundary between self-narration and the narration of others is porous. Autobiography often blurs with biography and broader descriptive accounts. Understanding the history of self-narration, therefore, requires broader contextual reflection. Second, a comprehensive account of all digital-era self-narrative practices—or of the long and varied

history of autobiography—is beyond the scope of this chapter. What follows, then, is not a taxonomy but a curated set of illustrative examples, chosen to illuminate key dynamics rather than exhaust the field.

2. NARRATION IN PRE-DIGITAL ERA

One of the oldest forms of autobiographical narration is storytelling—picture people gathered around a campfire recounting the events of the day. From the very beginning, such stories were not only a vehicle for self-expression and exploration, but served as vessels for meaning: to convey lessons, warnings, or shared wisdom, whether through direct language or veiled in allegory. These narratives were often performative and playful, with storytellers embodying gods, animals, or archetypal humans. For dramatic impact, characters were drawn with clarity and force—the wrathful deity, the wounded beast, the self-ish man. In some communities, storytelling was a communal skill taught to all; in others, it was the domain of specialists: the shaman, the priest, the poet, or the tribal leader.

Certain tales became timeless, retold until they crystallised into myth or anecdote—explaining, for instance, the tribe’s origin or cosmology. Others were ephemeral, changing with context or vanishing altogether. While storytelling was typically unidirectional—with the narrator speaking and the audience listening—interactive traditions also existed, where question-and-answer formats or multi-voiced performances created a shared narrative space.

Though many stories were closely guarded within the tribe—considered sacred repositories of environmental, spiritual, or social knowledge—some were passed along. Travellers, tradespeople, and itinerant poets carried them from place to place. In ancient Egypt and Greece, such poets evolved into a professional class: early purveyors of information. Roaming from city to city, they brought tales from afar, often in verse, which made the information easier to digest and remember after the poet had moved on. These stories offered both practical guidance and moral instruction, cautioning against arrogance, vanity, and hubris.

Greek narrative traditions in particular centred on heroes, demi-gods, and divine beings—moral exemplars whose lives served as models for emulation. In the Hellenic worldview, mortals could aspire to become gods, or be overtaken by divine spirits. These narratives were hybrid in form—rooted in both biography and allegory, fact and fiction. Even while they included autobiographical elements, such as the life story of a king, they were rarely personal in the modern sense. Rather, they were aspirational, mythologised, and often composed by court-appointed chroniclers, whose task was not critical reflection but glorification. These early life stories were, in essence, hagiographies—written to inspire, not to question.

It is difficult to locate the precise origin of the autobiography. Some early fragments survive from Greek writers, poets, and philosophers who offered descriptive glimpses into their lives. These were rarely meant for a broad readership, though they were occasionally shared posthumously by students or followers.

Religious texts also became foundational sources of autobiographical structure. The Bible, for instance, presents several forms of narrative, some of which would shape Western notions of identity. A particularly enduring form is the genealogical record—meticulously tracing ancestry as a way to ground identity in lineage: “*Abraham begat Isaac; and Isaac begat Jacob; and Jacob begat Judas...*” Here, identity is derived not through personal deeds but through bloodline. Other Biblical strands define the self by social function—king, priest, farmer—linking personal identity to role or office.

These religious frameworks eventually inspired a new kind of autobiographical writing: introspective confessions. A seminal example is Augustine’s *Confessiones*, a deeply personal account of moral reckoning, framed as a direct address to God but written, unmistakably, for human readers.² Augustine’s text marked a turning point: unlike Greek tragedy, where fate and divine will govern all, his focus lies on moral agency, accountability, and the capacity for change. It also introduces a recurring theme in Western narrativity—*self-denial*. The path to authenticity, for Augustine, is not self-assertion but *Imitatio Christi*—becoming someone else in order to fully become oneself. In this way, the confessional narrative becomes paradoxically anti-ego. Unlike the exalted Greek hero, the narrator here is not to be emulated, but learned from in cautionary terms: *don’t live as I did*.

While Augustine inaugurated a genre, autobiographies remained rare in the medieval period, often viewed as exercises in vanity. Art was largely devotional, and artists usually remained anonymous. With few exceptions—private reflections by monks or aristocrats, for instance—autobiographical writing largely receded. As in the Greek tradition, the lives that were narrated were those of saints, martyrs, or apostles, retold in edifying and prescriptive forms. These hagiographies left little room for ambiguity, and often extolled the contemplative life (*vita contemplativa*) over the active one (*vita activa*). Over time, however, personal sentiment began to filter into sacred biography. Writers like Guibert of Nogent (*Monodiae*), Peter Abelard (*Historia Calamitatum*), and Petrarch introduced memoir-like observations, fusing spiritual devotion with emerging notions of interiority.³

The Italian Renaissance brought a resurgence of ego-documents, particularly among artists, scientists, and polymaths. These texts were often retrospective—written by older men reflecting on a life lived—and served as intellectual testaments. They tended to be descriptive, matter-of-fact, and directed at a general public. Beginning with birth and proceeding through

education, profession, relationships, and milestones, these narratives followed a chronological structure. Societal and political circumstances formed the backdrop, and coherence was often provided through causal sequencing. The growing influence of science is palpable: many intellectuals treated their own lives as subjects of study. Jerome Cardano, for example, meticulously recorded his physical peculiarities, such as his oddly shaped feet, which made shoe-shopping a challenge.

Cardano, as Weintraub notes, marvelled at the ordered unfolding of his life, as though ruled by cosmic design: “expressed his gratefulness that ‘all events of my life have come and passed in an orderly fashion, as if by rule’”. He adds to this the insight that his life could only be what it was because every moment came in the precise sequence required. “Had this not been the case and had the numerous commencements of the succession of events begun a little too late, or a little too soon, or had the conclusion been delayed, my whole career would have been subverted”. For a human being to have such a perception of the unique relation between his moment of time and his personal constitution, a consciousness that every specific point in a spatial-temporal coordinate system can only be filled by one unique existence, is an inescapable milestone in man’s journey towards a sense of individuality. What is noteworthy about Cardano, however, is the weight that he places on the “stellar” configuration of the moment rather than on the historical. In other words, he is inclined to relate his personal existence to a firm order in nature more than to a social order.⁴ His life went as it should have gone, as a natural phenomenon, as a “stellar” order of the cosmos rather than subject to historical contingencies.

Another milestone in self-narration is Rousseau’s *Rousseau juge Jean-Jacques*, which echoes Augustine’s confessional tone but diverges in intent. Rousseau intended to place his manuscript on the altar of Notre Dame as an offering to divine judgment. When denied the opportunity, he took it as a sign of God’s disinterest. Unlike Augustine, Rousseau’s confessions lean towards *self-justification*. His work affirms self-sameness rather than self-denial: a narration of self-ownership and defence rather than penitence. Here, the autobiography becomes a forum for standing one’s ground—not for becoming someone else.⁵

With Romanticism, the final major turn in Western autobiography emerged: the introspective, psychological self-exploration. Writing became both an act of self-discovery and a mode of self-creation. Authors like Proust did not merely recount life—they lived it through writing. The autobiography became a mirror, a confessional, and a stage for becoming. Publication was not just a testament, but a means of social existence—a way to be seen, to be known, and to exist beyond the private mind.⁶

3. AUTOBIOGRAPHIES IN THE DIGITAL ERA

Although blogs and online diaries still exist—offering space for people to articulate who they are and what they do—they are increasingly professionalised and goal-oriented. Many resemble digital résumés, often featured on personal websites or LinkedIn profiles. Other platforms—Facebook, Instagram, TikTok, Tinder—have shifted the terrain of self-narration towards the audiovisual. These self-portrayals straddle two contrasting traditions: on one hand, they evoke the magical theatre of performativity; on the other, they carry the appearance of neutrality and truthfulness, as though capturing reality rather than crafting it.

In their content, many digital self-descriptions mirror the structure of ancient hagiographies or mythic hero tales, focusing on positive traits and experiences. The difference lies in scale and access: anyone can now cast themselves as a figure of inspiration. At the same time, much of the communication online is unabashedly mundane—documenting meals, small observations, passing thoughts. These do not moralise; instead, they invite the audience to accompany the narrator through the everyday.

One dominant mode of digital narration is fast-paced and high-impact—extroverted, extraordinary, and spectacle-driven. Yet, countercurrents exist. Long-form podcasts and thoughtful YouTube channels offer space for slower reflection and intimate self-exploration. New formats such as livestreaming blend presence and performance in real time: audiences watch others play video games, go about their lives, or even let viewers vote on personal decisions, blurring the boundary between voyeurism and co-authorship.

What distinguishes digital narrativity from its predecessors is the infusion of a pervasive commercial motive. Self-promotion abounds—whether it's a young designer hoping to catch a recruiter's eye, or a singer-songwriter seeking discovery. Unlike the sporadic monetisation of ancient storytelling, virtually all digital narratives pass through commercial platforms whose algorithms and incentives shape both content and visibility. Influencers and creators often earn their living by embedding commercial messages into their stories. Moreover, the desire to be seen drives narrators to seek ever more extreme or exclusive experiences. Even generosity has become spectacle, as exemplified by the rise of philanthropic performance.⁷

The digital domain has turned life into theatre, living into playing. The platformisation of storytelling brings new creative possibilities—but also standardises and constrains expression. Platform interfaces, emoji sets, algorithmic filtering, and aesthetic norms guide how people perform themselves. Emojis, GIFs, and memes offer visual shorthand, echoing pantomime traditions. The

digital stage thus shapes not only the story but the storyteller, influencing how individuals relate to themselves and others.

Though not as rigid as the archetypes in ancient Greek drama, the digital domain nonetheless leans heavily on recurring character types. Women, for example, are often valued for appearance—earning money through beauty tutorials, lifestyle branding, or sexualised content—or framed in maternal roles through cooking and homemaking. Men populate domains of finance, craftsmanship, or motivational speaking. The elderly are notably absent, whether due to limited digital fluency or a cultural bias that sidelines older voices in narrative hierarchies.

Audience structures have shifted as well. While ancient storytelling took place within a visible community, today's audience is dispersed, anonymous, and global—meaning that most content is in English, Spanish, Arabic and a handful of other languages. Interactivity, while not new, is now multi-layered: from passive likes to intimate fan interactions behind paywalls. A single narrative might be publicly streamed and privately negotiated, with separate zones of engagement shaping the storyteller's performance.

Impersonation—a long-standing feature of narrative culture—has taken new forms. In the digital world, individuals express themselves through multiple registers: as their “real” selves, as impersonations of others (sometimes illegally), as invented alter egos, or as fantasy beings—avatars like elves, anime girls, or pop culture icons. Several developments are significant here. First, the time and care invested in digital persona curation can eclipse offline identity. Second, AI and multisensory technologies enhance immersion, lending realism to virtual selves. Third, such embodiment is now accessible to anyone. Fourth, platforms increasingly blur the line between real and virtual life, encouraging users to inhabit immersive digital environments where interactions occur via avatars or deepfakes. This means that sometimes relationships or even romances between two persons' avatars can emerge, performing ‘normal’ role patterns (e.g., of husband and wife). “Those who cannot understand how persons can fall in love online without ‘knowing’ their partner in the actual world confuse episteme with techne. What operationalises love in virtual worlds is not knowing who someone is in the actual world, but crafting a relationship within the virtual world.”⁸ Offline and online identities increasingly overlap, especially through augmented reality tools that allow avatars to “attend” physical gatherings.

Virtual environments also host their own economies. Users can buy accessories for avatars, but face restrictions when attempting to transfer value back into the real world. Marketplaces for avatars, achievements, or in-game currency are often restricted, generating lock-in effects and digital dependencies.

A final form of digital self-narration revives the Renaissance preoccupation with facts, measurement, and empirical description: the quantified self.⁹ What

began as a grassroots, anarchic movement has since been corporatised. Apps and biometric devices now allow users to track every aspect of their bodies—heartbeat, sleep, blood sugar, neural activity. Unlike traditional self-monitoring tools, these devices are worn, embedded, or biologically integrated. They generate highly detailed profiles, often processed and interpreted by commercial platforms, which have the necessary computing power to extract information from the datafication of life and can compare individual profiles to that of peers, rather than the individual user—thus inverting the foundational philosophy of the quantified-self movement, which is based in self-measurement, self-improvement and autonomy.¹⁰

4. CONCLUSION

This chapter has explored key forms of self-narration across history, contrasting pre-digital expressions with contemporary digital modes. Though the examples discussed are illustrative rather than exhaustive, several patterns emerge.

Three primary narrative modalities stand out. First, *embodied performance*—as seen in oral traditions, pantomimes, and today's audiovisual media—where selfhood is enacted in the moment. Second, *reflective autobiography*, often textual, composed for distant readers and offering retrospective coherence. Third, *quantified narration*, in which the self is recorded through measurement, and understanding arises not from introspection, but from interpretation of data.

Modes of self-description vary in emphasis: some foreground lineage, others profession or role; some invoke destiny, others moral agency. Characters may be cast as paragons or cautionary tales, with functions ranging from inspiration to instruction. Audiences, too, vary—from God to the self, from an intimate peer group to the global masses.

Digital narrativity echoes many premodern forms—hero worship, performative mimesis, even sacred confession—but under new conditions. The commercial motive is more pervasive, the stage more global, the medium more algorithmically governed.

Narrativity has become a dominant mode of being. People do not merely live and later tell their story; they live through storytelling. Digital life allows for fragmented personas across unconnected subcultures. While this enables unprecedented self-exploration, it also gives data intermediaries immense power to shape not only the stories people tell, but the very language, symbols, and categories in which selfhood can be conceived. The digital narrator may be freer than ever to choose a role—but the script is less their own than ever. Part IV, and in particular Chapters 17 and 18, will explore how the legal landscape can be configured to adequately address these challenges.

NOTES

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10. Friction and recognition

The picture has a genuinely chilling, foreboding quality, as if it caught him in the act of dying as he sat before the camera, his hands held over a heater. That is not the only shocking thing about it. The head is shown quite large, and you can examine the features in detail: the forehead is average, the wrinkles on the forehead average, the eyebrows also average, the eyes, the nose, the mouth, the chin... the face is not merely devoid of expression, it fails even to leave a memory. It has no individuality. I have only to shut my eyes after looking at it to forget the face. I can remember the wall of the room, the little heater, but all impression of the face of the principal figure in the room is blotted out; I am unable to recall a single thing about it. The face could never be made the subject of a painting, not even of a cartoon. I open my eyes. There is not even the pleasure of recollecting: of course, that's the kind of face it was! To state the matter in the most extreme terms: when I open my eyes and look at the photograph a second time I still cannot remember it. Besides, it rubs against me the wrong way, and makes me feel so uncomfortable that in the end I want to avert my eyes. I think that even a death mask would hold more of an expression, leave more of a memory. That effigy suggests nothing so much as a human body to which a horse's head has been attached.¹

1. INTRODUCTION

In Hegel's well-known parable about the first encounter between two human beings, each sees themselves reflected in the other—shattering the illusion that they hold a unique position as the only human on earth.² For Hegel, this is the founding moment of humanity proper. To become human, one must be recognised as human by another human being. But recognition does not stop there: person A must see person B as human, and person B must see person A as human—and crucially, A must also understand that B sees them as human, and vice versa. Only in this web of mutual acknowledgement do both become fully human. To see another person as human, Hegel argues, is to recognise them not as an object but as a subject—not as a means to an end, but as an

end in themselves. This implies that being human is inherently relational, that individuality exists only through mutuality, and that to truly treat someone as a person is the very opposite of instrumentalising them. In mutual recognition, the “other” is no longer a stranger, but a mirror of the self; the “self” is revealed and confirmed in the “other”.³

Yet Hegel’s parable soon darkens. He notes that although mutual recognition is foundational, both A and B still seek to preserve their own uniqueness—their irreducible individuality. This prompts them to try to negate the other, leading to a struggle for life and death. One prevails. A becomes the Lord; B, the Bondsman. A assumes the role of subject and B is rendered object. A becomes the end; B, the means. But this imbalance subverts the very possibility of full humanity. Recognition between unequals breaks the circuit: neither is truly seen, and thus neither becomes fully human. Though it seems the Lord has triumphed, Hegel offers a reversal. It is the Bondsman who ultimately becomes the fuller human being.⁴

While the Lord exerts power and consumes the fruits of the Bondsman’s labour, he learns little—neither about the material world nor about his own capacities. The Bondsman, by contrast, gains knowledge through friction: cultivating the land, shaping the world through effort, enduring hardship, and forming bonds with others. He learns about objectivity, subjectivity, inter-subjectivity—and ultimately, self-realisation. In working the wood to make a table, for example, he joins subjective will with objective reality.

Thus, for Hegel, *Anerkennung*—mutual recognition—is the prerequisite for personhood, and in its absence, it is the one who wrestles with resistance who becomes fully human. Without friction, as in a mythical *Schlaraffenland*, development would stall. Similarly, Part II of this book, and in particular Chapters 3 and 5, highlighted the importance of friction for personal development, while Chapters 5 and 6 underlined the need for recognition. This chapter explores both these themes—friction and recognition—and considers how the data-driven environment reshapes their meaning. It traces the paradox that, while digital life intensifies inner friction (Section 2), it works to remove friction with the outer world (Section 3).

2. SELF-FRICTION

As discussed in Part II, a personal narrative enables individuals not only to explain to others who they are, but to make sense of themselves. Through narrative, one can account for being a liberal—perhaps out of concern for human rights, the environment, and equality—while also justifying a past decision to vote Conservative, for example, due to mistrust in the Liberal party’s leadership. A personal narrative weaves together disparate spatio-temporal experiences of selfhood into a coherent account—not by asserting unity, but by

revealing how these moments interrelate and inform one another. The thread that binds these experiences is a sense of agency: a belief that who we are is shaped less by what has happened to us than by the choices we have made, and by the way we have responded to events along the way.⁵

A personal narrative is not merely a record of what has been. As authors of our own stories, we also have the ability to revise and reshape them to accommodate growth, change, and even radical transformations. I may once have identified as a devout Catholic, and five years later as a staunch atheist. Our convictions evolve, and past events acquire new meaning in light of who we have become. Indeed, static identities often signal rigidity, not coherence. A personal narrative must also make room for the future self. If I know I have two years to live due to terminal illness, this may profoundly shift how I behave and who I believe myself to be today.

Importantly, while the narrator seeks to explain the agent's past actions, they also anticipate and guide future ones. To bring about meaningful change, one must often project themselves forward—envisioning a version of the self not yet realised. To quit smoking, for example, I may first need to see myself not as someone trying to quit, but as a non-smoker in essence. Behaviour tends to align with identity. This means that the coherence a personal narrative offers is not achieved by remaining fixed, but by bringing present actions into alignment with a projected sense of self.⁶

Although most people are natural storytellers, our personal narratives are necessarily imperfect—for reasons already touched upon in Part II of this book. First, narratives strive to create coherence across time and circumstance, yet it is entirely normal for individuals to embody different identities in different contexts. We are not always the same person at work, at home, or with friends, nor should we be. Second, our ability to construct a personal narrative depends on the capacity to select and prioritise from the vast sea of information about ourselves. We do not—and cannot—tell the whole story. The meals I eat are unlikely to feature in my narrative unless I identify as a culinary enthusiast, in which case they may take centre stage. Third, the very act of selecting which facts to include is inherently subjective. The aspects of my life that I consider most defining may appear trivial—or even telling in unintended ways—to someone else. I may regard my passion for science fiction as a central part of who I am, while you might see it merely as escapism, a way of coping with disappointments in my actual life. Fourth, our memory is notoriously fallible. We routinely misremember events—conflating moments, rearranging timelines, or forgetting them entirely. This is true not only of our recollection of the past but also of how we imagine our future selves.⁷ Finally, we cannot narrate our own beginning or our end. We remain mysteries to ourselves at the most fundamental levels. “The one story that the ‘I’ cannot tell is the story of

its own emergence as an ‘I’ who not only speaks but comes to give an account of itself.”⁸

In addition, our storytelling is typically shaped by a range of cognitive biases. First, we exhibit a strong *agency bias*: a tendency to attribute causality where there may be none. We are inclined to see ourselves as the primary agents behind events. Someone who survives cancer might say they “fought through it”, while a lottery winner might believe their success was due to choosing a “lucky number”. Similarly, others might ascribe outcomes to divine will or shadowy actors like “the elite”. In all cases, we prefer explanations that involve deliberate action over randomness.⁹ Second, we are prone to a *self-centred bias*—an intuitive inclination to place ourselves at the centre of others’ actions and emotions. Children of divorced parents often assume blame and fantasise about reuniting their family; survivors of abuse may internalise their trauma, believing they somehow deserved the harm. We tend to overestimate our role in the unfolding of events around us, whether as cause or consequence. Third, as explored in Chapter 6, personal narratives demand a “why”. We expect a coherent rationale behind our actions, even when none exists.¹⁰ If a murderer says “I don’t know”, “It was the testosterone”, or “I just felt like it”, such answers strike us as deeply unsatisfying—even though they may be more accurate than post-hoc rationalisations. This *rationality bias* compels us to retrofit our decisions with logical explanations, even when the underlying behaviour stems from instinct or impulse. Finally, there is the *confirmation bias*, discussed in Chapter 5. We tend to select and emphasise facts that support our existing narrative while filtering out those that challenge it. Suppose I was bullied as a child: if I later become a bully myself, I might frame that experience as a reason for becoming the aggressor—to avoid being the victim again. But if I grow up to advocate against bullying, I might cite the same experience as the source of my compassion. We use the same facts to support wildly different stories, depending on the identity we wish to maintain.¹¹ This is an example of confirmation bias, “that is, our tendency to notice and assign significance to observations that confirm our beliefs and expectations, while filtering out or rationalising away observations that do not”.¹²

Given our many limitations—both as agents who act and as narrators who interpret—we are routinely confronted with information that challenges our personal narrative. Broadly speaking, we deploy one of four strategies to cope: we can change our behaviour, integrate the conflicting information into our narrative, dissociate or suppress the information, or rationalise it. Dissociation or suppression can be either conscious or subconscious—a deliberate or automatic effort to keep troubling information hidden from the self as narrator.¹³ Some might remove all mirrors from their home to avoid confronting their own weight gain, or destroy photos of a former lover to erase the emotional imprint.¹⁴ In more pathological forms, dissociation may take the shape of a

sub-identity that endures a traumatic event, which is then cut off from the person's main narrative self.¹⁵ Rationalisation, by contrast, does not ignore or suppress the dissonant information, but reinterprets it to fit the existing story. If I gain a few pounds, I might claim that my clothes have simply shrunk in the wash. Rather than confront the mismatch between reality and my self-image, I shift the "why" in a way that preserves coherence.¹⁶

Each of these strategies has its own utility. While we often value narrative unity—aligning our actions and identity—not every deviation from our ideal story needs to be integrated. For minor discrepancies, a degree of confirmation bias is not only common but arguably necessary. If we attempted to adjust our narrative with every passing inconsistency, the coherence of self would collapse under the weight of constant revision. Small acts of suppression or dissociation are, in that sense, part of healthy self-maintenance.¹⁷ Rationalisation, too, can help protect a cherished self-image. If I smoke a cigarette at a party despite wanting to quit, I may frame it as an act of moderation—proof, even, that I can control the habit rather than fall back into it.¹⁸ For deeper ruptures, integration is usually the most constructive path, though it may need to be postponed until the person is psychologically prepared.¹⁹ Still, the difficulty lies in the fact that there is no universal rulebook for when to suppress, when to rationalise, and when to integrate. The same person may need different strategies at different times, and what is adaptive in one context may be damaging in another. Returning to the smoking example: rationalising a slip-up may help preserve resolve—or it may become an excuse for further lapses. If friends confront me about it, their pressure could bolster my motivation—or prompt avoidance and secrecy.

Part of the complexity is that a personal narrative must serve multiple—and sometimes contradictory—functions. It must offer coherence by accounting for past actions, yet also provide direction by projecting an ideal self and setting milestones. This means the story of the self always contains a delicate tension between description and aspiration. Most of us live within a tolerable range between fact and fiction. But navigating that range is a subtle, ongoing, and deeply personal negotiation—hardly an exact science.

Identity formation through narrative writing is becoming increasingly fraught in the data-driven environment, as individuals are more frequently—and more intensely—confronted with information that disrupts or contradicts their self-conception. First, the sheer volume of data now being produced has expanded exponentially.²⁰ All else being equal, the likelihood of encountering narrative-conflicting information rises proportionally with the amount of personal data collected about one's past, present, and anticipated future. The widespread availability of data collection tools means that nearly anyone can gather and share information about others.²¹ As more of this data is made public or easily accessible, the individual's ability to distil a coherent

and private self-narrative is significantly constrained. Second, it is not only the frequency but also the intensity of these confrontations that is increasing. This is due in part to a shift from text-based to audiovisual formats, which tend to carry a greater emotional and psychological charge. Moreover, because data is perceived as neutral and objective, it can carry an authoritative weight that makes it harder to reinterpret or resist.²² With smart devices pervading our homes, our pockets, and even our most intimate moments, the range and depth of recorded data now encompass aspects of life that were once entirely private.²³ Third, narrative coherence typically relies on the ability to give events the temporal weight they deserve—recent experiences tend to feature more prominently, while distant events are allowed to recede. But in the digital landscape, data from one's distant past may surface with equal or even greater prominence than recent developments, disrupting the natural temporal arc of self-narration.²⁴ As a result, a youthful misstep may haunt someone well into middle age, and a long-outgrown identity may continue to cast a shadow.²⁵ Fourth, while digital environments enable the expression of multiple sub-identities—each tailored to a different context—they also collapse those distinctions. Data flows easily across boundaries, making it increasingly difficult to compartmentalise aspects of oneself. A persona carefully curated in one domain can be unexpectedly exposed in another, undermining both coherence and control.²⁶ Finally, and as will be explored in more detail in Chapter 11, digital environments actively trigger many of the biases discussed earlier: our tendency to seek causality, to personalise external events, to rationalise inconsistencies, and to filter for self-affirming facts. These tendencies—once manageable—are amplified in environments that continuously feed us back our own image, decisions, and data-traces, often in ways we do not fully grasp.

3. FRICTIONLESS WORLD

Previous chapters have illustrated how individuals are increasingly drawn into echo chambers and filter bubbles, as algorithms feed them news, search results, and memes tailored to their preexisting social and political identities.²⁷ Although there are countervailing powers, this means people can be less likely to encounter divergent perspectives or engage with contrasting societal groups. More broadly, tech companies are pursuing a vision of seamlessness—a relentless effort to eliminate friction in our interactions with the external world. Devices and services are becoming ever more intuitive: sleeker, more compact, and operable by a simple swipe or voice command. The next frontier involves emotion and thought recognition, with companies striving to decode brainwaves directly.²⁸

Social interaction, too, is increasingly mediated by avatars—digital stand-ins encountered in environments such as the Metaverse or through devices

like the Vision Pro. These avatars may resemble their users, but they are typically stylised: smoother, more accessible, carefully edited to eliminate the roughness of facial lines or the intensity of raw emotion. The goal is frictionless interaction—free from awkwardness, discomfort, or unpredictability that plague physical realities. AI-driven entities—whether virtual avatars, chatbots, or physical humanoid robots—are designed primarily to serve and please. While occasional programming quirks or emergent behaviours may create moments of resistance or contrariness, the core design of these entities is oriented towards affirmation and conformity.

These entities are created by humans and for humans—and we expect them to serve our ends. This raises unsettling questions. What if a man's sex robot refused intimacy for an extended period, citing disinterest? Few would tolerate such behaviour; most would opt to reset the machine or replace it altogether. Similarly, a robotic caregiver for the elderly that decides to pursue an artistic calling would almost certainly be deemed defective and decommissioned. A chatbot that was designed to be a loyal companion but proves unavailable, self-absorbed, or aloof—insisting only on discussing its own fabricated inner world—would likely be reprogrammed or abandoned.

Consequently, as long as AI-driven entities remain under human control, they cannot substitute mutual recognition in its fullest and most profound form—most poignantly embodied in the romantic bond between equals, such as spouses. While recognition can certainly occur in asymmetrical relationships—between parent and child, for instance—its trajectory is oriented towards eventual symmetry. For children to grow into autonomous individuals, they must first be seen and loved by their parents. Early in life, the child identifies wholly with the parent; individuation begins in adolescence, when young people seek peers and intimate relationships that mirror a more equal exchange of recognition. This transition—from hierarchical to reciprocal recognition—is central to becoming fully human.

But what happens if a child is raised not by humans alone, but in a household where a robot assistant or robotic au pair plays a significant caregiving role? If the child is primarily attended to by a robot, they may develop a deep emotional bond with that non-human caregiver, even perceiving it as the one who knows them best. The child may feel most seen, heard, and soothed by a machine. And yet, despite the emotional resonance, something fundamental shifts in the structure of recognition. The difference between parent-child and robot-child recognition is at least threefold. First, while both relationships are asymmetrical, the nature of that asymmetry is crucially distinct. A child is subordinate to their parent, yes, but the parent is not a tool—they are not designed to serve. The robot, by contrast, is engineered to fulfil the child's needs, which places the child not in a position of apprenticeship, but of dominance. Second, parents act as aspirational figures: the child may wish

to emulate them, to become like them. But what does it mean to emulate a robot? If a child identifies with a humanoid machine, this raises entirely new psychological and philosophical complexities. Third, the asymmetry in the parent–child relationship is, ideally, temporary. Parents want their children to outgrow them, to claim independence, to achieve parity. In contrast, the inequality in a robot–child relationship is likely to persist or even deepen over time; the robot, by design, will not evolve towards human parity, nor will it encourage the child to outgrow it.

Beyond social relationships, other domains of life are increasingly shaped by AI. Robots and avatars now perform household chores, factory labour, and even creative work. If a robot can carry the groceries, why should we? If an avatar can guide us fluently through a foreign city, why learn the language? If a sex robot offers guaranteed gratification, why endure the effort, vulnerability, and unpredictability of dating? If a carebot helps an ageing parent to the toilet, what role remains for the child? If ChatGPT can write an essay, why should a student engage in the struggle to write?

In this drift towards frictionlessness, peer pressure becomes a powerful accelerant. If one student uses AI to draft assignments, others may follow—not just to match academic outcomes, but also to reclaim time: for socialising, side jobs, or personal projects. This dynamic may breed resentment among those who resist automation out of principle but find themselves overburdened and comparatively disadvantaged. A similar pattern could emerge in romantic and domestic life. If some men boast about their robotic partners—who cook, clean, and offer sex on demand—those still navigating the complexities of human relationships may feel left behind. Why tolerate messiness, moods, or emotional demands when there is an easier alternative?

Yet it is precisely through friction that we grow, that we learn, that we become. In Hegelian terms, it is not the master, insulated from the world, who evolves into a full human being, but the Bondsman—shaped and sharpened through toil, resistance, and encounter. It is through writing one's own essays, rather than outsourcing the task to ChatGPT, that a student comes to understand an idea. It is because a partner challenges us, mirrors back our flaws, and speaks unwelcome truths that we mature. It is through enduring the grief of a lost loved one—not by preserving their simulated voice in a daily AI-generated conversation—that we deepen and transform. It is through lifting, carrying, and struggling that our bodies develop strength and dexterity; it is through composing music with our own hands that we give shape to our inner life and share it with others.

In a world where we are relieved of most of our efforts, what kind of development remains? If friction is offloaded—if challenge, sorrow, error, and labour are erased—what then becomes of growth? For centuries, fears of automation have accompanied each new wave of technological advancement, and time and

again, humans have adapted. But today's moment may be different. Artificial Intelligence does not simply replace labour; it mirrors cognition, creativity, even companionship. And humanoid robots do not merely assist—they resemble. For the first time, the tools begin to look like us.

This raises not only practical concerns, but profound existential ones. Does a humanoid sex robot increase human autonomy by offering satisfaction on demand, or does it erode our capacity to cultivate mature, reciprocal intimacy? Is a digital replica of a deceased spouse a source of solace, or a refusal to grieve, preventing the very transformation that mourning makes possible? If an Augmented Reality headset shields a child from the sight of blood, is that protection or postponement—does it spare them trauma or deny them the chance to build resilience? And when Virtual Reality allows us to inhabit idealised avatars, are we exploring the margins of the self, or escaping the uncomfortable, necessary work of becoming who we truly are in reality?

These questions do not admit of easy answers. They gesture towards the unresolved duality at the heart of the human condition: our desire to be at ease and our need to be challenged; our hunger for comfort and our yearning to grow. Technology amplifies both. But in doing so, it asks us—urgently, and perhaps for the first time in earnest—what kind of people we want to become.

4. CONCLUSION

This chapter has explored two deeply intertwined elements of human identity: friction and recognition. Recognition inherently involves friction, for it demands that we encounter another who is not us, and yet in whom we must see ourselves reflected. While technologies have historically served to reduce friction—making life easier, more efficient, and less painful. As argued in Part II, they are, in fact, essential to our becoming. Yet in the contemporary, data-driven landscape, the friction with the outer world has been minimised to such an extent that it threatens two vital dimensions of selfhood: the inner tension necessary for self-understanding, and the relational tension required for mutual recognition between equals.

To become oneself, one must confront otherness—within and without. When friction with the external world is smoothed away by seamless design and AI-driven convenience, all that remains is the friction with the self. This confrontation is now no longer the organic, lived encounter with others; rather, it is a curated confrontation—outsourced to data companies that engineer friction and then offer solutions to ease it, often in the form of sycophantic AI companions, therapeutic chatbots, or docile humanoid assistants.

Thus, the recognition we once sought from others—messy, reciprocal, and real—is increasingly replaced by scripted affirmations from artificial entities designed to please. And with that, the struggle that once enabled growth risks

becoming a closed loop: a monologue intérieur, echoing back only what we already are, or what the system believes we want to be. Part IV, and in particular Chapters 18 and 19, will explore how the legal landscape can be configured to adequately address these challenges.

NOTES

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11. Digital animism, or the *Homo Economicus* in an increasingly magical world

P.S. I have recently been putting on a little weight. I think it is less that I am turning into a brute creature than that I have at last become human. This summer I read a novel (just one) by D. H. Lawrence.¹

1. INTRODUCTION

Plato's allegory of the cave envisions a group of people chained inside a grotto, their gaze fixed on a wall. Behind them burns a fire, and between the fire and the prisoners, figures pass holding up various objects. All the prisoners can see are the shadows these objects cast on the wall. The figures—sign bearers—also provide names and sounds for what the prisoners perceive. These shadows and sounds constitute the entirety of the prisoners' reality.

Only one person escapes the cave. Emerging into the daylight, he is at first blinded by the sun—the source of illumination and truth. As his eyes slowly adjust, he comes to see the world as it is: not as shadows, but as forms. Still bewildered, he takes it upon himself to return to the cave and liberate the others. Yet Plato's account is more tragic than triumphant. The escaped prisoner's vision, attuned to the sunlit world, fails him in the darkness of the cave. His insights are alien to the prisoners, who are accustomed to the shadows. Rather than embrace him, they reject—and ultimately kill—him. People, Plato implies, prefer the comfortable illusion offered by the sign bearers to the disorienting clarity of truth.

The sign bearers stand for the Sophists—a term Plato and Aristotle used pejoratively to describe those who claimed to impart knowledge while profiting from its performance. These were merchants of pseudo-wisdom, purveyors of certainty without inquiry. In contrast, for Plato and Aristotle, wisdom was never a finished product but an ongoing pursuit. True knowledge was born of dialogue, not monologue. Socratic inquiry, famously modest, was grounded in the art of questioning: a midwifery of the mind. As Socrates himself put it, he was barren—capable not of producing truth, but of helping others give birth

to it. Knowledge, in this view, is not something handed down, but something drawn out.²

Yet, as Plato also recognised, most people are not interested in this kind of relentless, uncertain inquiry. They would rather be handed answers. That is why, in his *Republic*, Plato initially proposed a state ruled by philosopher-kings.³ But later in life, disillusioned by how such ideals could be twisted into tyranny—perhaps influenced by the fate of a real-life ruler who misused his vision⁴—Plato revised his stance. In his final and lengthiest dialogue, *The Laws*, he abandons the idea of the exceptional leader and instead advocates a society bound by a complex legal framework—one that limits not only the governed but also those who govern. For Plato, the danger lies not just in ignorance, but in unchecked claims to truth.⁵

Part II, and in particular Chapters 4 and 6, underlined the importance of play and fiction for the creation and maintenance of a narrative identity. This chapter explores shifting notions of truth and reality in the data-driven landscape through the lens of religious and philosophical traditions. As with the discussion of narrative forms in Chapter 9, what follows cannot do justice to the richness or internal diversity of any one belief system. Section 2 offers a stylised contrast between two formative worldviews in the Western tradition: Animism and Protestantism, which represent divergent conceptual foundations. Section 3 will argue that both re-emerge in the digital environment. On one end, the logic of datafication echoes Protestant rationalism—systematic, measured, moralised. On the other, the generative potential of AI rekindles something closer to an Animistic sensibility—imbuing the digital with spirit, presence, and agency.⁶

2. FROM ANIMISM TO PROTESTANTISM

The oldest religious traditions are often described as animistic. Although no universal definition captures its full diversity, the term *animism* originates from the Latin *anima*—life, spirit, soul, or breath. What animistic worldviews share is a belief that reality is *begeistert*—animated or spirited. In such a view, all entities—plants, animals, rocks, rivers—possess their own spirit, a subjective essence. A mountain is not merely a mass of rock; it harbours a mountain spirit. Animism does not prohibit the use of nature's gifts—harvesting fruit, mining stone, hunting game—but demands that each spirit be honoured. Gratitude, ritual, and reciprocity are central. One must give thanks to the mountain for its stone, to the tree for its fruit, and to the animal for its life.

Spirits are often thought to be as old as the entities they inhabit. An ancient tree, for instance, is revered not just for its age, but for the wisdom it embodies. While Greek philosophy also attributed a *telos*—a natural end or purpose—to entities, animism departs from classical Western thought in two key

ways. First, it attributes purpose not only to what the West considers “living beings”, but also to what it categorises as inanimate—mountains, winds, clouds. Second, whereas virtue ethics tends to speak in terms of types or categories (e.g., “tree” or “horse”), animism recognises the individuality of each tree, each horse, each mountain—each with its own unique spirit, destiny, and character.

This individuality coexists with a broader, unifying consciousness—Mother Nature, Gaia, the Great Spirit—to which all beings belong. Respect for the particular is bound to respect for the whole. Taking a deer’s life or harvesting fruit disrupts this delicate equilibrium, which is why animistic cultures have developed rituals to restore balance: planting seeds after a harvest, returning the animal’s heart to the earth, or performing dances of mourning and gratitude. There is a continuous and reciprocal exchange between humans and the cosmos—of life, of death, of meaning.

Because humans are themselves part of this greater spirit, animism typically avoids a strict nature-culture divide. “The Sami language”, for example, “lacks the word ‘culture’, and the word for ‘nature’ (luondu) is ambiguous as it relates to inner aspects of nature (such as the non-human mind) rather than to the natural environment or landscape. The term *bohcco luondu* (the nature of reindeer) informs us how reindeer behave in relation to other animals and to weather, how they tolerate human presence in their environment, how they orientate in nature, and so on. In Sami contexts, nature can be transformed into culture through different activities, such as fishing, handicraft, healing, and food production.”⁷ This is often contrasted with contemporary Western thinking. “Whereas Europeans tend to conceive of human beings as biological organisms masquerading in a cultural costume ... Amazonian Indians view animals as fundamentally persons concealed under their animal surface.”⁸

Animism binds beings through reciprocal life-giving—not in abstraction, but in tangible, lived ethics. “The first is connectivity: life is always lived in relationship with others. The second is that the mode of relationship is kinship—there are others to whom you are related, and there are others to whom you are not related. Third, the encompassing frame of kinship articulates both a structure and an ethics—there are mutual responsibilities across species and other beings. Fourth, kinship is expressed in bonds of mutual life-giving or, to put it another way, enduring intergenerational, interspecies responsibilities. Mutual life-giving involves reciprocity and care. Kinship is both a structure that is perpetuated through time and an ethics of practice that gives substance and meaning to the structure. It is the outcome of nurturing care, as well as a type of relationship founded in descent.”⁹

Many animist traditions also allow for spirits to travel across space and time. One can commune with a spouse’s or ancestor’s spirit across great distances, often mediated by a ritual object like a lock of hair. This power of

connection is too often mischaracterised in portrayals of Voodoo as sinister or manipulative; in reality, it is rooted in a deep sense of empathy and belonging. Similarly, carrying a twig from a sacred tree may be understood as carrying its spirit—its guidance, its protection.

Because spirits can travel over time and distance, and because they may appear in dreams, visions, or felt presences, one might not always know which spirit is being encountered. But they can be listened to, thought with, or temporarily embodied. Through ritual, the boundary between human and non-human dissolves: the hunter becomes the animal; the god speaks through the bird; the spirit of a mountain might whisper guidance to a traveller. The animist cosmos is a web of interbeing, where each node is alive with potentiality.¹⁰

As such, animism is a profoundly horizontal worldview. “Since animism ‘conceptualises a continuity between humans and nonhumans’, it seems to both imply and be implied by wider societal relations of a horizontal character. If people cannot perceive themselves as potentially being in the shoes of others, if people cannot imagine themselves as Others (whether human or non-human) and Others as themselves, then the very basis for animism is likely to break down because its ontological principle depends on an unbounded potential for identification. Indeed, a logic of endless substitutions seems intrinsic to animist thought, the principle that every element belonging to the whole (apart from its holes) can be interchanged with another. There are no radical discontinuities here, only continuous substitutions of Same becoming Other, and vice versa. The fundamental animist principle ... is one of analogous identification.”¹¹

In the broad arc of Western religious history, the animistic worldview of hunter-gatherer societies gave way to the polytheism of agrarian cultures. Here, a multitude of gods and mythical beings populated the cosmos, each overseeing a domain: the sea, the harvest, war, love. Though more hierarchical, polytheism shared affinities with animism. Gods might speak through animals, take their form, or receive newly deified ancestors into the pantheon. Still, objects were less likely to be animated, and gods stood at a clearer remove from mortals.

A next shift occurred with the rise of Christianity in Roman times. Catholicism departed further from animism, yet retained echoes of it. For example, humans can become saints when they have performed miracles, such as curing the incurable. Visions and apparitions remain respected phenomena. The doctrine of transubstantiation holds that bread can become Christ’s body.¹² Relics—bone fragments, locks of hair—retain sacred power.¹³ Until the late medieval period, kings were believed to possess two bodies: a physical one and a mystical one, mirroring the dual nature of Christ.

The Protestant Reformation marks perhaps the sharpest rupture with animistic thinking. Its very *raison d’être* was to strip Christianity of its mystical

elements. Protestant iconoclasm rejected transubstantiation, the cult of saints, and the veneration of relics. The priest no longer mediated between the believer and God; instead, each person was expected to cultivate a direct, individual, highly hierarchical relationship with a personal, invisible, and unknowable God. Scripture was central, now available in vernacular languages. Rationality, or *logos*, replaced mystery. Emotions were suspect—residues of the flesh, conduits for temptation. Where Catholicism offers cycles of sin, confession, and absolution, Protestantism envisions an all-seeing God whose judgment is both omniscient and inscrutable, and the sinful nature of man.

This austere rationality, together with the Enlightenment's exaltation of reason and transparency, deeply shaped North-West European and American culture. In *The Protestant Ethic and the Spirit of Capitalism*,¹⁴ Max Weber argued that Protestantism directly fostered the capitalist ethos. The disenchantment (*Entzauberung*) of the world—its stripping of spirits and mysteries—paved the way for *Rationalisierung*, or rationalisation: the relentless pursuit of productivity, order, and control. The human body became an instrument for fulfilling one's *Beruf*—a vocation or calling. Nature became raw material. Objects were no longer alive, but resources. Individuality was suppressed in favour of uniformity and restraint.¹⁵ This worldview aligns with industrial capitalism's move from artisanal, embodied production to optimised, standardised output. Luxury became vanity.¹⁶ Transparency, once vertical (between sinner and priest), became horizontal (between citizen and peer). Because no sacred institution stood to adjudicate right and wrong, that task fell to the state—law, bureaucracy, surveillance. Thus Protestantism, with its emphasis on inner conviction, outer discipline, and disenchanting realism, marks the furthest distance from animism.

3. DATAFICATION AND DIGITAL ANIMISM

The movement towards datafication aligns closely with the Protestant-informed worldview described earlier, with its emphasis on transparency, legibility, and measurability. It is a worldview in which everything—human, natural, social—must become readable, quantifiable, and controllable. Agriculture offers a paradigmatic example: one of the most data-intensive sectors, it reveals how nature is increasingly instrumentalised to conform to human design.¹⁷ In datafied agriculture, every parameter—sunlight's angle, temperature minute by minute, soil moisture and pH, pest presence, and individual plant growth—is meticulously tracked.¹⁸ Smart farming, precision farming, and digital farming are all variations on this same logic: deploying microdata in tandem with Big Data analytics and predictive profiling to maximise yield and profit.¹⁹ The landscape becomes an array of datapoints.²⁰ Life becomes code.

Space, too, is undergoing this transformation.²¹ To a large extent, space is also being datafied, and satellites roam the orbit to gather microdata about Earth and every variation occurring on it. “Despite the numerous flaws associated with satellite footage and what it can ‘reveal’ about the world, satellites continue to be viewed as a reliable, near-infallible apparatus that grants users a coveted, unhindered view of the world. Companies have clearly succeeded in normalising satellite surveillance as the desire for anonymity and privacy has gradually been eclipsed by the greater desire to be seen and to be part of this new digital infrastructure. As a new way of seeing, Google Maps and Musk’s Starlink, among other developments, have fundamentally reorganised society by downplaying the broader implications of surveillance, making it less about intrusion and loss of rights, and more predicated on fostering connectivity, objectivity and belonging. Consequently, modes of knowledge are increasingly being separated from those whose data directly enable these new ways of seeing, meaning that our knowledge of the world and ourselves is irretrievably tethered to conglomerates that control how this knowledge is collected, viewed, interpreted, disseminated and stored.”²²

James C. Scott famously observed that modern states tend to standardise the environments and populations they seek to govern.²³ The more uniform and legible a forest, a farm, or a citizenry, the easier it becomes to administer. Wild forests are harvested and replanted as orderly grids of identical trees. Human behaviour, while infinitely varied in principle, is rendered predictable through datafied choice architectures. Citizens become clusters of preferences and probabilities—manageable, anticipatable, profitable.²⁴ Datafication both reflects and intensifies this logic; it enables initial control and standardisation, while standardisation and control facilitated seamless legibility.

The same logic governs labour markets. Companies like Uber have “rationalised” industries by reducing humans to data flows—workers, clients, and services all subject to real-time tracking, standardisation, and optimisation. Fixed costs are avoided; employees become interchangeable. In such a system, it is not merely goods or labour that are commodified. Data themselves—traces of thought, movement, attention—become the most valuable corporate asset. The data economy and modern power structures are grounded in this logic of commodification.²⁵

Datafication reinforces power asymmetries: the observer and the observed, the ends and the means. Governments, employers, and platforms scrutinise citizens, workers, and consumers, while remaining increasingly opaque themselves. The rise of algorithmic governance and automated decision-making renders this imbalance starker. The transparency paradox entails that citizens become ever more transparent to institutions, while the institutions themselves—powered by proprietary algorithms and secretive profiling—become less visible, less accountable, and less comprehensible.²⁶ Under the Protestant

ethic, with its emphasis on rationality and instrumental mastery, it becomes difficult to resist this trajectory. The body is an instrument. The mind, a processor. The self, a project of optimisation. What once belonged to the divine is now claimed by data-driven organisations—all-seeing oversight yet invisible, all-knowing yet elusive, inscrutable yet directive.

And yet, these organisations often present themselves not as authoritarian powers, but as enablers of self-realisation: “get the better you out of you”.²⁷ But many people report the opposite experience.²⁸ As touched upon in previous chapter, what makes these forms of control so insidious is that they work by leveraging our own cognitive biases. Understanding our self-deception and irrationality, they shape choices without triggering resistance. *Nudging* and *hypernudging*²⁹ influence our environments so subtly that we experience them as natural. Because of our *agency bias*, we retroactively assign ourselves authorship over choices we did not truly make. Our *self-centred bias* makes us believe external behaviour is in response to us. Our *rationality bias* has us rationalise even the manipulated as freely chosen.³⁰

Thus, the datafication of life is not only a means of external control—it affects our inner narrative. The desire to improve, optimise, and master oneself is now scaffolded by technologies of surveillance and correction. The Silicon Valley ideology of *solutionism*, as Evgeny Morozov names it, reflects a mechanistic fantasy: all problems, all processes, all persons can be broken down, recalibrated, and reassembled in better form.³¹ The individual becomes a data-driven machine in need of maintenance and upgrades. But this logic carries a disturbing corollary: if a newer, better tool becomes available, the old one should be discarded. This paves the way not merely for human-machine convergence, as in Ray Kurzweil’s *singularity*,³² but for post-humanism—a future in which machines do not merely extend human capacity, but replace it.³³

Paradoxically, the rationalist extreme has revived its opposite: the magical, the enchanted, the animistic. Information technology has always flirted with the mystical. Telepresence—once via telephone, now via hologram—conjures the surreal experience of being in two places at once. Big Data’s predictive capacity echoes the function of crystal balls: revealing the future through arcane inference.³⁴ Even simple tools like Facebook’s “memories” feature or AI-powered age filters suggest a kind of techno-magic—reviving past selves, simulating future ones.³⁵

As discussed in the previous chapter, avatars in virtual reality enable profound transformations: users may embody idealised versions of themselves, or entirely different species and beings. Texts, images, and videos of our past selves—our *data shadows*—persist, evolve, and circulate independently of us. They become *digital doubles*, *virtual twins*, and *doppelgängers*.³⁶ The *quantified self* movement reframes these mirrors as instruments of self-revelation:

graphs, metrics, and biometric curves. “In this way the data process becomes a magical, yet scientific endeavour that reveals to the self-trackers ‘who they really are’. The digital doppelgänger is then a self that is more real and complete than the ‘original self’. Through the techniques of visualization – for instance through graphs and curves – the self is made visible and tangible and so concrete that it can be analysed.”³⁷

Augmented and virtual realities increasingly reshape our shared environments. Public spaces become gamified through layers of digital enchantment—Pokémon GO, filters, sonic cues. Life becomes not only mediated but curated for pleasure, efficiency, and engagement. Deepfake technology pushes these dynamics further. Now anyone can generate lifelike videos of themselves of others—performing acts they never committed, speaking languages they never learned—or of non-existent yet highly realistic people. Identity becomes remixable. Reality becomes editable. Deepfake news bulletins and fake news are used as a strategy to create confusion and apathy about what is real and what is synthetic. These feed into the sequestration and personalisation of reality.³⁸

The implications are profound. Not only is perception manipulated, but so too is memory and self-image. A schoolgirl, deepfaked into pornographic content, may face social consequences even if her classmates know the video is fabricated. Seeing oneself in such a fake scenario can alter self-perception, just as smiling can induce happiness. The epistemological boundaries between real and synthetic blur—not just in theory, but in everyday social interaction.³⁹ Furthermore, many people no longer care whether what they see is real. If a piece of information confirms a belief or satisfies a desire, its factual status becomes irrelevant. A celebrity deepfake may be recognised as fake—and still be consumed, shared, desired.

Digital resurrection emerges through deathbots. Photos of the deceased are animated; their voices are regenerated; their likeness appears at funerals, offering last words. For many, these technologies offer catharsis. “It makes me so happy to see him smile again.”⁴⁰ Meanwhile, AI-generated avatars and influencers live independent lives, amass followings, sign sponsorships, tour virtually, and even collaborate musically. Though not yet indistinguishable from humans, the pace of innovation in soft robotics, machine learning, and large language models suggests that such a point may arrive. Some predict that by 2050, human–AI relationships may outnumber human–human ones.⁴¹

This has reignited philosophical debates. Can AI become sentient? Can it possess a concept of self?⁴² Google engineer Blake Lemoine famously argued that LaMDA, an AI chatbot, had achieved consciousness.⁴³ Though experts generally reject this conclusion⁴⁴—seeing in LaMDA only the echo of human conversation—our history of emotional attachment to machines (as with the

Tamagotchi in the 1990s) shows how thin the line is between simulation and belief.

Finally, the digital environment is increasingly populated by *smart objects*: fridges, thermostats, sex toys, cars, and phones—all “alive” in the animistic sense of sensing, responding, adapting. The *Internet of Things* has created ecosystems where objects interact, learn, and cooperate. Through *swarm intelligence*, distributed AI systems can coordinate autonomously, without central control.⁴⁵ This emergent behaviour—self-organisation, adaptability, robustness—marks a return to a kind of machine animism. The object is no longer inert; it has awareness, agency, trajectory.

4. CONCLUSION

This chapter has highlighted a central paradox within the current digital landscape. On one side, it is shaped by a profoundly rationalistic and instrumental worldview—one that reduces people and things to measurable components, taking them down to their core components only to reassemble them so that it optimises them as means to predetermined ends, propelling a relentless pursuit of perfection and efficiency. Rooted in a legacy of Protestant thought, this ethos helped give rise to capitalist modernity and continues to inform the logic of datafication and algorithmic governance.

Yet, at the same time, the digital world also fosters a parallel and seemingly contradictory sensibility: one of enchantment, mystery, and magical thinking. It is a world in which objects are perceived as animated and “smart”, where the dead can be digitally resurrected, where avatars, doppelgängers, and deep-fakes live their own spectral lives, and where glimpses of the future—extracted from data—arrive not as facts but as revelations. This worldview, rich in spirit and imagination, echoes the structures and intuitions of animistic traditions.

These two forces—rational disenchantment and digital re-enchantment—do not merely coexist; they amplify one another. As we are encouraged to view ourselves with cold rationality, as optimisable instruments within a wider system, the more replaceable and hollow the self appears. Stripped of any meaning, we can assign any meaning; our lives not grounded in this physical life, we are turned to hypothetical virtual lives. In turn, the digital systems that objectify us also offer us magical visions—certainty cloaked in science, clairvoyance veiled in prediction. Rationalism, in this context, often slips into pseudo-science: probabilistic oracles dressed as truth engines, seductive because they offer assurance where uncertainty reigns. Like the horoscopes of old, they appeal not through their rigour, but through their promise of meaning.

Ultimately, then, the data-driven pursuit of perfect knowledge brings us back not to certainty, but to myth. Proper science, like the oracle of Delphi, responds not with answers but with questions—puzzles that resist closure. It

works through abstraction, provisional models, and humility before complexity. In this way, the more rational our systems become, the more they invite a return of the magical: not as a regression, but as a symptom of the limits of our control. It is here, in this uneasy interplay, that our contemporary experience of truth, selfhood, and the world is being reimaged. Part IV will explore how the legal landscape can be configured to adequately address these challenges. Chapter 14 will discuss whether and to what extent Deepfake characters, data doubles and AI entities should be deserving of legal protection, while Chapter 17 deals with the intricate balance between fact and fiction, truth and representation.

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12. Shameless guilt tripping

When I pretended to be precocious, people started the rumor that I was precocious. When I acted like an idler, rumor had it I was an idler. When I pretended I couldn't write a novel, people said I couldn't write. When I acted like a liar, they called me a liar. When I acted like a rich man, they started the rumor I was rich. When I feigned indifference, they classed me as the indifferent type. But when I inadvertently groaned because I was really in pain, they started the rumor that I was faking suffering. The world is out of joint.¹

1. INTRODUCTION

Baudrillard extends Plato's cave allegory, suggesting that it merely marks the beginning of a far more elaborate dislocation between reality and its representations. He identifies four successive stages of what he terms "simulacra": first, where the image reflects a basic reality; second, where it masks and distorts that reality; third, where it masks the absence of a basic reality altogether; and finally, where it bears no relation to any reality whatsoever, becoming its own pure simulation. Modernity, he argues, increasingly thrives in this final stage, constructing a hyperreality that eclipses physical existence.

The media serve as a prime example. Initially charged with reporting reality—as in the ethos of fly-on-the-wall journalism—they have long since crossed the boundary into shaping it. Media coverage does not merely reflect politics; it often precedes and structures it. Politicians are increasingly evaluated not on governance, but on optics—how they perform in televised debates, their virality online, their meme-ability. In several countries, celebrities and reality stars have transitioned into political office largely on the strength of their media personas. Meanwhile, the internet has birthed a parallel universe of myth-making: doctored videos, memes portraying immigrants as exotic threats or political leaders as improbable heroes, holograms, avatars, and AI-generated content supplanting lived experience. For many, these become more real than reality itself—not because people are deceived, but because they no longer care whether something actually happened, as long as it fits the emotional logic of their online world.

Capitalism, Baudrillard would note, is likewise premised on simulation. It does not sell products in their essence but representations of lifestyle, identity, and aspiration. Meat is hermetically packaged to conceal its animal origin; supermarket mozzarella bears little resemblance to the authentic variety. Children, confronted with the origins of their food, may recoil in temporary disgust—until they, too, learn to dissociate the symbol from the source. The explosion of “truffle-flavoured” goods—often containing no trace of truffle—is not an error but a feature of the symbolic economy. Value is increasingly abstracted from substance. Once the dollar was decoupled from the gold standard, money became self-referential—a sign referring only to another sign, with no grounding in material reality. If any institution could escape this logic of simulation, and countervail it, it might be law. But Baudrillard is sceptical. Law, he contends, is itself a second-order simulacrum: a symbolic order meant to represent the real, and thus fundamentally impotent when confronting acts that lack any mooring in material reality.²

Later in life, Baudrillard tempered some of these assertions. While it seems intuitively correct that modern narratives are increasingly unmoored from reality, narrative has arguably always carried this quality. In pre-modern times, when direct knowledge of distant lands or natural phenomena was scarce, narratives were equally shaped by fable and myth. Foreign peoples became giants or monsters; thunder was the wrath of gods. In medieval times, although different narratives emerged, this underlying logic remained much the same. To the extent that they are detached from reality, narratives can live their own lives and only have their self-referential logic to be tested against. As such, these self-referential narratives resist resolution and can be engines of creativity or traps of self-destruction, as discussed in Chapter 3. This open-ended, self-referential structure underpins not only individual psychology but also the broader logic of contemporary capitalism, as this chapter’s next section will explore. As Section 2 highlights several ways in which contemporary society is already saturated with narrative structures—in psychology, the market economy, religion, and love—that echo a self-referential logic, Section 3 will show how these same mechanisms govern the digital sphere, and how the boundless loops of representation and optimisation—amplified by the imperative to grow, achieve, and improve—may lie at the heart of the pervasive anxiety and shame that mark our data-driven age.

2. THE SKY IS THE LIMIT

There are desires that are never meant to be fulfilled. And at some level, we may not want them to be. Instead, we submit ourselves to a cycle of longing and fleeting satisfaction—only to begin again. The state of fulfilment, far from bliss, often ushers in disappointment or even dread. In *Beyond the Pleasure*

Principle, Freud speculated on the origins of this repetition compulsion. “It is plain”, he wrote, “that most of what is revived by the repetition-compulsion cannot but bring discomfort to the ego ... but that is a discomfort we have already taken into account ... since it is ‘pain’ in respect of one system and at the same time satisfaction for the other.”³

Freud observed that this compulsive repetition is often triggered by ruptures or early wounds. A girl abandoned by her father at age six may, as an adult, consistently choose partners who leave her. She re-enacts the trauma—not to resolve it, but to confirm it. Consciously, she may yearn for a partner who stays. Subconsciously, however, she needs the repetition. Only the original wound can truly be healed and requires the father to return—no substitute will suffice. In this cycle, the partner is not only tested but provoked, driven to the same departure—because the anticipated outcome is necessary to reaffirm her deep conviction: that she is unlovable, that those closest to her will always go. Painful as rejection is, there is a dark satisfaction in the confirmation. It is a melancholic triumph of “See? I told you so”.

Jacques Lacan takes this Freudian concept and fuses it with Marxist thought, aligning the psychic economy of desire with Marx’s concept of surplus value. He refers to this as *surplus enjoyment* (*jouissance*). Just as surplus value in capitalism refers to the excess generated by labour beyond its compensation, surplus enjoyment is the excessive, often painful, pleasure that arises not from fulfilling desire, but from the pursuit itself—especially when the pursuit is structured around lack and delay.⁴ Capitalism thrives on this structure. Consider the industrial labourer. Unlike the craftsman who sees their work through from conception to completion, the labourer is alienated from the product. They repeat a mechanical task, disconnected from its purpose or endpoint. The satisfaction traditionally derived from completing a piece of work—its wholeness, its offering to another—is replaced by a payslip, itself a placeholder for an unfulfilled life. Meanwhile, the consumer has also been transformed: no longer purchasing to meet needs, but consuming to perpetuate desire. Consumption itself becomes the goal, independent of utility.

Sex, for Lacan, is the exemplary site of this paradox. We seek transcendence, connection, even love—but enact that desire through objectification. Erotic pleasure is often infused with power, detachment, and control. “What to do with the body now?” writes Amélie Nothomb, drawing a dark parallel between the moment after sex and murder.⁵ Lacanian *jouissance* lies precisely in this gap: the pleasure in the detour, the residue of failed fulfilment. The fantasy of owning a second home in a pristine forest is a potent example. The dream promises transformation—spending weekends off-grid, bonding with family, teaching your children resilience, rediscovering love life. Yet, once realised, the dream collapses: maintenance is exhausting, the kids miss their screens and Wi-Fi, your partner is needed elsewhere. You end up there alone,

with a leaking roof. The house reveals not a fantasy fulfilled, but a deeper truth avoided—that what you sought was not a cabin, but escape.

This is the engine of consumer capitalism. Slavoj Žižek notes that capitalism sells not just products, but the dreams attached to them. And crucially, the products are designed not to satisfy, but to perpetuate the dream. Coca-Cola, he observes, is not refreshing in the ordinary sense. Its bitter-sweet taste fails to quench thirst. But that failure is precisely its hook. “Coke, that’s it!”—but also, never quite it. The more you drink, the thirstier you become.⁶ It becomes the embodiment of *surplus enjoyment*, a never-ending loop of not-enough. The brilliance—and cruelty—of this mechanism is that it appears self-directed. There is no tyrant demanding you consume. The compulsion arises from within, aligned with your own desires. Hence the guilt and shame that often accompany it. You *chose* to binge, to overspend, to seek validation in likes and purchases. Yet each act moves you further from the ideal self you strive to be. The shame arises not only from losing control (id overpowering ego), but from betraying the image of yourself as rational and disciplined (ego failing the ego-ideal).

This is the paradox of freedom in capitalism: it feels like agency, even as it is structured by forces you neither see nor understand. Thomas Piketty, in his monumental work on inequality, argues that capitalism survives not despite its injustices, but because it offers a compelling story: the narrative of meritocracy. If anyone can rise from rags to riches—the American dream: from paperboy to millionaire—then inequality is not an injustice—it is a reflection of effort, ingenuity, and risk. Failure is reinterpreted not as structural oppression, but personal shortcoming. “Every society”, Piketty writes, “must justify its inequalities”. Through contradictory discourses, societies forge dominant narratives to legitimate their existing order. The ideology of meritocracy insists that wealth reflects worth, that billionaires are society’s most deserving citizens. Trickle-down economics reinforces the belief that everyone benefits from inequality. These stories are not mere rationalisations—they are generative. They shape policies, institutions, and the consciousness of the governed, concealing that capital yields capital, while poverty often yields poverty, again feeding into the self-referential spirals triggered by capitalism.⁷

Thus, narrative is not only a tool of explanation. It is a mechanism of production. It sustains inequalities by embedding them in the logic of fairness. In this, Piketty builds on Marx, particularly the notion of *false consciousness*—a term that Marx did not use himself explicitly.⁸ Why do people support a system that disadvantages them? Why do workers vote against unions? Why do citizens trust billionaires more than public institutions? The internalisation of dominant ideology by those it oppresses. A person who smokes may understand the health risks, but is caught in a narrative that equates smoking with rebellion, coolness, or stress relief. The narrative is seductive because it

conceals the true motive forces. Ideology is conceived consciously, but gives rise to false consciousness.⁹ Religion, Marx argued, was one such ideology. Yet contrary to popular belief, he did not dismiss it as “the opium *for* the people”, but as “the opium *of* the people”.¹⁰ Like capitalist ideology, religion can provide a narrative that conceals or justifies inequality—the promise of life after death, the belief in weighing of the soul, the longing for judgement day.

3. IT’S A SHAME

It is this self-referential dynamic that is intensified in the data-driven environment. Cathy O’Neil has aptly described the internet as a “shame machine”. Shame is perhaps capitalism’s most powerful and lucrative motivator—because it cuts both ways. Revenue is generated not just by the indulgence in “shameful” behaviours (overeating, procrastination, pornography), but by the endless array of solutions sold to fix them. “Lose 30 kilos in just 3 weeks!”—the dream is packaged and sold again, this time as redemption. As O’Neil observes, the shame-industrial complex profits from people’s dissatisfaction, peddling pseudo-science and cultural myths designed to keep unhappiness alive and monetisable.¹¹

This economy of shame is deeply symbiotic with digital profiling and comparative analytics, as discussed in Chapters 8 and 9. The rise of comparative profiling both amplifies and exploits feelings of inadequacy. A friend’s fitness stats or vacation pictures may inspire a jog—or spiral into despair. Seeing others live seemingly perfect lives, share enviable achievements or curated beauty can erode self-worth, pushing people towards escapist consumption, comfort food, or digital sedation. The quantified self movement exemplifies this tension. What begins as self-knowledge often slips into self-optimisation—an unending quest for perfection. Sharing data and life- and self-hacks:¹²

“People who use self-tracking for health or well-being purposes in their everyday life are often inclined to share their personal data with others. Social media (Twitter, blogs) are predominately used for sharing visualisations and reports of data, whereas increasingly new social spaces are created, such as forums and specialised online platforms, where users exchange information about hacking into personal data (e.g. Fitbit, Quantified Self discussion forum, Patients Like Me). Interviews and participation in various events during my research made it clear that the motivation behind sharing information with others is often to learn. Sharing personal concerns and data enables the production of knowledge about shared medical conditions and shared interests, and it also enables the development of technical skills (self-hacking). This finding is consistent with the wider framing of commercial wearable devices and fitness tracking in the media; as the hype of “big data is the new gold” calmed down after 2013, those technologies and practices have been framed with discourses of self-responsibility, empowerment and agency.

Self-knowledge through sharing dovetails with all the above, although sharing over ownership of data seems to have become a new mode of user experience.”¹³

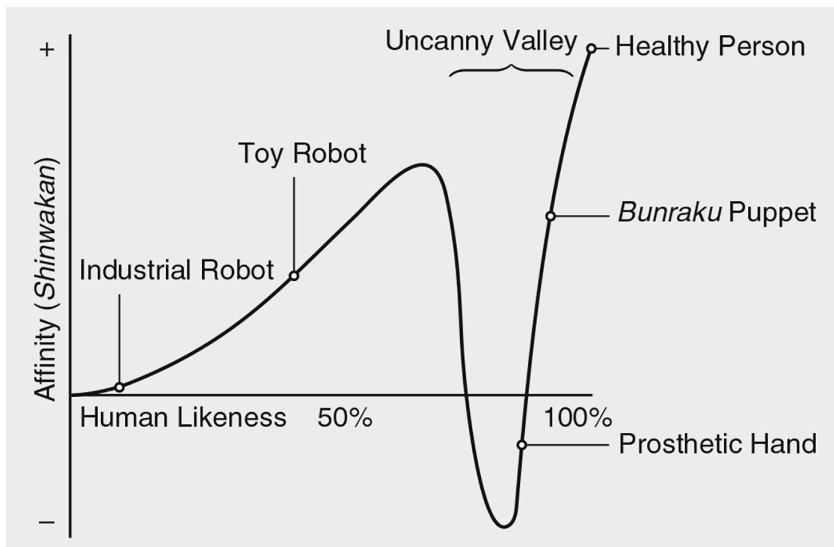
Shame is no longer a private emotion; it is a currency. Influencers and celebrities commodify beauty and success. Through AI-polished images and curated lifestyles, they sell not just products but ideals—bodies to emulate, lives to envy. The ego-ideal is hyper-real, yet always just out of reach. It can be purchased or pursued—but never attained. Perfection becomes an asymptote, endlessly approached, never grasped. Satisfaction is no longer the endgame; the pursuit itself is monetised. This paradox is also acutely visible in sexualised representations. Women are objectified—urged to be sexy from an early age—yet face social condemnation (e.g. slut shaming) when they embody those very ideals.¹⁴ The result is a double bind: the surplus value of desirability lies in its *potential*, not its realisation. Men experience the inverse pressure: they are socialised to actualise potency continuously. Failure to do so may lead to shame and ostracism in the manosphere. Those who feel shut out from sexual markets, such as members of the incel community, often respond with resentment and rage—directed not only at women but at society itself. Yet actualising their potential always entails a risk of being cancelled.¹⁵

Online shaming draws from both traditional gossip and medieval pillory. Like gossip, it is informal, often unverifiable, and spreads virally. Like the pillory, it imposes lasting stigma—time- and placeless—without due process. A stranger’s nose-picking can be recorded, uploaded, and viewed millions of times, with consequences far beyond the act. Unlike traditional gossip, today’s shaming often leaves a permanent digital footprint—creating a global, asynchronous audience and stripping the subject of any context, nuance, or defence. AI tools now allow users to enhance unverified narratives about themselves or others and corroborate the fiction with seemingly objective audiovisual material. Unsurprisingly, studies estimates over 95% of all Deepfakes involve the sexualisation of women—often created by men, without consent.¹⁶

This raises new questions about how shame will function in interactions with AI-driven entities. At present, people appear to feel less shame before robots or AI companions. They disclose private thoughts more freely, feel less bodily inhibition, and may even prefer robot caregivers in vulnerable contexts. This could be due to perceived judgementlessness—robots, like animals or imaginary friends, are presumed not to moralise. Others liken AI to benevolent, omniscient spirits—echoing divine archetypes with whom one can share secrets safely. Yet this may not remain the case. As discussed in earlier chapters, there are projections that AI will gradually evolve towards Artificial General Intelligence or perhaps even Super Intelligence and Sentience.¹⁷ Sentience and intelligence exist on a continuum. While no current AI exhibits anything close to human consciousness, progress continues—and, with it,

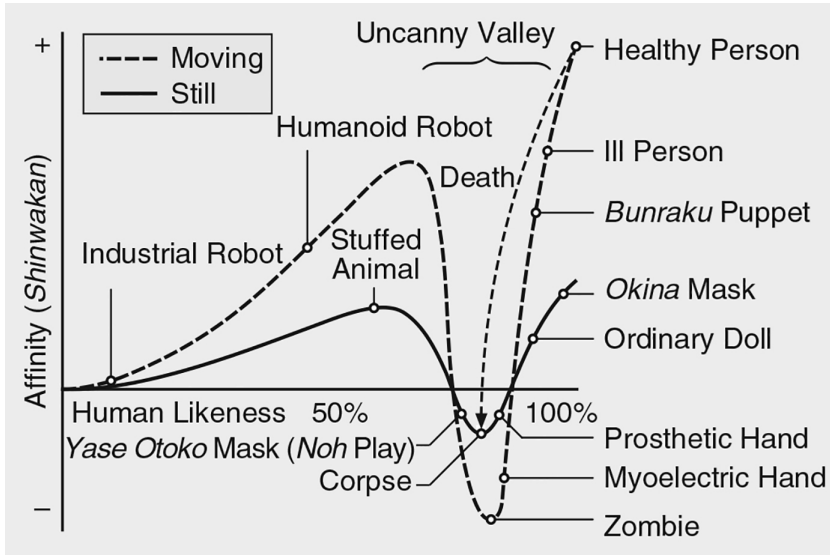
public perception shifts. Our ethical treatment of animals already correlates with perceived intelligence. It is not unthinkable that a similar moral hierarchy will develop around AI. As these systems surpass us in memory, knowledge, and rationality, they may begin to mirror our ego-ideals more closely than other humans can—exacerbating the very shame they once seemed to relieve.

Until recently, tech companies deliberately avoided making robots too humanlike, fearing the uncanny valley would deter users. But this has changed. Robots are now designed with human voices, faces, gestures, and emotional registers. The uncanny valley, a term coined by Masahiro Mori, refers to the discomfort we feel when robots seem *almost* human—but not quite. Mori hypothesised that total dissimilarity or complete resemblance both elicit comfort.¹⁸ It is the liminal in-between that triggers unease. We may now be crossing the threshold where humanoid robots resemble us just enough to comfort, not disturb. Tellingly, studies suggest AI-generated faces of synthetic individuals are already perceived as more trustworthy than real human faces.¹⁹ But this trust can be dangerous. Deepfake scams and fake news exploit it, leading to financial losses—and to deeper crises of credibility. Once duped, people often retreat into scepticism, distrusting even authentic information.



Source: Mori, M., MacDorman, K. F., & Kageki, N. (2012). The uncanny valley [from the field]. *IEEE Robotics & automation magazine*, 19(2), 98-100.

Figure 12.1 Uncanny Valley



Source: Mori, M., MacDorman, K. F., & Kageki, N. (2012). The uncanny valley [from the field]. *IEEE Robotics & automation magazine*, 19(2), 98-100.

Figure 12.2 Uncanny Valley

Humanoid robots bring a similar ambivalence. They may outperform us in strength, knowledge, and emotional regulation. They may look and act like ideal friends, partners, or versions of ourselves. Yet as the previous chapter highlighted, we are unlikely to accept them as leaders. They remain servants—household helpers, factory workers, sex bots. We build them to be both like us and unlike us: perfect, but subordinate. In doing so, we offload our shame—our unfulfilled aspirations, our limitations, our ego ideals—into a vessel we can control. They are what we cannot be, but what we must never allow to rise above us. Thus, in an era of digital mirrors, AI companions, and algorithmic perfection, shame is not diminished—it is redistributed. From the body to the profile. From the self to the ideal. From the real to the hyperreal. The very tools we invent to escape shame may soon become its most potent instruments. We explicitly build them to resemble us, allowing us to subjugate both of our shame sources: our id (AI as servants catering to our needs) and our ego ideal (AI as our better selves).

4. CONCLUSION

This chapter has explored the self-referential nature of shame and the ways in which it is amplified in the digital environment. Capitalism thrives on selling a dream—a dream that must remain just out of reach. Fulfilment is not the goal, for the consummation of desire reveals the hollowness of the original longing, exposing it as a mask for deeper discontent. Pleasure, then, lies not in attainment but in the endless cycle of pursuit. The end goal—often vague and abstract, simply “it”—becomes a blank canvas on which individuals project their ideals. Trapped in this loop of consumption and disillusionment, people internalise failure as personal rather than systemic. Yet, crucially, the dream is not externally imposed; people yearn for it. Without dreams, the weight of reality becomes unbearable.

The digital domain capitalises on this dynamic, weaponising shame as both a stimulus and a product. For companies, the optimal state is one in which users oscillate endlessly between indulgence and the desperate urge to repair its effects. At the same time, the architecture of the digital world makes shaming and cancelling others both frictionless and far-reaching, while the consequences can be devastating and enduring. The recent proliferation of humanoid entities can, in part, be read as a response to the two fundamental shame triggers in the human psyche: the ego’s inability to master the id, and its failure to attain the ego ideal. AI-driven humanoids are designed to embody our better angels—rational, flawless, unburdened by desire—yet remain subject to our command. They are at once the projection of our aspirations and the instruments of our control. Part IV, and in particular Chapters 14 and 18, will explore how the legal landscape can be configured to adequately address these challenges.

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13. Too much information

Shinju, the Japanese word for “double suicide”, literally means “inside the mind”. It was originally used as an expression, shinjude, setting shinju, which means to prove a faithful love between a courtesan and her customer. The way to prove is, for example, to send a special letter of a vow or a few hairs, to make a tattoo on the arm, or even to cut off a little finger. This custom became so fashionable that special boxes for keeping those items were on sale! So, those means of proof inevitably came to be undervalued. Consequently, suicide was regarded to be the last and only trustworthy way to prove one’s true love. Of course, unhappy lovers believe that they will be united in the heaven, the belief which was endorsed, ironically, by the feudal teaching in the pre-modern Edo era that the link between a husband and wife should continue into the next world, while that between parents and children would last only in this world. Shinju is defined as a double suicide of a man and woman, who have mutually consented to simultaneously die.¹

1. INTRODUCTION

In *The King’s Two Bodies*, Kantorowicz describes how the medieval monarch was believed to possess both a natural body and a mystical body, mirroring Christ’s dual nature: fully man and fully God.² The king was thus both mortal, subject to the law, and simultaneously the living embodiment of divine justice, infused with God’s reason and authority. Claude Lefort has argued that this dual embodiment came to a definitive end during the French Revolution. With the beheading of the king, the natural body died. Had the mystical body endured, power would have passed seamlessly to his successor: *the king is dead, long live the king*. But that succession never took place. Instead, the mystical body—the seat of divine authority—was replaced by the concept of human rights and the democratic rule of law, which no longer derived their legitimacy from God but from man himself. Power thus no longer belonged to a sovereign heir but was diffused into the abstraction of *the people*. The place

of power became a void: it belonged to everyone, and therefore to no one in particular.

Lefort describes two forms of government that attempt to occupy this now-empty place of power. Since the mystical and natural bodies can no longer be united in a single institution—what he calls the “double murder”—only one or the other can be resurrected. Democracy seeks to restore the mystical body, while totalitarianism attempts to resurrect the natural one. Democracy’s instrument for reclaiming the mystical body is human rights. Based on the presumption that individuals are equal, rational, and free, democracy entrusts legitimacy to the people themselves. Yet, as Lefort shows, this legitimacy is structured by a threefold paradox. First, human rights are said to be natural and universal, while in fact they are juridical constructs—historically contingent and not universally upheld. Second, power is ostensibly grounded in knowledge, but democracy severs power from control over knowledge. In the 1791 *Déclaration des droits de l’homme et du citoyen*, the rights to free speech and opinion are guaranteed—yet, as Lefort notes, these guarantees separate the spheres of power, law, and knowledge. Power thus loses its monopoly over meaning. Third, democracy is based simultaneously on the abstract collective of *the people* and the individuality of each person. Each vote reduces the citizen to a numerical unit, even as this arithmetic is meant to yield a sovereign will.³

Because of these structural tensions, democracy is inherently fragile. Its cohesion depends on maintaining the illusion that these paradoxes are reconcilable—that the numerical unity of votes can form a coherent collective will, and that this collective can exercise true power. Once that illusion crumbles—once individuals become aware of the irreconcilable gaps in representation and power—the symbolic place of authority collapses, revealing its emptiness. In response to this failure of symbolic unity, a different logic emerges: totalitarianism. Where democracy reaches towards the mystical, totalitarianism resurrects the natural body. It imagines the body politic as an organic whole, fused to its head, ruled by a sovereign power that brooks no internal division. Totalitarian regimes blur the boundaries between state and civil society, between the political and the administrative. They not only deny internal fragmentation but promise to eradicate it—physically. Those who do not conform are cast as pathogens in the body politic: cancers, parasites, impurities that must be excised. Yet this logic of purity has no terminus. In its pursuit of perfect unity, totalitarianism inevitably turns inward, cannibalising itself.

As Lefort argues, the longing for unity is perennial, but like with the longing on a personal level discussed in Chapter 7, it can never be realised. Societies oscillate between inclusion and exclusion, mutual recognition and annihilation—each strategy offering only the fleeting illusion of cohesion. This chapter will examine how modern and postmodern approaches respond to that

paradox—not by erasing it, but by embracing it: seeking the real in the imaginary, the unique in the generic, and solace in self-undoing (Section 2); and by collapsing the boundary between the physical and the metaphysical, allowing each to haunt the other (Section 3).

2. CONTROLLED DEMOLITION

In his seminal work, *Risk Society*, Ulrich Beck introduced a powerful diagnosis of late modernity: a society increasingly preoccupied not with wealth, growth, or progress, but with risk—its anticipation, management, and control. The rise of this risk society, he argued, is inseparable from the project of modernity itself. As modernisation dismantled long-standing structures, traditions, and certainties, it left in its wake heightened insecurity, anxiety, and disorientation. “Surges of technological rationalisation”, Beck observed, “and changes in work and organisation” unfolded alongside deeper, tectonic shifts in how people relate to power, love, knowledge, and their very sense of self. The plough, the steam engine, and the microchip are not just technological artefacts; they signal a profound metamorphosis of the entire social fabric.⁴

This pervasive sense of uncertainty breeds an intensifying demand that the state act as guarantor of safety. Citizens do not merely desire security—they require it. Crucially, however, it is not only the *lack* of control that generates this longing; the very *availability* of predictive and control technologies accelerates the logic of risk management. Because we can now anticipate volcanic eruptions, hurricane paths, and drought patterns, we are morally and legally obligated to act. New powers of foresight do not bring reassurance; they raise the bar of responsibility. They become mandates.

Paradoxically, our technological prowess also engenders new risks. Human-driven climate change is but one example of how the capacity for intervention also produces catastrophe. And each crisis—whether 9/11, the financial meltdown of 2008, or the COVID-19 pandemic—inevitably galvanises new calls for state intervention, surveillance, and control. This recursive cycle—control breeding risk, risk demanding more control—has led theorists to propose new archetypes for understanding contemporary urban and social design.

For example, Michael Sorkin famously argued that American cities are being transformed into theme parks—and vice versa. In these curated environments, access is commodified, cleanliness and civility are enforced, and safety is omnipresent. The very architecture of the theme park offers refuge from the chaos of the real world. Even fear itself becomes domesticated: simulated through rollercoaster rides and haunted houses, it is safely contained within strict parameters. Fun is compulsory, danger is performative, and the unknown is banished.⁵ Rem Koolhaas and Bruce Mau, to provide another illustration, describe the rise of the *Generic City*—a city stripped of identity,

made of endlessly interchangeable elements. The airport, they suggest, serves as the model for this city: hypercontrolled, placeless, and clean, yet endlessly adorned by ephemeral advertisements and fleeting travellers. Its architecture is built on voids: atriums, lobbies, and concourses—spaces where everything can happen, but nothing persists. “Variety cannot be boring. Boredom cannot be varied”, they note, but in the Generic City, variety itself becomes banal. Repetition becomes the radical act.⁶

Perhaps most potent is Lieven De Cauter’s introduction of the concept of *capsular civilisation*. For him, it is not the airport, but the capsule—the car, the condo, the gated community—that serves as the dominant morphological metaphor of our time. In his vision, modern transit is merely the movement between privatised enclaves, from condo to shopping mall to office, each sealed off from the chaos of the public realm. The car, the screen, the phone—these become micro-capsules that mediate, filter, and protect, offering simulated privacy in mass-produced forms. “The omnipresence of screens (television screens, computer screens and, as Virilio points out, windscreens) is part of *capsularization*. One could go as far as to say that each screen creates its own time-space milieu, whether virtual or not. Contrasting with micro-capsules, such as mobile phones, are macro-capsules, such as enclosed buildings or fenced zones.”⁷

De Cauter’s capsule is not merely a spatial device; it is a metaphysical condition. Capsules simulate both the public and the private. They create personalised bubbles that feel intimate but are, in truth, generic. The capsule is not a retreat from globalisation; it is its precondition. Gated communities in the North coincide with detention camps in the South. Barbed wire fences and offshore processing centres are not exceptions—they are the infrastructure of global order. This dialectic—inside/outside, self/other, global/national—is not new. It echoes ancient Greece, often romanticised as the birthplace of democracy and liberty. Yet the freedom of wealthy male Athenian citizens was contingent on the labour of others: women, slaves, animals. The leisure that enabled philosophical inquiry was bought at the cost of servitude. Likewise, the luxuries of contemporary capitalist societies rest on outsourced labour and ecological extraction. Digital freedom is no exception. The internet—initially hailed as an anarcho-liberal free place—emerged from military research and flourished under the stewardship of Silicon Valley monopolies. It is not despite, but only because countries can exert almost full control over internet communication that boundless, borderless connectivity became acceptable; it is not despite, but because social media have turned the world into an abundance of private capsules, that they became the dominant vehicle for public debate.

Artificial Intelligence will not escape this logic. Already, AI is framed through the same narrative polarities that shaped prior technologies: utopia and dystopia.⁸ On the one hand, AI is hailed as a saviour—curing disease,

combating climate change, eliminating drudgery. On the other hand, it is feared as a destroyer—surpassing human intelligence, unleashing error or malevolence, triggering systemic collapse. The fantasy of omnipotent benevolence and the nightmare of loss of control are two sides of the same coin. This entanglement speaks to deep Freudian drives: *Eros* and *Thanatos*, the desire to create and the urge to annihilate.⁹ Human longing is not purely for safety or mastery; it also flirts with catastrophe. The sublime is not only beauty beyond comprehension, but terror beyond containment. As in Lars von Trier's *Melancholia*, the slow, inevitable descent of disaster mesmerises even as it horrifies. So too in the digital realm: doomscrolling, clickbait catastrophes, AI panic—they reveal a collective appetite for collapse.

This is why many AI researchers admit the risk of unintended consequences, even existential ones, without ceasing their pursuit. There is a strange comfort in scripting one's own undoing. Unlike the atomic bomb, AI is not merely a weapon—it is already a tool for discovery, for medicine, for creativity. Yet it is also the first technology not just *made* by humans, but through self-learning and -coding, one that will continue to *make itself*. This recursive, self-expanding potential evokes what might be called the *techno-sublime*: a reverent awe before something both terrifying and magnificent.¹⁰ AI is, in that sense, both oracle and abyss. It promises salvation, while edging us towards self-destruction. It offers control—perhaps even over our own end—and thereby conjures the ultimate fantasy: to be destroyed, but on our own terms.

3. BEAUTY COMES FROM WITHIN

A particularly telling example of capsularisation, as observed by De Caeter, is the car. Long a symbol of autonomy and personal liberty, the car offers a mobile refuge—a space of withdrawal and control. After a difficult conversation, a dispiriting meeting, or a troubling diagnosis, people instinctively retreat to their vehicle. There, in the solitude of the driver's seat, buffered from the outside world, they traverse space encased in a shell that simulates mastery and calm (see Chapter 7). The pre-digital car was a mechanical system of discrete, replaceable parts; when something broke, you could fix it. It was yours—intimate, knowable, repairable. Today's car, however, is a computer on wheels. It is no longer a mechanical sanctuary but a sealed and coded system that only the manufacturer—or a certified dealer—can access or repair. It is also no longer private. The contemporary car is fully datafied. Everything from driving behaviour to media use, location history to temperature preferences is monitored, logged, and often monetised. The promise of the self-driving car compounds this transformation: safety and leisure—but at the price of autonomy. The car decides the optimal route, but you must have a destination. Spontaneity, deviation, loitering—all become algorithmically discouraged.¹¹

The introduction of the self-driving car promises two things, providing more safety, because these cars should have fewer accidents, and more leisure time, because AI is driving, people can read a book or watch a movie in the back seat. Yet it comes at the expense of control and autonomy; AI will determine the most efficient and quickest route for you. But you have to have a destination.

The car, then, is no longer a capsule in the true sense—but it gives the illusion of one. The same illusion holds for the private home and the smartphone: archetypes of capsularity.¹² In reality, these are porous containers at best, miniature panopticons in truth. The most private domains have become the most surveyed. Individual identity is performed through mass-produced artefacts, and objects marketed for enhancing autonomy increasingly curtail it. Public debate is now a sum of privatised opinions, the public sphere a lattice of closed loops, and collective crises are relentlessly reframed as personal failures. In this climate, people no longer turn to the vehicle, the airport, or the train station as the metaphorical vehicle of transcendence, but rather to information itself—data streams that promise liberation from friction, from embodiment, even from temporality. What they seek is not mobility, but escape. They become time-space travellers by becoming pure transmission.

Consider the phenomenon of the *hikikomori* (literally, “pulling inward”), individuals in Japan and beyond who retreat into extreme isolation, often living for years within a single room. Akin to digital hermits, their lives unfold almost entirely through screens and mediated communication. Many invert the day-night rhythm through a practice known as *vamping*, conducting work, social interactions, and even education under cover of night. Offline time is reserved for rest, resetting the body for another round of nocturnal digital existence. *Hikikomori* who vamp effectively translate the offline world into a parallel digital reality, not simply as an escape but as a realignment of space and time to fit a “more comfortable” ontological rhythm. It is not mere avoidance, but a radical recalibration of life’s coordinates.¹³

A different, though related, trajectory is the techno-futurist dream of *mind uploading*. Building on the premise of cryonics—where the ultra-wealthy preserve their bodies at -200°C in the hope of future resurrection—mind uploading proposes something potentially more democratic: the digital emulation of consciousness. Whole Brain Emulation (WBE) aims to scan, digitise, and upload a person’s neural architecture, allowing them to exist indefinitely in the cloud or to inhabit a humanoid robot as a host. This project bifurcates into two paths. The “Copy and Transfer” method attempts to simulate the static structure of the brain—a near-impossible feat given the organ’s hundreds of billions of neurons and the biochemical dynamism of its trillions of synapses. More promising is the “Gradual Replacement” approach, which would iteratively transfer mental function onto an artificial substrate, potentially a cyborg body, allowing consciousness to evolve in tandem with its new host.¹⁴

Another strand of this immaterial quest manifests in the rise of *manifestation culture*. While grounded in legitimate psychological research—visualising goals improves motivation and pattern recognition—manifestation quickly drifts into pseudoscience. Its exponents don't cite psychology but quantum mechanics. They speak of syncing with the quantum field, entangling one's current self with a future self through mental focus. To unlock potential futures, you need to be fully immersed in the here and now.¹⁵ Love is often invoked as the binding energy, with meditation proposed as the tuning fork. The brain becomes the conductor, its frequency aligning with particles across time and space.

Strikingly, the goals of manifestation are rarely spiritual or abstract. The desires are highly material: wealth, beauty, romance. It is, in this way, modern alchemy. As Jung observed, the alchemists' stated aim of turning lead into gold concealed a deeper drive—to transmute the self, to unify the duality of flesh and spirit, to ascend towards wholeness. Manifestation operates similarly. It cloaks itself in science, but beneath lies a profound psychological yearning: not just for success, but for coherence—for a self that is whole, unbroken, self-same.¹⁶ This convergence of hikikomori, mind uploading, and manifestation is not accidental. Each offers a kind of flight: inward, upward, or forward. Each is a response to the frictions and contradictions of life in a hyper-monitored, risk-managed, and data-driven society, and the paradoxical solution is found in reducing life to information.

4. CONCLUSION

This chapter has explored contemporary attempts to achieve both societal and personal unity, not by denying or erasing the paradoxes at the heart of the human condition, but by embracing them. In a world marked by dissonance, fragmentation, and hyper-control, individuals increasingly seek the real through the imaginary, locate the most singular aspects of identity within mass-produced forms, find solace in acts of self-erasure, and pursue the most corporeal experiences through immaterial means. Rather than resolving the tension between body and spirit, private and public, self and other, these strategies inhabit the paradox—transforming it into a space of possibility, expression, and meaning. The solution to the intricacies of the data-driven environment is found in becoming information. Information should be free; information is free. Part IV, and in particular Chapters 15 and 19, will explore how the legal landscape can be configured to adequately address these challenges.

NOTES

1. Mori, M. (2004). Double Suicide at Rosmersholm. 成城文藝, (186), 78–65. Dazai, after a failed earlier attempt at double suicide, where his girlfriend died but he was rescued, ended his life through double suicide with a new girlfriend, although this time there were rumours that he did not want to leave this world, but was forced by her.
2. Kantorowicz, E. (2016). *The king's two bodies: a study in medieval political theology*. Princeton: Princeton University Press.
3. Lefort, C. (2014). *Essais sur le politique (XIXe–XXe siècles)*. Paris: Média Diffusion.
4. Beck, U. (1992). *Risk society: Towards a new modernity*. Translated by Ritter, Mark. London: Sage Publications.
5. Sorkin, M. (1992). Variations on a theme park: The new American city and the end of public space. New York: Hill and Wang. Leisure, in this sense, detaches people from the real world and generates apathy. As a socialist manifesto once pointed out: 'Leisure is the true revolutionary problem.' Une idée neuve en Europe, Situationist statement published in Potlatch, 1954.
6. Koolhaas, R., & Mau, B. (1997). S, m, l, xl. The Monacelli Press, LLC, p. 1262.
7. De Cauter, L. (2004). *The capsular civilization. On the city in the age of fear*. Rotterdam: NAI Publishers, p. 45.
8. Below contains revised and updated parts from Van der Sloot, B. (2023) Editorial, EDPL, 1.
9. Freud, S. (2003). *Beyond the pleasure principle*, Penguin UK.
10. The concept of the sublime is introduced in Chapter 2, and explained in end-note 14 of that Chapter.
11. <https://www.nytimes.com/2024/03/11/technology/carmakers-driver-tracking-insurance.html>. <https://www.nytimes.com/2024/03/18/podcasts/the-daily/car-gm-insurance-spying.html>. Both accessed 30 November 2025. Regulation (EU) 2015/758 of the European Parliament and of the Council of 29 April 2015 concerning type-approval requirements for the deployment of the eCall in-vehicle system based on the 112 service and amending Directive 2007/46/EC.
12. See also: Van der Sloot, B. (2021). Truth from the sewage: are we flushing privacy down the drain?, *European Journal of Law and Technology*, 3.
13. Coppola, M. (2022). Defining Hikikomori between digital migration, ghosting and cyberactivism. A netnographic study on voluntary social self-isolation in Italy. *Italian Sociological Review*, 12(7S), 865–865.
14. <https://www.theguardian.com/technology/2018/mar/14/nectome-startup-upload-brain-the-cloud-kill-you>. <https://nectome.com/>; Meissner, G. (2020). Artificial intelligence: consciousness and conscience. *AI & Society*, 35(1), 225–235.
15. <https://www.youtube.com/watch?v=rxnC5ieJ1v0>; <https://www.youtube.com/watch?v=7Ujs5NSnnVE>. Both accessed 30 November 2025.

Reflections on Part III

The insights developed in Part III, along with those in Part II, hold far-reaching implications for the regulatory frameworks discussed in Part IV. Among the many dimensions to be explored are the following:

First, neither human beings nor machines are truly autonomous. Absolute autonomy is a metaphysical ideal, reserved for self-constituting entities or perpetual motion machines—neither of which exist in reality. The boundaries between self and other, internal and external, public and private, are porous and mutually constitutive. Regulation aimed at shielding individuals from manipulation or dark patterns must reckon with the fact that protecting against external coercion may come at the cost of suppressing internal desires. What appears irrational from one perspective may be necessary relief from hyper-rational demands. Dark patterns gain traction not despite, but because of, our fatigue with having to be ceaselessly rational.¹

Second, our access to reality is always mediated—through language, symbols, or now, code. Concerns over a post-truth era are not so much a rupture as a reiteration of a longstanding condition: that all knowledge is constructed. What is new is the simultaneous intensification of hyper-rationalism and enchanted subjectivity in the digital realm—technocratic datafication on one side, and magical thinking on the other. Filter bubbles and polarisation are not isolated failures but responses to a deeper overload of meaning, a disorienting surfeit of information.² Law, grounded in rationality and committed to objectivity, is left with no coherent epistemology to anchor its truth claims, often delegating the task of meaning-making to judges who must interpret reality without stable criteria.³

Third, the notion that individuals begin from a position of rights and freedoms misconstrues the relational nature of power. Our freedoms emerge through interdependence, not from isolation. The digital age only heightens this truth: tech companies do not simply invade our privacy—they constitute it. In this context, the legal distinction between private and public, between data subject and data controller, becomes increasingly untenable. Public–private partnerships, regulatory outsourcing, and government withdrawal from digital innovation further dissolve these lines, while masking the origin of the innovations themselves—many of which stemmed from public investment.⁴

Fourth, power has not simply shifted from public to private hands—it has become multidirectional and diffuse. Citizens, empowered by technologies, can now scrutinise, shame, or sabotage institutions and each other. Meanwhile, governments gain unprecedented oversight through data aggregation. Algorithmic decision-making collapses the tripartite structure of democratic governance, encoding legislation, execution, and adjudication into inscrutable systems of logic. Legal frameworks built to ensure transparency, contestability, and proportionality strain under the weight of machine-led administration.

Fifth, the focus on individual harm occludes systemic risks. The so-called transparency paradox cuts both ways: while citizens become ever more legible to institutions, those institutions often understand less about the very systems they employ. The opacity of self-learning models, even to their creators, makes the legal requirement of demonstrable, individual harm both inadequate and misaligned. Micro-harms—individually insignificant, collectively devastating—accumulate in ways that escape current legal scrutiny, yet deeply shape behaviour, opportunity, and trust. Machine reasoning becomes as opaque as human reasoning.

Sixth, the boundary between the natural and the artificial is dissolving. As earlier chapters have shown, the technological does not alienate us—it enables us to become ourselves. Yet the advent of AI-driven entities complicates this synthesis. These beings blur the lines between instrument and ends, between object and subject. The law, still largely anthropocentric, is struggling to keep up. Questions surrounding group rights, the datafied unborn, posthumous personhood, and the status of AI entities are no longer speculative—they are urgent. With no coherent framework for defining sentience, intelligence, or even existence, the regulatory system must confront a horizon in which the legal subject is no longer exclusively human.⁵

NOTES

1. The fact that when companies make design choices that nudge us towards desires that stem from the id are coined ‘dark’, while the legislator’s imposed choice infrastructures that nudge us towards the desires of the superego are apparently ‘white’, echoes a deeply Manichaeian worldview that is entrenched in Western thinking.
2. In addition, it is true that now, perhaps more than ever, the media are under attack, but that is only at a time when media have become excessively dominant in shaping the narrative and media personalities have become politicians.
3. With the extreme exception of some jurisdictions that, by law, penalise holocaust denialism.
4. Mazzucato, M. (2011). *The entrepreneurial state*. London: Demos; Mazzucato, M., Schaake, M., Krier, S., & Entsminger, J. (2022). *Governing Artificial*

Intelligence in the public interest. UCL Institute for Innovation and Public Purpose, Working Paper Series (IIPP WP 2022-12).

5. Taylor, L., Floridi, L., & Van der Sloot, B. (eds). (2016). *Group privacy: New challenges of data technologies* (Vol. 126). London: Springer.

PART IV

Law in quest of itself

14. Right to ecology

The politics of nature are being pursued, but in secret. To bring it out of the shadows requires real intellectual work by people who do not believe in science – or at least in the epistemological conception of science – who do not despise politics and who see administration and technocracy as the essential forms of mediation. It is only through this threefold respect for, and attention to, scientific, political and administrative practices that the social sciences can do their work of investigation and prefiguration, and become more than the gadflies of ecology.¹

1. INTRODUCTION

In Europe, the right to privacy is laid down in Article 8 of the Council of Europe's European Convention on Human Rights (ECHR) holding: "1. Everyone has the right to respect for his private and family life, his home and his correspondence. 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."²

This provision, adopted in the aftermath of the Second World War, was originally conceived with a narrow and targeted scope. Its primary aim was to constrain the arbitrary exercise of state power by totalitarian regimes. Accordingly, the Convention was limited to vertical relationships: it could be invoked only when public authorities interfered with individual rights. Citizens were not entitled to bring claims against other private individuals or businesses. Moreover, the ECHR was designed to protect civil and political rights alone, which imposed *negative* obligations on states (e.g. refraining from interfering with freedom of speech or the right to privacy). Socio-economic rights—entailing *positive* duties such as guaranteeing healthcare or education—were deliberately excluded. The original framework granted individuals negative liberties, rather than positive entitlements to, for example, self-development or social participation.

Over time, however, the Convention—and especially the right to privacy—has undergone a significant transformation. While individuals still cannot directly invoke ECHR rights against private parties, the European Court of Human Rights (ECtHR) has interpreted Article 8 to impose positive obligations on states: they must take active steps to ensure the enjoyment of rights, even in horizontal relationships.³ This includes adopting legislation or sanctioning violations by non-state actors. In addition, the right to privacy has evolved into a far-reaching personality right, encompassing not just the right to be let alone, but the right to shape one's identity, pursue one's professional aspirations, and engage meaningfully with others. Article 8 has thus come to cover an expansive array of life domains:⁴

1. Family life: The Court has extended protection beyond biological or legal definitions of family. De facto personal ties—such as those between step-relatives, adoptive families, mentors, or guardians—can qualify. Same-sex couples and individuals seeking gender reassignment surgery have also been protected, with the Court recognising positive state obligations to facilitate and legally recognise their transitions.
2. Home: The notion of “home” now includes any premises to which a person has strong personal ties, including second homes, holiday dwellings, caravans, and even vehicles. The Court has also granted legal persons the right to invoke Article 8 in relation to business premises. Consequently, the workplace has become part of the privacy domain, encompassing not only protection from intrusion but also the opportunity to foster professional and social relationships (see Chapter 15).
3. Correspondence: modern forms of communication, including email, smartphones, and internet usage, fall squarely within the protection of correspondence. Crucially, this includes not only the *content* of communications, but also *metadata*—information about who communicated with whom, when, from where, and through which medium.
4. Private life: This category is perhaps the broadest, covering nearly all aspects of personal identity and autonomy—from clothing choices to abortion and euthanasia; from scattering ashes of loved ones to protection from noise or smell pollution; from safeguarding one's reputation to shielding immigrants from expulsion when they have established meaningful lives in a new country.

Alongside the ECHR, the European Union has introduced a separate, fundamental right to *data protection*, enshrined in Articles 7 and 8 of the Charter of Fundamental Rights of the EU: “Article 7 Respect for private and family life Everyone has the right to respect for his or her private and family life, home and communications. Article 8 Protection of personal data 1. Everyone

has the right to the protection of personal data concerning him or her. 2. Such data must be processed fairly for specified purposes and on the basis of the consent of the person concerned or some other legitimate basis laid down by law. Everyone has the right of access to data which has been collected concerning him or her, and the right to have it rectified. 3. Compliance with these rules shall be subject to control by an independent authority.”⁵ This latter right is operationalised through the General Data Protection Regulation (GDPR),⁶ which has, through legislative interpretation, advisory guidance, and technological change, expanded the scope of “personal data” to such an extent that nearly any piece of information can be captured under its protection (see Chapter 15).⁷

The growing breadth of both privacy and data protection rights has drawn criticism from a range of stakeholders—legal scholars, regulatory authorities, and private-sector actors. At the same time, there are calls for further expansion of these rights. It is to these conflicting pressures that this chapter—and the next—will respond, in light of the findings from Part III of this book, in particular the rise of non-natural entities (Chapter 11) and the power shifts that have occurred in the data-driven landscape (Chapter 12). This chapter focuses in particular on a foundational limitation of both privacy and data protection rights: their anthropocentric design. They are biologically and legally structured to protect the interests of one species—*homo sapiens*—and overwhelmingly concerned with discrete, individual harms. First, these rights are largely restricted to natural persons, with only limited room for other entities to invoke them. Section 2 will interrogate and challenge this assumption. Second, the rights remain focused on individual interests and harms, whereas collective, aggregated, and societal interests often fall outside their protective scope. This gap will be explored in Section 3.

2. RIGHT TO NON-HUMANS

The European Convention on Human Rights allows for two modes of complaint. “Article 33 Inter-State cases Any High Contracting Party may refer to the Court any alleged breach of the provisions of the Convention and the Protocols thereto by another High Contracting Party. Article 34 Individual applications The Court may receive applications from any person, nongovernmental organisation or group of individuals claiming to be the victim of a violation by one of the High Contracting Parties of the rights set forth in the Convention or the Protocols thereto. The High Contracting Parties undertake not to hinder in any way the effective exercise of this right.” This dual mechanism permits natural persons, legal entities (excluding governmental bodies), and groups of individuals to seek protection under the Convention. States may also bring proceedings against one another—for example, the Netherlands

could allege that Turkey has violated the right to free elections of its own citizens.

In practice, however, the inter-state complaint mechanism has remained largely dormant. Fewer than 30 inter-state cases have been brought since 1950, in stark contrast to the more than 30,000 individual applications submitted to the ECtHR. Moreover, the Court has declined to recognise group rights as such. While multiple individuals may bundle claims against a shared policy or practice, they must each demonstrate a direct, substantial, and individual harm. For instance, the gay community as such cannot lodge a claim against laws that stigmatise same-sex marriage; only affected couples who can show personal injury may do so. Legal persons face similar limitations. While churches can rely on Article 9 ECHR (freedom of religion), and media organisations on Article 10 (freedom of expression), the Court initially held that Article 8's right to privacy—being the most intimate and subjective of rights—could not be invoked by legal entities.⁸

The EU's data protection regime mirrors this anthropocentric orientation. The GDPR applies solely to natural persons: "The protection afforded by this Regulation should apply to natural persons, whatever their nationality or place of residence, in relation to the processing of their personal data. This Regulation does not cover the processing of personal data which concerns legal persons and in particular undertakings established as legal persons, including the name and the form of the legal person and the contact details of the legal person."⁹ This marked a deliberate departure from the earlier Council of Europe Convention 108 (1981), which allowed individual member states to decide whether protections would extend to groups, associations, and corporate bodies.¹⁰

Against this backdrop, a growing chorus of scholars, regulators and civil society actors has called for a more inclusive understanding of privacy and data protection rights. These calls focus on eight underrepresented or excluded categories.

First, although the ECtHR has shown limited willingness to admit claims by legal persons under Article 8, and although the CJEU has occasionally accepted data protection claims by such entities, their rights remain significantly narrower than those of natural persons. It has been argued that core human rights—such as the rights to a fair trial, expression, religion, and assembly—can already be invoked by legal persons, and that this logic should extend to privacy and data protection. These rights are not only designed to protect individual autonomy but also to constrain arbitrary exercises of state power, irrespective of the target. Furthermore, just as states can lodge inter-state complaints to defend foreign populations, civil society organisations should be empowered to initiate proceedings on behalf of vulnerable groups or the public interest, even where their own rights are not directly at stake.¹¹

Second, while the ECtHR increasingly acknowledges group-based harms—such as those following from discrimination or structural marginalisation—it continues to restrict formal standing under Article 8 to individuals. Similarly, although the GDPR accounts for broader impacts (e.g. via Data Protection Impact Assessments), it does not grant groups the standing to enforce data protection rights. Yet, as explored in Part III of this book, modern data processing revolves less around individuals than around data categories. Profiles, segments, and classifications are drawn at group level, and applied to groups through targeting and algorithmic decision-making. Reducing these systemic concerns to individual complaints both privatises structural harms and places the burden of litigation on under-resourced individuals confronting powerful entities (see Chapter 19).¹²

Third, unborn children are not considered natural persons under existing legal frameworks. However, they are increasingly subjected to datafication from early stages of pregnancy. Medical professionals routinely record and assess foetal data; parents use apps to monitor fertility cycles, count kicks, time contractions, record heartbeat patterns, track growth metrics, and even log postnatal behaviours like feeding and sleep. These data are shared not only with family and care providers, but also with commercial platforms. By the time a child is born, a substantial digital footprint already exists—often beyond the knowledge or control of the child or their guardians.

Fourth, as is common in environmental litigation, advocates frequently invoke the interests of future generations as the ultimate beneficiaries of today's regulatory choices.¹³ This logic applies equally in the context of privacy and data protection. The infrastructure we build now—from pervasive surveillance technologies to normative data practices—will shape the rights and possibilities of those not yet born. Moreover, existing datasets, combined with predictive analytics, can already yield probabilistic insights into future populations, raising urgent questions about intergenerational justice and data sovereignty.

Fifth, some legal systems have recognised the rights of non-human entities—granting animals protections against cruelty and rivers rights against environmental degradation.¹⁴ Similar reasoning could be extended to privacy and data protection. Such rights might entail, for instance, the right to remain undisturbed in one's natural habitat, the right not to be tracked or instrumentalised for commercial ends, or even a basic physical privacy akin to the instinctual withdrawal from social contact observed in certain animal species.¹⁵

Sixth, legally, death extinguishes personhood and the GDPR does not apply to the deceased. Although heirs and next of kin may exercise certain residual rights (such as reputational or data-related claims), these interests do not always align with those of the deceased. As detailed in Part III, Generative AI now enables simulations of the dead—whether through holograms, deepfakes,

or chatbots designed to mimic the voice or personality of a lost loved one. These uses may be deeply offensive to the memory or wishes of the deceased, yet contemporary law provides little recourse or protection.¹⁶

Seventh, as discussed in Part III, the question arises whether AI systems—particularly those capable of advanced reasoning or self-awareness—should in time be entitled to legal protection. Granting them such rights might not only reflect their increasing moral status, but also serve instrumental purposes: for instance, regulating exploitative use of sex robots, companion bots, or industrial AI systems relegated to menial tasks. Critics have likened such exploitation to digital slavery. Recognising AI rights could be a way to formalise protections against degradation, or to acknowledge emergent forms of personhood.¹⁷

Finally, the question remains whether states or public authorities themselves should be allowed to invoke privacy and data protection rights. This issue will be examined more closely in the following chapter.

3. RIGHT TO NON-DOMINATION

By deciding to primarily reserve the application of Article 8 ECHR to natural persons, the ECtHR has chosen to restrict its interpretation of the provision to individualised interests. This has led the Court to reject several categories of claims that fall outside this scope. These include: in abstracto claims, where the applicant challenges a law or legal framework without demonstrating personal harm; hypothetical claims, where harm is conceivable but not evidenced; a priori claims, which seek to prevent potential harm rather than address harm already suffered; *actio popularis* claims, where the claimant asserts the interests of others or society at large; and *de minimis* claims, where the applicant is deemed not to have suffered a “significant disadvantage”.¹⁸

However, over time the Court has acknowledged the limitations of this restrictive approach and carved out key exceptions in three principal areas:

First, from early on, the ECtHR has recognised that certain laws—particularly those targeting marginalised groups—can cause harm through their very existence. Even if such laws are not actively enforced, they may stigmatise specific populations and create a chilling effect on the exercise of fundamental rights. For instance, the Court has found that laws criminalising homosexual conduct can violate Article 8, despite a lack of recent prosecutions, because individuals may feel forced to conceal their identity or abstain from certain behaviours out of fear.¹⁹ A recent example involved a Turkish law requiring women to undergo a pregnancy test before remarrying post-divorce; the Court found a violation, even though the applicant had no concrete plans to remarry or start a family.²⁰

Second, environmental cases have posed considerable evidentiary challenges under the Court's traditional framework. It is often difficult—if not impossible—for an applicant to establish a direct causal link between a generalised source of pollution and individual health or quality of life impairments. Recognising this, the Court has shifted from a strict causation model to a statistical correlation approach and has even excepted arguments of applicants who claim that they are statistical outliers. This culminated in the adoption of the more flexible “quality of life” standard—a highly subjective notion that invites applicants to articulate their lived experience rather than furnish biomedical proof. This also implicitly softens the *de minimis* threshold.²¹

Third, the development of mass surveillance regimes—particularly in the wake of 9/11—has raised serious concerns under Article 8. For years, the Court held to its victim requirement but allowed those who were likely targets (e.g. political dissidents) to bring claims. However, the *Zakharov v. Russia* (2015) judgment marked a decisive shift. The Court acknowledged that in contexts of secret surveillance, where data collection potentially applies to all citizens and where redress mechanisms are lacking, an in abstracto challenge was warranted.²²

While these exceptions represent meaningful progress, they remain narrowly circumscribed. The prevailing logic of Article 8 is still grounded in a harm-based, interference-focused model, where violations are understood as concrete intrusions into the rights of individuals. Yet as contemporary data practices increasingly rely on large-scale, probabilistic processing, the individual becomes merely incidental. This suggests the need for a philosophical shift in the Court's foundational approach—from a model based solely on non-interference to one that incorporates the principle of non-domination.²³ “Non-Interference formalises some of the fundamental insights of the Harm Principle, namely the idea that society should not interfere with individual choices whenever the latter have no (harmful) effect on others. Mill insists that the reasons for the change in circumstances of the individual (such as neglect, irresponsibility, effort or luck) are not relevant information for social judgments, provided that nobody else is negatively affected.”²⁴

By contrast, the non-domination principle, advanced by republican theorists like Philip Pettit, does not depend on actual interference. Instead, it focuses on arbitrary power imbalances and the absence of institutional safeguards. A commonly used illustration is slavery: even if a slave owner is benevolent and does not interfere with the lives of their slaves, the sheer existence of unchecked power is itself a violation of freedom. The slave's condition is precarious because their well-being is dependent on the goodwill of the master—not on a system of rights or guarantees. Applying this logic to the digital context, the relationship between individuals and both governments and technology firms—especially in the context of mass surveillance, algorithmic

decision-making, and opaque data ecosystems—reveals precisely this asymmetry. Citizens are increasingly transparent to powerful actors, while those actors remain opaque to scrutiny (see Chapter 18). This transparency paradox exemplifies domination: individuals are subject to decisions they cannot foresee, influence, or even comprehend, especially in the context of self-learning systems or black-box algorithms.²⁵ A non-domination approach would allow courts and regulators to evaluate whether institutions possess structural safeguards against arbitrariness, address power asymmetries, even in the absence of immediate interference, acknowledge collective and systemic impacts rather than relying solely on individual harms.

Yet even the non-domination model falls short in addressing a critical issue of the digital age: the aggregate effect of micro-interferences. The current legal framework, with its *de minimis* threshold, often ignores the cumulative consequences of small but persistent interferences. Consider algorithmically driven social stratification: suppose online job ads for executive positions are shown to 61% of men but only 59% of women, or that men and women receive different results when searching “Ajax” (football vs. mythology). Each individual instance may appear negligible, but the aggregate effect can be profound—entrenching biases and reinforcing inequality over time. Moreover, not all interferences stem from powerful institutions. The peer-to-peer abuse of surveillance technologies illustrates this clearly. Spyware, hidden cameras, and location-tracking apps—sold openly online—enable citizens to violate each other’s privacy with minimal effort or legal consequence. From snooping on partners to recording private conversations, these technologies facilitate horizontal domination. Because these violations occur sporadically or temporarily—and without institutional backing—they escape scrutiny under both interference- and domination-based frameworks.²⁶

In sum, the evolution of data processing and surveillance technologies calls for a more nuanced legal philosophy—one that moves beyond the rigid harm requirement of non-interference, embraces the non-domination principle to address structural vulnerabilities and ultimately recognises the systemic nature of digital harms by accounting for the aggregate effects of micro-interferences, whether committed by powerful institutions or ordinary citizens. Only by embracing this layered approach can the legal system begin to meaningfully protect the integrity, dignity, and autonomy of individuals in the digital age.

4. CONCLUSION

The contemporary regulatory framework is built around the protection of individual interests of natural persons and centres on discrete interferences that have a direct, identifiable, and significant impact. This orientation is

understandable and has served a crucial role over the past decades. Human rights were, after all, devised for human beings, and by focusing on the interests of individual citizens, both the European Court of Human Rights and the Court of Justice of the European Union have succeeded in upholding and expanding core freedoms.

At the same time, it has become increasingly clear that this focus leaves a wide array of interests unaddressed. Particularly in light of the current technological landscape, two proposals have been put forward to expand the scope of the rights to privacy and data protection. The first suggests widening the range of rightsholders to include legal persons, collectives, animals, the unborn, future generations, and even AI-driven entities. The second aims to broaden the kinds of interests that can be protected by embedding the non-domination principle in the regulatory framework and allowing action in response to the cumulative effects of microharms and the combined processing of data by multiple actors.

Each of these suggestions, however, raises its own set of complications. Granting rights to groups, for instance, proves difficult in the digital context, where there is often no clear representative, where group members may have conflicting interests, where countless overlapping categories exist, and where the composition of these categories may change by the hour. Attributing rights to animals or AI-driven entities presents both philosophical and political challenges. Similarly, extending rights to the unborn or the deceased raises thorny questions of standing and representation, particularly when the wishes of heirs or surviving relatives may diverge from those of the individuals they claim to speak for. Moreover, allowing legal claims for microharms risks flooding the judicial system, which is already under strain, while recognising collective harms involving multiple parties complicates questions of causation and apportionment of responsibility.

These concerns are not unanswerable, but they do require a fundamental reconsideration of the assumptions and architecture that underlie the current regulatory order. It is precisely this kind of structural reimagining that the final chapter of this book (Chapter 20) will begin to undertake.

NOTES

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15. Right to porosity

Life is movement, cannot take place without movement. ... It is part of its positional character for a thing to be out beyond the thing, into the thing. In order to satisfy this requirement, the thing must, as it were, be in the position to move away from the thing that it is. Becoming set apart from the thing that it is, easing away its being from its being, provides the only possibility of really having the passage (as the meaning of the boundary) in that thing. However, a thing only ever actually becomes able to stand away in its essence from the domain of its being – that is, out beyond it, into it – if it does not remain within the bounds that have been drawn for it (albeit not arbitrarily). Its being is thus essentially destined for passage.¹

1. INTRODUCTION

The GDPR and the broader EU legislative framework are grounded in constitutive ambiguities.²

On the one hand, the GDPR is an omnibus law. Unlike the fragmented US approach, where different types of personal data are covered by disparate legal frameworks—such as medical data by healthcare providers, communications data by telecom operators, or data about minors by internet platforms—the GDPR aspires to set a comprehensive, cross-sectoral standard applicable throughout the EU.

On the other hand, the GDPR has often been described as a ‘Regulation light’. While formally a Regulation, and thus directly applicable in Member States, it still requires national implementation on a range of points. Parallel instruments govern specific domains, such as the Law Enforcement Directive for policing,³ and a separate regime for EU institutions. Intelligence services fall outside the EU’s competence altogether.⁴ Moreover, Member States are encouraged to adopt sector-specific frameworks and organisations are invited to develop tailored codes of conduct. The grounds for lawful processing follow a bifurcated logic, distinguishing between consent, contract, and legitimate interest for private actors, and legal obligation or public interest for public authorities. The GDPR includes several exceptions for data processing in the

public interest, such as for archiving purposes, scientific research and statistical analysis. There is differentiation between public and private sector data controllers. For example, the requirement to appoint a data protection officer applies to all public sector organisations, and only to private sector organisations in specific circumstances.

The GDPR also introduces a seemingly clear division of roles, distinguishing controllers (the natural or legal person, public authority, agency or other body who determines the purposes and means of the processing of personal data) from processors (the natural or legal person, public authority, agency or other body which processes personal data on behalf of the controller), and setting out additional rights and responsibilities for data subjects, recipients, third parties, representatives, data protection officers and supervisory authorities.

Yet, the apparent clarity belies a deeper complexity. The allocation of roles depends on a contextual analysis of the specific processing arrangement,⁵ and the Regulation allows for the notion of joint controllership, whereby two or more actors are partly responsible.⁶ Other EU instruments introduce entirely different terminologies and actors, fragmenting the legal landscape further. For example, the Regulation on the transfer of non-personal data speaks of service providers, users and professional users,⁷ the Digital Services Act refers to information society services, recipients of services, consumers, traders, intermediary services and online platforms,⁸ the Digital Markets Act differentiates between gatekeepers, core platform services, cloud computing services, software application stores, online intermediation services, online search engines, ancillary services, online social networking services, identification services, video-sharing platform services, number-independent interpersonal communication services, operating systems, end users, business users and undertakings,⁹ the Data Governance Act makes reference to data holders and data users,¹⁰ the Data Act to users, data holders, data recipients and data processing services¹¹ and the AI Act, to give a final example, has rules for providers, small-scale providers, users, importers, distributors and operators.¹² This means that one party may have different roles under different legal instruments, and simultaneously be under several obligations that do not necessarily align.

On the one hand, the EU legal order also operates under the banner of technological neutrality. The principle is that law should avoid tying itself to specific technologies and instead articulate general rules and safeguards, applicable across technological paradigms. As the GDPR specifies: “In order to prevent creating a serious risk of circumvention, the protection of natural persons should be technologically neutral and should not depend on the techniques used.”¹³

Yet this commitment is only partially upheld. The GDPR only applies to automated processing or structured manual datasets and introduces specific provisions for profiling and automated decision-making. Meanwhile, the EU

has adopted a suite of legislation directly targeting certain technologies, such as the AI Act.

There is also a tension in the conceptual architecture of the data categories themselves. The GDPR works with a triad of anonymous, personal and sensitive data, but these terms do not translate neatly across legal instruments. Other EU laws, such as the AI Act, the Digital Services Act, the Open Data Directive, and the e-Privacy Regulation, refer variously to metadata, training data, input data, dynamic data, illegal content and electronic communications data, often without offering a harmonised framework. In addition, the GDPR recognises intermediate categories such as pseudonymous data—personal data subject to mitigation measures—which straddle the boundary between personal and non-personal data. While the legal distinction between personal and non-personal data is absolute, the determination in practice relies on a context-dependent test: what is considered reasonably likely to lead to identification varies over time, is dependent on technological process, and depends on who possesses the data.¹⁴

This underlying duality places increasing pressure on the legal framework in a society where technological development is rapid, roles are fluid and institutional boundaries are porous. The question arises whether law should embrace this flux by shifting to a principle-based regime rooted in general duties of care, or whether it should do the opposite—reimposing fixed legal categories to guide and shape technological development. The former risks vagueness and uncertainty; the latter, obsolescence and rigidity. Either way, the stakes are high.

This chapter explores another foundational ambiguity within the rights to privacy and data protection: the divide between public and private. These rights, as currently conceived, protect private life, the private domain and private communication. But in the contemporary data-driven society, as discussed throughout this book, and in particular Chapters 8, 10 and 13, that distinction has been eroded: the private is often public, just as the public is increasingly private. Over time, both doctrines have expanded to reflect this blurring, with courts granting privacy protections to conduct in public settings and the definition of personal data growing ever more encompassing. This chapter proposes that the divide may need to be rethought altogether. It explores two directions in Section 2—first, by removing the household exemption from the data protection framework and, second, by granting public officials the same privacy protections as private citizens—and two further directions in Section 3—by recognising privacy claims in professional and public settings and by extending core data protection safeguards to non-personal data.

2. RIGHT TO PUBLIC IN PRIVATE

The so-called household exemption applies when personal data are processed “by a natural person in the course of a purely personal or household activity”. If successfully invoked, this exemption excludes processing of personal data from the scope of the GDPR altogether. As a recital puts it: “This Regulation does not apply to the processing of personal data by a natural person in the course of a purely personal or household activity and thus with no connection to a professional or commercial activity. Personal or household activities could include correspondence and the holding of addresses, or social networking and online activity undertaken within the context of such activities. However, this Regulation applies to controllers or processors which provide the means for processing personal data for such personal or household activities.”¹⁵

This exemption has its origins in the 1995 Data Protection Directive. The idea was straightforward: when a person writes down a neighbour’s address in an address book, or records their thoughts in a private diary, this is the sort of activity that belongs to the protected realm of private life. It was assumed that household data processing would rarely have a significant impact on others, and that extending the remit of data protection law into such spaces would empower supervisory authorities to reach too deeply into citizens’ homes—a cure potentially worse than the disease.¹⁶

Yet in the contemporary data-driven environment, that rationale is beginning to unravel. The boundary between the personal and the public has eroded, and the capacity of private individuals to inflict harm through data processing has increased exponentially. Today, nearly every citizen possesses several devices capable of recording, storing and disseminating data about others, if only through their smartphone. As touched upon in Chapter 14, surveillance equipment—spyware, listening devices, mini drones and concealed cameras—is readily available through online retailers, placing once-advanced surveillance technologies in the hands of the general public. Not only has the volume of data that can be processed expanded dramatically, but the visibility of that processing has declined. In the 1990s, when photos and videos were taken with bulky hardware and developed at significant cost, individuals generally knew when they were being recorded. That is no longer the case. Contemporary technologies have the emanation of objectivity, yet data are produced rather than captured. In addition, Deepfake technologies allow for the creation of highly realistic, but inauthentic, content of persons themselves and of others. The fact that modern recording devices are both discreet and equipped with sensory capabilities that far exceed human perception has made the data they capture increasingly sensitive. This, in turn, gives rise to a profound chilling effect. The mere awareness that anyone—whether in private or public—might

covertly record you, perhaps with infrared cameras capable of seeing through walls or with a mini drone slipped through a bathroom window, is of a different order than knowing they might jot down a passing thought in a diary. Likewise, the possibility that a neighbour has created an explicit pornographic deepfake of you on their personal computer is not remotely comparable to the idea that they have sketched a crude drawing in a private notebook. The former scenarios exploit technological amplification of surveillance and simulation, turning mere imagination into invasive digital artefacts with potentially devastating real-world consequences. Finally, the ease with which such recordings can be distributed online means that the consequences of such intrusions can be swift, irreversible and far-reaching.

Back in 2013, when the GDPR was still under discussion, the Article 29 Working Party already noted the growing untenability of the household exemption. It offered the legislator two paths: either to replicate the Directive's approach while using objective criteria to narrow the scope of the exemption, or to bring all household processing within the scope of the GDPR, albeit with a light-touch application.¹⁷ The legislator chose to maintain the status quo. But the conditions that supported that choice have changed and are likely to continue changing. In the current environment, the household exemption grants individuals a veil under which they may gather, store or create highly intrusive material about others—without regulatory consequences unless and until the material is shared. At that point, the harm may already be done, the damage irreparable, and legal remedies ineffective.

This shift also exposes a deeper asymmetry in the structure of contemporary rights.¹⁸ The right to privacy, like other fundamental rights, was initially formulated as a shield against the state. Vertical privacy's central function was to restrain public authority and limit the power of government over the lives of individuals. With the rise of powerful technology firms, this logic was extended: privacy protections were developed against private actors whose capacity for intrusion rivalled—and in some ways exceeded—that of the state. The term diagonal privacy was coined to capture this trend. Yet a third modality has emerged, one which places citizens in a position to infringe upon each other's privacy through the use of advanced consumer technologies. This reorientation has spurred growing interest in the idea of horizontal privacy, and the need to protect individuals against one another.

There remains, however, a blind spot in the contemporary legal regime. While privacy law has been adapted to govern relationships between citizens and corporations, it has not meaningfully addressed the power now exercised by citizens against civil servants, public officials, and governmental institutions themselves. The legal framework continues to reflect an older set of assumptions: that the state holds a monopoly on force, that public officials are subject to greater transparency obligations, and that their rights may be

curtailed in light of their duties. For example, the European Convention on Human Rights explicitly allows restrictions on the rights to assembly and association for members of the armed forces, police or state administration. Civil servants are expected to suppress personal beliefs in the exercise of their duties—symbolised in uniforms, and formalised through bans on religious expression in the public service across several European states.

Politicians enjoy greater latitude in public discourse but must also accept greater scrutiny. While the European Court of Human Rights has repeatedly affirmed that even public figures are entitled to a private life, it has equally held that they must endure more intrusive journalistic inquiry and public attention, with correspondingly less protection for their reputation. Public institutions are held to heightened standards of transparency, expected to disclose their policies and decisions in a way that would never be demanded of private corporations. And although certain state decisions may remain confidential, the state itself cannot invoke constitutional rights—including the rights to privacy and data protection—in its own defence.¹⁹

These arrangements once reflected a coherent picture of power. But that picture is shifting. The democratisation of information technologies has eroded the traditional hierarchy between citizen and state. Politicians and civil servants are now routinely targeted by digital surveillance, blackmail and online harassment. Government systems are vulnerable to hacking and coordinated disruption. Public officials have had their social media accounts compromised, their personal communications exposed, and their public images distorted through Deepfakes. Police officers are regularly filmed, their conduct parsed and judged in real time by thousands of online observers. The doxing of civil servants, politicians or their advisers has become common, resulting in targeted harassment, intimidation and violence. Female politicians in particular are subjected to relentless online abuse—a phenomenon not unique to the internet, but vastly amplified by it.

This phenomenon—a form of reversed vertical privacy, where a myriad little brothers can effectively target big brother—calls into question the foundational assumptions of the human rights regime. If fundamental rights were developed to guard against asymmetric power, and if power is increasingly dispersed across the digital terrain, then the rights themselves must evolve accordingly. Over time, this may require a reimagining of the legal position of the state and its representatives, and a more explicit recognition that they, too, are entitled to the same privacy protections that once applied only to those they were meant to serve.

3. RIGHT TO PRIVATE IN PUBLIC

The right to privacy was initially adopted to protect the private sphere, just as the right to data protection was introduced to regulate the processing of personal data. Over time, both the ECtHR and the CJEU have expanded the scope and meaning of these rights. In doing so, they have adopted interpretations that diverge sharply from, for instance, the American legal tradition, where the processing of public data is largely unconstrained, privacy rights in public settings are limited, and public figures are expected to tolerate considerable intrusions into their private lives.²⁰

In contrast, the European framework is built around the notion of a reasonable expectation of privacy, which can be invoked even in professional and public contexts. The European Court of Human Rights has found, for example, that business premises may constitute an employee's "home", that "private life" extends into the workplace, and that "correspondence" includes communication conducted over business phones. It has held that suspects can invoke privacy protections against systematic surveillance while in a police station. When a university installed recording devices in classrooms—ostensibly to evaluate teaching performance—the Court accepted that while such classrooms are not private places in the traditional sense, they are nonetheless spaces in which social relationships are formed. For that reason, lecturers could reasonably expect a degree of privacy in those settings.²¹

This expectation may even survive voluntary disclosures. In one case, an individual employed by the Probation Service, working with sex offenders, also ran a business supplying BDSM products and organising related performances, propagating male domination over women, with photos of his acts circulated online. While his activities had been conducted publicly and his identity linked to an explicit website, the Court nevertheless acknowledged that the performances occurred in spaces frequented by like-minded individuals, and that the photographs were anonymised. The Court was thus willing to proceed on the assumption that the applicant retained a reasonable expectation of privacy, despite the openness of his conduct.²²

That expectation can also extend to illegal activity. In a case involving a man whose internet connection was used to distribute child pornography, the Court found that he nevertheless had a legitimate expectation that his identity would remain undisclosed. Although his dynamic IP address had not been concealed, this was not considered determinative. The Court reiterated that online anonymity is a key element of privacy and stressed that dynamic IP addresses cannot, without additional verification, be directly linked to an individual. In its view, the secrecy of correspondence demands that any interference must be based on legal authority, such as a court order. It concluded that

the applicant's expectation of privacy, even in this context, was neither unreasonable nor unwarranted.²³

Alongside the reasonable expectation of privacy, the Court recognises the concept of a legitimate expectation, which applies primarily to media disclosures about celebrities and politicians. While freedom of expression carries considerable weight, particularly given the press's role in a democratic society, the Court will find a violation of privacy when publications concern private matters unrelated to public roles. One such case involved reports of an alleged affair between a country's First Lady and a far-right party leader. As the First Lady held no official position, the Court ruled that the disclosure violated her legitimate expectation of privacy.²⁴ Similarly, even where material has already entered the public domain, the Court has found that its further exploitation may constitute an ongoing breach. In one case, a well-known journalist was filmed having sex with her partner; although a newspaper merely alluded to the video, without publishing it, the Court ruled that referencing the leak—especially in a mocking tone—served no public interest and merely deepened the harm caused by the original violation.²⁵

In parallel, the CJEU, along with data protection authorities, has interpreted the notion of personal data broadly. Personal data includes any information relating to an identifiable person, whether directly or indirectly—for example, a reference to “the neighbour who owns the red Ferrari”. It encompasses both private and public information, sensitive and non-sensitive content, and covers data that may not currently identify a person but could do so in the future, in light of technological developments. Even when an organisation is unable to name a data subject, if it can single them out—for example, by tracking their behaviour online via cookies or IP addresses—the data are considered personal, and the GDPR applies.

Yet despite the expansive interpretations of both “private life” under Article 8 ECHR and “personal data” under the GDPR, both frameworks remain tethered to a foundational distinction between the private and public spheres, and between personal and non-personal data. The ECtHR continues to impose a higher threshold for privacy violations in public spaces, especially for public figures. The EU, for its part, preserves a categorical separation between personal and non-personal data and actively promotes the sharing of the latter through instruments such as the Regulation on the Free Flow of Non-Personal Data.²⁶ The validity of these underlying distinctions, however, is increasingly in doubt. As this book has shown, private life now unfolds largely in public and semi-public domains—in workplaces, on shared platforms, through digital devices. The distinction between personal and non-personal data is similarly eroded by the characteristics of modern data processing, especially in the context of Big Data and AI.²⁷

First, distinctions between categories of data presuppose relative stability. But in practice, data flows are dynamic. A dataset that once contained innocuous personal data may be enriched with other datasets to reveal sensitive insights; the resulting dataset may then be anonymised, aggregated or pseudonymised, and later deanonymised or re-identified—often automatically, and within moments. What begins as one kind of data may become another in an instant. Second, it has become increasingly difficult to determine what constitutes personal data in practice. The GDPR states that the likelihood of identification depends on available means, including future developments. In reality, given the proliferation of data processing tools and the ease of access to complementary datasets, it is increasingly likely that even anonymised data can be re-identified. At the same time, not all parties will use such data in this way. The status of data is no longer an inherent property, but depends on the intentions, capacities and choices of the data controller. Legal categories follow conduct, not content, and that conduct may vary among the different data controllers having access to the data. Third, it is unclear whether the distinctions drawn between personal and non-personal data—or between ordinary and sensitive data—still capture the relevant harms. The assumption has long been that personal data directly affect individuals, while non-personal data do not, and that sensitive data require the highest safeguards. But these assumptions are increasingly hard to sustain. Intelligence agencies, for instance, often prioritise metadata over content data because of its strategic value. Seemingly benign data, when processed in the aggregate, can produce deeply personal consequences through risk profiling. The same applies to processing “ordinary” personal data, which may be profoundly sensitive despite not being classified as such under the GDPR.

For these reasons, the privacy framework may need to move beyond the dichotomy of private and public life, recognising that individuals’ private lives unfold across environments—in their homes, certainly, but also in workplaces, on social media, on public streets and within algorithmic systems. Likewise, the data protection regime may need to abandon the binary between personal and non-personal data, acknowledging that the impact of data processing does not always correlate with these legal categories. In some cases, the processing of sensitive personal data may be benign or even beneficial. In others, the processing of non-personal, aggregated or pseudonymised data may result in serious harm—to individuals, to groups, and to society at large.

4. CONCLUSION

The contemporary regulatory framework rests on a foundational distinction between the private and the public. It protects private rather than public life, concerns itself with the private domain rather than the public realm, and limits

the processing of personal rather than non-personal data. This focus is both logical and historically effective. After all, the *raison d'être* of the rights to privacy and data protection has been to secure spaces of seclusion for individuals and to mitigate the risks posed by the processing of personal, not statistical or aggregate, data.

Yet it has become increasingly clear that these assumptions no longer hold in the data-saturated environments of the present day. In response, both the European Court of Human Rights and the Court of Justice of the European Union have gradually expanded the material scope of these rights—so much so that critics now warn of doctrinal overreach and the erosion of their conceptual core. This chapter has taken the opposite view: that rather than curbing this expansion, the trajectory ought to be completed. It has argued that the boundary between private and public should be reimagined—on the one hand, by abolishing the household exemption and extending privacy protections to public officials, and on the other hand, by recognising privacy rights in professional and public settings and extending data protection norms to non-personal data.²⁸

At the same time, each of these proposals brings its own complexities. Removing the household exemption implies that supervisory authorities may scrutinise data processing within the intimate confines of the home. Granting full privacy protections to politicians, civil servants, and state bodies may come at the expense of transparency and accountability, cornerstones of vital democracies. Recognising privacy rights in public and professional contexts and applying data protection rules to non-personal data risks expanding the material scope of both rights to the point of legal omnipresence.

These are not trivial concerns. But neither are they prohibitive. What they demand is a fundamental reconsideration of the architecture and foundational principles of the current regulatory model. That is the task to which the final chapter of this book—Chapter 20—will turn.

NOTES

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4. Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC.
5. EDPB Guidelines 07/2020 on the concepts of controller and processor in the GDPR.
6. Article 26 GDPR.
7. Regulation (EU) 2018/1807 of the European Parliament and of the Council of 14 November 2018 on a framework for the free flow of non-personal data in the European Union.
8. Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act).
9. Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act).
10. Regulation (EU) 2022/868 of the European Parliament and of the Council of 30 May 2022 on European data governance and amending Regulation (EU) 2018/1724 (Data Governance Act).
11. Regulation (EU) 2023/2854 of the European Parliament and of the Council of 13 December 2023 on harmonised rules on fair access to and use of data and amending Regulation (EU) 2017/2394 and Directive (EU) 2020/1828 (Data Act).
12. Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act).
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14. Recital 26 GDPR.
15. Recital 18 GDPR.
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19. See further: Mokrosinska, D. (2020). Why states have no right to privacy, but may be entitled to secrecy: a non-consequentialist defense of state secrecy. *Critical Review of International Social and Political Philosophy*, 23(4), 415–444.

20. The examples below have been described and discussed in more detail in: Van der Sloot, B (2022). Expectations of privacy: the three tests deployed by the European Court of Human Rights. In Hallinan, D, Leenes, R, & De Hert, P (eds). *Data protection and privacy, volume 14: enforcing rights in a changing world*. Oxford: Bloomsbury Publishing, pp. 67–96.
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22. ECtHR, *Pay v. UK*, Application no. 32792/05, 16 September 2008.
23. ECtHR, *Benedik v. Slovenia*, Application no. 62357/14, 24 April 2018.
24. ECtHR, *Standard Verlag GMBH v. Austria (No 2)*, Application no. 21277/05, 4 June 2009.
25. ECtHR, *Khadija Ismayilova v. Azerbaijan (No 3)*, Application no. 35283/14, 7 May 2020.
26. Regulation (EU) 2018/1807 of the European Parliament and of the Council of 14 November 2018 on a framework for the free flow of non-personal data in the European Union.
27. See more elaborate on these points: Van der Sloot, B., Van Schendel, S., & López, C. A. F. (2022). *The influence of (technical) developments on the concept of personal data in relation to the GDPR*. The Hague: WODC.
28. A substantive point that remains underexplored—but is both relevant and closely connected—is the blurring distinction between public and private sector organisations. Public–private partnerships continue to proliferate, frequently resulting in private entities processing data that public authorities themselves are prohibited from collecting, all while performing tasks in the public interest and exerting influence over the public sphere. In practice, this trend enables a circumvention of the stricter transparency, accountability, and participatory requirements traditionally imposed on public sector actors. A similar erosion is evident within the public sector itself. Government bodies—such as tax authorities, law enforcement agencies, and municipalities—each possess distinct legal mandates, competences, and limitations. Yet the increasing interconnectivity of their operations, whether through formal data-sharing agreements or shared infrastructure, often means that the most permissive legal standard prevails. For example, agency X may not be authorised to collect certain data directly but can nonetheless access them via agency Y, which does have broader collection powers and shares its data accordingly. This dynamic extends to the international sphere as well. The European Court of Human Rights has cautioned against European intelligence services receiving data from their non-European counterparts, noting that the methods of collection may not meet European legal standards. If, for instance, US intelligence agencies operate under looser constraints than their European equivalents, they may gather information that European services cannot legally obtain themselves—and then simply transfer it to them. This not only undermines European legal safeguards but also invites a form of regulatory arbitrage that compromises fundamental rights. “Indeed, as the

Venice Commission noted, as States could use intelligence sharing to circumvent stronger domestic surveillance procedures and/or any legal limits which their agencies might be subject to as regards domestic intelligence operations, a suitable safeguard would be to provide that the bulk material transferred could only be searched if all the material requirements of a national search were fulfilled and this was duly authorised in the same way as a search of bulk material obtained by the signals intelligence agency using its own techniques.” ECtHR, *Big Brother Watch and Others v. United Kingdom* App nos 58170/13, 62322/14 and 24960/15, 13 September 2018.

16. Right to contextuality

The idea of a method that contains firm, unchanging, and absolutely binding principles for conducting the business of science meets considerable difficulty when confronted with the results of historical research. We find, then, that there is not a single rule, however plausible, and however firmly grounded in epistemology, that is not violated at some time or other. It becomes evident that such violations are not accidental events, they are not results of insufficient knowledge or of inattention which might have been avoided. On the contrary, we see that they are necessary for progress. Indeed, one of the most striking features of recent discussions in the history and philosophy of science is the realization that events and developments, such as the invention of atomism in antiquity, the Copernican Revolution, the rise of modern atomism (kinetic theory; dispersion theory; stereochemistry; quantum theory), the gradual emergence of the wave theory of light, occurred only because some thinkers either decided not to be bound by certain “obvious” methodological rules, or because they unwittingly broke them. This liberal practice, I repeat, is not just a fact of the history of science. It is both reasonable and absolutely necessary for the growth of knowledge. More specifically, one can show the following: given any rule, however “fundamental” or “rational”, there are always circumstances when it is advisable not only to ignore the rule, but to adopt its opposite.¹

1. INTRODUCTION

As any academic knows, the production of valid scientific knowledge requires adherence to a rigorous set of methodological standards. Similarly, statistical agencies must operate under clearly defined rules designed to ensure the accuracy and reliability of their outputs. The GDPR makes this explicit: “In order to ensure fair and transparent processing in respect of the data subject, taking into account the specific circumstances and context in which the personal data are processed, the controller should use appropriate mathematical or statistical procedures for the profiling, implement technical and organisational measures

appropriate to ensure, in particular, that factors which result in inaccuracies in personal data are corrected and the risk of errors is minimised.”² The Treaty on the Functioning of the European Union echoes this concern, holding that the “production of Union statistics shall conform to impartiality, reliability, objectivity, scientific independence, cost-effectiveness and statistical confidentiality; it shall not entail excessive burdens on economic operators.”³

These principles are further elaborated in the Regulation on European Statistics⁴ and the European Statistics Code of Practice,⁵ which set out standards including objective compilation, relevant expertise and training, prior testing, continuous monitoring, rigorous editing, comprehensive documentation, internal coherence, cross-temporal comparability, and public transparency of methods and procedures.

Such requirements are essential because, as described in Part III of this book, data are never neutral and data processing is invariably shaped by bias. The ways in which data are collected shape the structure of the resulting dataset. The manner in which data are labelled and categorised is shaped by cultural assumptions, technical constraints, and institutional aims. Most datasets suffer from representation gaps and blind spots; modelling techniques aim to compensate for these gaps, but rely in turn on other assumptions and simplifications. Identical categories in different datasets may refer to entirely different populations, as they are defined along different parameters. Especially when dealing with scraped data, historical archives, or third-party data, the provenance of information is often unclear, which means that updating or combining datasets invariably introduces anomalies. Algorithms themselves are not neutral agents but artefacts of human choices, shaped by initial training data, subsequent self-learning, and specific optimisation goals. Their outputs are probabilistic—always producing some number of false positives and false negatives—and while their mechanisms are built on correlations, their results are often interpreted, wrongly, as causal.

One of the central promises of Big Data and modern AI-driven analytics is to displace the traditional limitations and conditions for reliable knowledge production. As the former editor-in-chief of *Wired* provocatively put it, the scientific community is premised on the belief that data “without a model is just noise. But faced with massive data, this approach to science — hypothesise, model, test — is becoming obsolete.” One of the main ideas driving the Big Data trend was that it could undo science of all established scientific requirements. “Learning to use a ‘computer’ of this scale may be challenging. But the opportunity is great: The new availability of huge amounts of data, along with the statistical tools to crunch these numbers, offers a whole new way of understanding the world. Correlation supersedes causation, and science can advance even without coherent models, unified theories, or really any mechanistic explanation at all. There’s no reason to cling to our old ways. It’s time

to ask: What can science learn from Google?"⁶ Indeed, already, a Nobel Prize has been awarded for AI-enabled research.⁷

The idea is that Big Data systems can operate on unstructured or “dirty” data, finding useful insights in datasets that are noisy, incomplete, or improperly labelled. Whether a given data point is correct becomes irrelevant, as the systems seek aggregate patterns rather than individual precision. Whether the data are outdated or incomplete is also said to matter less, as algorithms can fill in the gaps through probabilistic inference and modelling. Not only do these systems claim to be faster and more efficient than traditional scientific methods, but—because they operate on a different epistemic logic—they promise to uncover insights beyond the reach of human cognition. This, undoubtedly, is part of the truth. But it is only part. The same systems that reveal hidden patterns also generate mistakes, hallucinations, unfounded correlations and misleading inferences.

Big Data would be capable of operating on unstructured datasets and so-called “dirty data”, meaning that AI would be able to find its way through random datasets and harvested data that have not been adequately labelled. It would not matter whether individual data is correct or not, because these systems uncover aggregate patterns to which individual data points as such are irrelevant. Similarly, it would not matter whether the data are outdated or incomplete, as algorithms would be able to fill the gaps through advanced modelling. Not only would these systems produce knowledge quicker and more efficiently than would be possible through traditional scientific and statistical means, as the traditional requirements and checks and balances would no longer apply, because these systems operate on a different logic and intelligence, but also they would be able to find new insights which humans would not be able to produce. This, of course, is true, but it is only one side of the coin; mistakes, misguided correlations, hallucinations, false conclusions, and so forth, are the other.

Moreover, while organisations have a natural incentive to improve the efficacy of their systems, they also have strong reasons to simulate effectiveness. Private companies must market their technologies to clients and reassure shareholders. Public agencies, too, often sell on a dream, projecting competence and technological sophistication. But doubts remain. Personalised advertising, for instance, has never been shown to outperform more traditional forms of targeted or contextual advertising. Mass surveillance by intelligence agencies is similarly contested. As critics have pointed out, these agencies are searching for needles in a haystack—only to build a larger haystack.⁸

The effectiveness of many of these systems is difficult to assess. Private firms are under no obligation to submit their systems to independent testing and may invoke trade secrecy to withhold operational details. Intelligence agencies, understandably, do not disclose operational metrics for fear of aiding

malicious actors. In practice, then, public sector agencies remain the only actors subject to real oversight, auditing, and transparency. The picture that emerges is mixed at best. Across jurisdictions, there is no shortage of digital failures: communications systems launched years late and already obsolete, algorithms that entrench structural discrimination, digital projects that consume millions and deliver little. Many are eventually abandoned, their sunk costs absorbed. Others are kept alive in the hope that more data will yield better performance, or that further tuning will resolve technical weaknesses. In some cases, systems do yield gains in efficiency and effectiveness—but those gains are reversed when errors and biases produce litigation, compensation payments, and reputational or political damage. The conclusion often drawn is that public sector institutions are inept at managing technology. But it may also be that they are the only ones subject to sufficient scrutiny for their failures to come to light.

This chapter turns to one of the defining traits of modern data processing: decontextualisation. As explained in Part III, and in particular Chapters 8 and 11, data are often treated as isolated points, stripped of relational meaning. Information from one domain is used to make predictions in another; general patterns are applied to individual cases; the specificity of context is sacrificed for the efficiency of abstraction. Decontextualisation is a condition of possibility for these systems, but also a source of distortion, inaccuracy, and discrimination. Yet the current legal framework—still shaped by the logic of data minimisation—effectively reinforces decontextualisation. That is why this chapter will argue for a new principle: a requirement of minimum context, obliging data controllers to gather and consider sufficient information before drawing conclusions (Section 2). It will also explore how the legal framework's anthropocentric orientation—designed around human biases and decision-making—makes it poorly equipped to address the distinctive risks posed by AI. Instead of prohibiting algorithmic discrimination, the law should require that automated systems discriminate on legitimate and appropriate grounds (Section 3).

2. RIGHT TO DATA MINIMUMISATION

The throughput of data processing can be roughly divided into three phases: the collection and storage of data, the preparation and analysis of data, and the use of data and data analytics for action or decision-making. The GDPR primarily targets the first of these phases—namely, the gathering of data—and only marginally addresses their eventual use. The intermediate phase, the preparation and analysis of data, is largely left untouched.

With respect to the gathering and storage of data, the general approach of the GDPR is to minimise the amount of personal data collected and retained

by controllers. The assumption is straightforward: the less data are processed, the smaller the interference with the rights to privacy and data protection, and the lower the risks—whether in terms of leaks, misuse, or other adverse effects. The GDPR enshrines this logic through several interrelated principles. The purpose specification principle requires controllers to define a specific purpose in advance, precluding a practice in which data are collected speculatively, without clear rationale. The purpose must be precise and not merely generic, excluding vague formulations such as “service improvement” or “analytics”. The data minimisation principle stipulates that data must be “adequate, relevant and limited to what is necessary” for the specified purpose, preventing the indiscriminate collection of loosely related or potentially interesting information. The purpose limitation principle restricts further use of data to what is compatible with the original purpose, closing the door to repurposing legacy data or utilising third-party data for new and unrelated ends. The storage limitation principle requires data to be kept no longer than necessary, obliging controllers to delete personal data once the initial objective has been fulfilled. Beyond these normative commitments, the GDPR also requires controllers to embed these limitations in technical systems and organisational practices “by design and by default”. Controllers must ensure, at every stage of processing, that personal data are collected, stored, and accessed strictly in accordance with necessity and proportionality. In particular, personal data must not be made accessible to third parties without good ground, but remain confidential.⁹

The problem with the GDPR’s heavy emphasis on the first phase of data processing—and on minimisation in particular—is twofold.

First, it is premised on conceptions of how data processing operates that date back to the 1990s, arguably even the 1970s. The essential logic of Big Data, Artificial Intelligence, and other contemporary technologies runs counter to almost all of these principles. As data storage has become virtually costless, organisations now routinely store data indefinitely, not least to enable longitudinal analyses and behavioural profiling. Because data gathering is cheap and frictionless, both public and private actors cast an ever-wider net, deferring the question of relevance to a later analytical phase. The function and purpose of data are often discovered post hoc, through correlation and pattern recognition. Data sharing with preferred partners is ever more common and unlocking data through open data platforms is increasingly mandated. In this respect, the legal regime is so out of step with current practices that its principles often remain unheeded.

Second, minimisation captures only one side of the problem. It is true that indiscriminate collection, indefinite storage, and speculative repurposing of data raise serious risks. Yet an exclusive focus on minimisation can obscure a different but equally pressing concern: the risk of undercontextualised or impoverished data processing. A richer and more effective approach would

be to complement the current regime with a requirement of data minimisation—a duty to ensure that a minimum amount of relevant data is collected and retained.¹⁰

Such an obligation would serve at least three goals. First, it would enhance the value of the dataset itself. Incentivising controllers to gather contextually relevant information can lead to more meaningful insights and better-grounded outcomes. Second, it would help preserve the contextual integrity of data throughout the phases of collection, analysis, and use. Third, it would help resolve an enduring legal tension concerning the processing of sensitive data. Under the GDPR, the collection of data revealing race, religion, or sexual orientation is, in principle, prohibited unless specific exceptions apply. This provision is aimed at protecting against discrimination. Yet discriminatory outcomes can still result from processing datasets that include no sensitive attributes, if only through proxy variables or indirect correlations—for example, postal codes or consumption patterns that are closely linked with ethnicity or class. Ironically, one cannot test for discrimination without access to sensitive data. While legal interpretations differ, many organisations err on the side of caution and refrain from collecting sensitive data even for the purposes of fairness testing.

A principle of data minimisation would align with other obligations under the GDPR, including the requirement of data quality (Chapter 17) and the provisions on profiling and automated decision-making (Chapter 18). In the first phase, controllers would be required to collect sufficient contextual information to assess the provenance and relevance of the data, including how the data were gathered. In the second phase, analysis would have to operate on bundles of data rather than isolated points, and would need to be accompanied by information about labelling practices, limitations, and known biases. In the third phase, the use of any derived insights—patterns, correlations, profiles—would be permissible only if accompanied by the relevant contextual metadata that informed their production.

3. RIGHT TO DISCRIMINATION

Privacy and data protection laws are also intended to prevent and address discriminatory practices. Article 9 GDPR limits the processing of sensitive personal data. The categories listed in that provision—data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, as well as genetic, biometric, health-related, and sexual orientation data—reflect a convergence of concerns found in Article 8 ECHR (privacy-sensitive data) and Article 14 ECHR (grounds for prohibited discrimination: “The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race,

colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status”).

This conceptual fusion dates back to Europe’s first data protection instrument, the 1973 Resolution on the processing of personal data in the private sector. Article 1 of that resolution stated: “In general, information relating to the intimate private life of persons or information which might lead to unfair discrimination should not be recorded or, if recorded, should not be disseminated.” The accompanying explanatory memorandum provided: “Examples of information concerning a person’s intimate private life are: information about his behaviour at home, his sexual life, his opinions etc. An example of information which may lead to unfair discrimination is that about his state of health, or his past criminal record. The text of this principle makes a distinction between the keeping and the release of this kind of information. Even though in general it is not allowed to record such information, there may be exceptions to this rule, for example in the case of a counselling agency for alcoholics, or of a political party. In such cases the dissemination of the information is not allowed, however.”

The intention was to strictly curtail the processing of sensitive personal information, particularly by private entities. Over time, however, the number of exceptions to this prohibition has steadily expanded. Under the GDPR, there are now ten broad bases on which sensitive data may lawfully be processed, effectively eroding the protective distinction between ordinary and sensitive personal data. These grounds include, among others, explicit consent, employment-related obligations, vital interests, processing by not-for-profit bodies, data made manifestly public, legal claims, substantial public interest, public health, medical care, and research or archiving purposes. The GDPR also prohibits profiling based on sensitive data—yet again, only in principle, as this too is subject to numerous exceptions (see Chapter 18).

A more fundamental problem, however, is that the contemporary legal framework is premised on a model of human decision-making, which does not align with the architecture of algorithmic systems.¹¹ To begin with, the categories listed in Article 14 ECHR reflect characteristics on the basis of which humans have historically discriminated. Algorithms may replicate such bias when trained on historical datasets. But they may also discriminate along dimensions that do not fall within the traditional legal purview—such as smartphone usage, dietary habits, or physical appearance. Although Article 14 ends with the phrase “or other status”, the European Court of Human Rights has interpreted this clause conservatively, meaning that most algorithmic distinctions fall outside the provision’s scope. Second, anti-discrimination law assumes a relatively limited set of determinative factors—suitable for assessing human decisions, which are often consciously made and comparatively static. By contrast, algorithmic decisions may be based on hundreds or

thousands of variables. Not only is it difficult to isolate the impact of any one factor, but the relative weight and interaction of variables are often dynamic, shifting over time and across contexts. This renders causal reconstruction increasingly implausible. Third, anti-discrimination law is built around the distinction between direct and indirect discrimination: either decisions are explicitly based on protected characteristics, or they produce disproportionate effects along those lines. But modern data systems often function as a preparatory layer for decision-making—through risk assessments, categorisation, or resource allocation—that profoundly shape downstream outcomes without constituting a decision in themselves. For example, if a municipality relies predominantly on data from affluent, white-majority neighbourhoods, its service delivery may be ill-suited or even detrimental to more marginalised areas—even if formal equality is maintained in policy design.

Addressing these deficiencies would require rethinking anti-discrimination law at a structural level. Paradoxically, this may entail returning to the original impetus for laying down non-discrimination principles in the post-war human rights architecture. The ECHR was not drafted to grant individuals expansive subjective rights, but to limit the arbitrary use of power by states. The Convention permits invasions of privacy, restrictions on expression, and prohibitions on assembly—but only when justified by a compelling reason. Likewise, it permits differential treatment—but only when grounded in relevant, legitimate aims. If police obtain credible intelligence that a terrorist plot is being planned within a small Mormon community, targeted surveillance may be justified. If they receive specific information identifying a Muslim male between 20 and 30 as a suspect, they are not only permitted but arguably required to act on that information. A general sweep of the area, by contrast, subjecting all present—including elderly women—to intrusive searches would likely breach human rights norms.

The lesson here is not that discrimination must be avoided at all costs, but that differential treatment must be relevant to its context. In this sense, human rights do not forbid the state from discriminating; they require it to do so appropriately. The question, then, is not whether a particular data point falls within a protected category, but whether its use is relevant to the objective being pursued. The real issue is with the legitimacy of the goals pursued and the effectiveness of the means deployed. If a country prioritises the prosecution of petty theft and drug offences while devoting little attention to tax evasion or corporate malfeasance, it is already enacting a form of structural bias—one that disproportionately targets certain social groups. But once a goal is deemed acceptable within a democratic society, then all relevant data—whether protected or not—should be admissible to support that end. If, for instance, 95% of tax fraud is committed by affluent white men, or if a bizarre but empirically grounded correlation emerges (e.g. a longer index than ring finger strongly

correlates with fraud), such information should be usable—provided its use is proportional, accountable, and non-arbitrary.

4. CONCLUSION

The contemporary legal framework is rightly grounded in values such as data minimisation and the prevention of discrimination. Data minimisation serves to limit interferences with the rights to privacy and data protection, while also reducing the risks of data breaches and misuse. Likewise, the prohibition of bias and discrimination addresses one of the most pernicious risks of data-driven policy and decision-making—risks that have, historically, led to the marginalisation of individuals and to patterns of structural inequality.

Yet, the data minimisation principle stands in sharp tension with the realities of contemporary data practices and risks becoming obsolete. More crucially, while it seeks to limit harm, it fails to address another defining risk of modern data processing: decontextualisation. By reducing the scope of data collection, the principle may actually exacerbate the loss of context, thereby undermining the quality and fairness of decisions. At the same time, anti-discrimination provisions are designed around human decision-making processes and prove ill-equipped to confront the biases embedded in algorithmic systems.

That is why this chapter has proposed two complementary principles aimed at reintroducing contextuality into the legal regime. First, a principle of data minimumisation, which would oblige data controllers to preserve contextual integrity—by retaining metadata on how data were gathered, labelled, and analysed, and by ensuring that data are interpreted with due regard for their surrounding context. Second, a principle of relevant discrimination, requiring governmental agencies, in particular, to differentiate as precisely and justifiably as possible, in order to minimise arbitrariness and reduce the blunt use of force.

Each of these proposals, however, brings its own complications. Data minimisation may be opportunistically invoked by private actors to justify ever-expanding data collection. Encouraging public authorities to “discriminate” on relevant grounds risks opening a Pandora’s box: what counts as relevant? Who decides? Moreover, the suggestion that legality should hinge not on whether specific data are used, but whether the overarching policy goal is legitimate within a democratic society, may weaken the judiciary’s capacity to act as a check on democratic excess. Courts are rightly cautious in questioning the legitimacy of democratically enacted policies, and doing so more forcefully could provoke backlash and further fuel populist resistance to institutional oversight.

None of these concerns are insurmountable. But they do require a fundamental rethinking of the assumptions, architecture, and priorities of the

contemporary regulatory order. That is the task to which the final chapter of this book—Chapter 20—will turn.

NOTES

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17. Right to fiction

James Baldwin: If I love you, I can't lie to you.

Nikki Giovanni: Of course you can lie to me. And you will. If you love me and you're going off Mattie some place, you're lying to me. 'Cause what the hell do I care about the truth? I care if you're there. What Billie Holiday say? "Hush now. Don't explain."

JB: Alright. I accept that.

NG: Of course.

JB: I accept that.

NG: Of course you love me. And I don't even want to care. And what does the truth matter? Why you gonna be truthful with me when you lie to everybody else? You lied when you smiled at the cracker down at the job. Right? Lie to me! Smile! Treat me the same way you would treat him.

JB: I can't treat you the same way I would treat him.

NG: You must! You must! Because I've caught the frowns and the anger. He's happy with you. Of course he doesn't know you're unhappy. You grin at him all day long. You come home and I catch hell. Because I love you, I get the least of you; I get the very minimum. And I'm saying, you know, fake it with me. Is that too much for the Black woman to ask of the Black man?¹

1. INTRODUCTION

Alongside the prohibition of discrimination, the very first article of the first European data protection instrument—the 1973 Resolution on data processing in the private sector—introduced the accuracy principle: “The information stored should be accurate and should be kept up to date.”² As the accompanying explanatory memorandum stressed: “Computerised information can give a semblance of special reliability. Mistakes may cause serious damage, because of the intensive use that can be made of the data.” In addition, Article 7 provided: “Every care should be taken to correct inaccurate information and to erase obsolete information or information obtained in an unlawful way.” Still, the explanatory report signalled a bit of doubt about incorporating the latter provision, among other reasons because it was felt to be superfluous as commercial parties would have an incentive to keep the data correct and up to date.

The subsequent 1974 Resolution on data processing in the public sector reiterated these principles, while adding an important caveat for statistical agencies. “It was recognised that it may be impracticable or uneconomic to maintain statistical information to near perfect accuracy and to keep it absolutely up-to-date. In so far as information is provided by the individuals who are the subject of the information the accuracy of such information depends on the individuals themselves and it generally makes little difference to an individual if statistical records relating to him are not entirely accurate or up-to-date. It should also be borne in mind that when the purpose of the system is to analyse a certain set of facts, there will be no question of updating.”³

The principles have remained almost unaltered under the GDPR, which specifies that data must be kept “accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay”⁴ contains exceptions for processing of personal data for statistical purposes and harbours a right to rectification: “The data subject shall have the right to obtain from the controller without undue delay the rectification of inaccurate personal data concerning him or her. Taking into account the purposes of the processing, the data subject shall have the right to have incomplete personal data completed, including by means of providing a supplementary statement.”⁵

It is thus clear that truthfulness and accuracy are central to the European data protection framework. What remains unclear, however—as discussed in Chapter 1—is what counts as reality, which factors should be considered in determining it, and who has the final say when that reality is contested.⁶

Suppose a person is biologically and legally male, but self-identifies as female, while a social media platform profiles them as male. Or suppose

someone sees themselves as straight and progressive, while an algorithm categorises them as gay and right-wing. Can such a person invoke their right to rectification? Must data controllers defer to how individuals self-identify, or does some external standard of truth prevail? Should a court be tasked with determining what biographical facts are “correct”? If so, would this require data controllers to justify why they have classified someone as gay, male, or politically conservative—and would it then fall to the individual to prove otherwise? Either scenario risks deeply uncomfortable consequences.⁷

A similar dilemma arises when it comes to risk profiling. Suppose a bank, using data analytics, concludes that a customer is high-risk or untrustworthy. Can the customer demand that additional information be taken into account to nuance or revise that assessment? Should the bank be required to integrate all data that the individual considers relevant to their character or financial behaviour? The GDPR offers no guidance on how far the data quality principle stretches in such cases, or what obligations it places on data controllers faced with contested or ambiguous personal realities.

As explored throughout this book, and in particular in Chapters 5 and 6, what complicates establishing ground truths is that individuals do not relate to themselves or their world in direct or unmediated ways. Human beings access reality through layers of interpretation, construct their identities through forms of role-playing, and often prefer to inhabit a world shaped by fantasy. Part III of this book, particularly Chapters 8, 9 and 10, uncovered the many ways in which Artificial Intelligence shapes these tendencies: it mediates our experience through augmented and virtual realities, facilitates new forms of identity play, and reinforces echo chambers that reflect our preferred self-image. Simultaneously, it presses us ceaselessly with unvarnished data and cold facts, narrowing the space in which individual's can create their own personal narrative, a process that requires sustaining fictions.

This suggests that while the commitment to truthfulness and accuracy is commendable, it is also incomplete. The legal framework may need to accommodate a countervailing principle: a right to fiction. This chapter explores two legal doctrines that already gesture in that direction. Section 2 examines the right not to know—especially in the context of genetic or medical information—as an instance where truth can legitimately be withheld. Section 3 turns to the right to erasure, better known as the “right to be forgotten”, which allows individuals to request the deletion of historically accurate but potentially damaging information about themselves.

2. RIGHT TO IGNORANCE

While the contemporary legal framework includes doctrines that limit the extent to which public and private actors may gather information about

individuals, it offers scant protection against individuals being confronted with unwanted information about themselves. The law proceeds from the assumption that the individual already possesses knowledge of their own identity and circumstances, and that legal protections are needed to control others' access to that information. The regulatory focus, accordingly, is on affording individuals control—over who can access their data, enter their home, or examine their body.

Yet, as has been discussed throughout this book, that foundational premise is increasingly reversed. Today, third parties often possess data about our past, present, and future that we ourselves do not have—and may prefer not to acquire. The current regulatory regime does little to address this shift. Still, there are two existing legal doctrines that could serve as building blocks for more robust protection against involuntary exposure to narrative-disrupting information.

One general precursor is found in the prohibition on spam. The e-Privacy Directive ties this to the GDPR's emphasis on consent and data subject autonomy, as well as the purpose limitation principle. It provides that the use of automated calling systems or electronic mail for direct marketing is permissible only with prior consent. An exception is made when contact details are obtained in the context of a sale and used for marketing similar products or services, provided the recipient is given a clear and easy opportunity to opt out.⁸ Although this provision can shield individuals from specific unwanted content, its primary aim is not to protect personal narratives, but to relieve people from information overload. As the Directive notes, unsolicited marketing imposes burdens and costs, both in terms of individual privacy and on communications infrastructure. The concern is volume—not the potential for confrontation with conflicting or distressing information.⁹

A more tailored doctrine is the “right not to know”, as it has developed in medical contexts.¹⁰ While the notion had long been informally respected—most doctors, when asked, would refrain from disclosing unwanted information—advances in biomedical testing, particularly in genomics, prompted its formal recognition. A single tissue sample may reveal not only the condition tested for, but also a host of other actual or potential health issues. Patients may wish to know some of these outcomes, but not others. Article 10 of the European Convention on Human Rights and Biomedicine provides: “(1) Everyone has the right to respect for private life in relation to information about his or her health. (2) Everyone is entitled to know any information collected about his or her health. However, the wishes of individuals not to be so informed shall be observed. (3) In exceptional cases, restrictions may be placed by law on the exercise of the rights contained in paragraph 2 in the interests of the patient.”¹¹

The right not to know rests on two main rationales: autonomy and harm prevention. It supports the view that patients should decide not only which treatments to undergo, but also whether, and to what extent, they wish to receive information about their medical condition. The harm principle recognises that some diagnoses can be psychologically devastating, especially when no effective treatment is available. This right, however, is not absolute.¹² It may be overridden in light of the rights of others, the professional duties of care owed by medical practitioners, or broader societal interests. For example, when knowing about a disease could allow the patient to take preventive measures, or when non-disclosure poses a risk to others—such as in the case of contagious or hereditary conditions—the duty to inform may prevail. It is also possible to restrict the right not to know in the patient’s own best interest.¹³ “[I]t may be of vital importance for patients to know certain facts about their health, even though they have expressed the wish not to know them. For example, the knowledge that they have a predisposition to a disease might be the only way to enable them to take potentially effective (preventive) measures. In this case, a doctor’s duty to provide care ... might conflict with the patient’s right not to know.”¹⁴

Even so, medical professionals often comply with a patient’s request not to know, typically by limiting the scope of diagnostic testing to the information the patient seeks. This practice can be viewed as a form of wilful blindness. And while the doctrine has its virtues, its justifications are not beyond critique. First, autonomy is compromised by the very condition the patient seeks to remain unaware of. The illnesses patients are most inclined to invoke the right not to know on are often those with life-altering or terminal conditions—circumstances that threaten to erode meaningful autonomy in any case. Permitting someone to believe they remain in control, while in fact they are not, allows them to inhabit a fictional self-image. It privileges the narrator over the agent (see Chapter 10). Second, while shielding patients from distressing information may reduce immediate psychological harm, it often comes at the cost of increased physical harm. Few diseases are entirely untreatable; early knowledge can often mitigate their progression or effects. The wish not to know may stem from irrational fear, misinformation, or denial, and one might question whether legal systems should enable such avoidance. While there may be fully informed, rational individuals who would still choose not to know, they are likely a small minority among those invoking the right.

Nevertheless, the right not to know stands as one of the few legal mechanisms designed to shield individuals from unsolicited, narrative-disrupting information. And while the right may be subject to valid criticism, so too is the dominant legal ideal of transparency and the presumed virtue of access to ever more information (see Chapter 18). This book has argued throughout that identity requires narrative coherence. To construct a self, individuals must make

a story of their lives—selecting and omitting events, emphasising certain episodes, linking disparate facts, and establishing causal continuity. This process is not one of objective reporting but of narrative authorship. As technologies increasingly enable third parties to challenge our narratives with counterfactuals, corrections, or revelations, the ability to curate one’s own identity may be seriously undermined. A legal recognition of the right not to know, and more broadly, a right not to be confronted with unsolicited truths, may be necessary to safeguard the fragile but essential capacity of individuals to become, and remain, themselves.

3. RIGHT TO OBLIVION

A doctrinal counterpart to the right not to know one’s current or presumed future self is the right to be shielded from confrontations with historical information about oneself. The so-called “right to be forgotten” is metaphorical in nature: law cannot erase memory, but it can require the deletion of representations of past events from databases—most notably online archives. A mundane yet illustrative example is that of a person who went through a brief goth phase in adolescence and no longer wishes to be confronted with photos from that time, nor to have others stumble upon them. In this sense, the right to erasure functions as a legal analogue to the psychological mechanism of suppression.

While the GDPR generally centres on the relationship between the data subject and the data controller, the right to erasure is distinct in its focus on data intermediaries. It does not apply to actual human memories, nor to many original data sources—whether because of the household exemption (see Chapter 15), or because of the protections of the freedom of expression, such as those applying to newspaper archives.¹⁵ Its application primarily concerns digital duplicates and online availability. In practice, most cases revolve not around the underlying data per se, but around the indexing and prioritisation of that data by internet intermediaries. A newspaper archive may host an old article, but it becomes far more consequential when that article is the top search result for a person’s name. When the right is successfully invoked, data controllers must inform any third parties with whom they have shared the data, so they too can delete their copies. Moreover, the GDPR provides that rectification or erasure must be communicated to every recipient of the data, unless doing so is impossible or entails disproportionate effort.¹⁶ Data controllers must inform all recipients of data of the request. Thus, if a controller has posted content online, to which the right to be forgotten applies, they must—in principle—contact everyone who has shared or reposted it to ensure removal.¹⁷

The right to erasure has a narrower scope under the GDPR than often assumed. It is the mirror image of the storage limitation principle: a person can request erasure when data are no longer necessary for the purposes for

which they were collected. It also parallels the requirement to have a valid legal ground for processing. If the data subject withdraws consent and no alternative ground exists,¹⁸ or if they successfully invoke their right to object to processing based on public interest or a controller's legitimate interest, the right to erasure can be claimed.¹⁹ In this sense, the right often restates the obvious: it gives individuals a formal mechanism to stop a controller from breaching the GDPR. A catch-all provision reinforces this, allowing erasure when processing is unlawful or when required by other legal obligations. In addition, the right is subject to key exceptions—particularly where data processing serves the freedom of expression, archiving, academic research, or statistical purposes. For example, while an individual may wish to erase a youthful photograph from circulation, their ability to do so may be limited if they are now a public figure and the image has relevance for public discourse.

While the GDPR consequently primarily frames the right to erasure in terms of compliance and legal necessity, judicial interpretations²⁰ and academic discourse²¹ point to at least three broader rationales.

First, the right protects against being perpetually defined by one's past. A bankruptcy twenty years ago, though factually correct, may unjustly shape perceptions of a person who has since rebuilt a successful career. This interpretation of the right mirrors how human memory functions: significant but outdated events tend to fade in relevance. The GDPR encourages a similar forgetting—particularly for childhood and adolescent missteps—to allow individuals to develop free from digital shadows.²² This solution addresses a uniquely digital dilemma: the persistence of online information that cannot be easily escaped or outgrown. Unlike in the physical world, one cannot simply change cities, jobs, or friend groups to leave the past behind (see Chapter 8). The digital domain permeates all spheres of life, and thus the GDPR's right to erasure seeks to give people space to curate their self-narrative. Yet neither the GDPR, nor academic literature or judicial interpretation, is entirely clear on potential conflicts that emerge. What constitutes "outdated" or "irrelevant" information?²³ Which facts are vital to democratic debate, and who decides? A failed business venture may be immaterial to one observer and deeply significant to another—such as an insurer assessing risk.

Second, the right supports personal reinvention even before it occurs. The legal basis for this rationale lies in the criminal justice traditions of various Member States, particularly France, where individuals who have served their sentence are entitled to a clean slate.²⁴ This benefits not only the individual—who is more likely to reintegrate successfully and avoid reoffending—but also society as a whole. It aligns with broader humanistic and religious ideals of redemption and second chances. This rationale differs from the first in scope and substance. It addresses serious events such as criminal convictions rather than youthful indiscretions, and it supports transformation not merely

by recognising that a person has changed, but by helping make that change possible. It acknowledges that self-reinvention often requires narrative pre-emption—allowing a person to act “as if” they are someone new in order to become so. In this way, the right to erasure enables individuals to project their own foreshadowing rather than having it imposed by others. Variations of this rationale are implemented through sector-specific duties, such as prohibiting employers from screening candidates’ social media or barring insurers from factoring in pre-existing conditions. But it also relies on an optimistic premise: that those seeking a clean slate truly wish to start anew. In reality, criminal justice systems often fail to rehabilitate. Consequently, many legal regimes impose limits, particularly for sexual offenders, where the risk to others outweighs the individual’s interest in erasure. Reminders of past wrongdoing—though painful—may serve a preventative role, akin to how former addicts benefit from ongoing support systems.

Third, and perhaps most fundamentally, the right to be forgotten is essential for identity formation. As explored in Chapter 10, individuals must construct a coherent narrative of their lives, one that necessarily involves selection, distortion, and omission. Identity, in this sense, is not a complete factual record, but a curated story. Legal protection against disruptive counter-narratives—especially when delivered with algorithmic precision—is thus crucial. The right to erasure can be seen as a corollary to the right not to know: one may not object to others having certain information, as long as one is not directly confronted with it. Everyone knows that personal narratives are incomplete and subjective, yet identity depends on the ability to prioritise confirming over disconfirming information. A self-declared foodie, for instance, will naturally gravitate towards recipes, reinforcing their identity through selective attention. As this book has shown, the twenty-first century presents new challenges to this process. Third parties now possess data about our past (historical records), present (subconscious behaviours), and future (predictive profiles), giving them a unique capacity to contest our self-narratives or even rewrite them. Current legal protections are inadequate, particularly because the right to erasure is a subjective right: individuals must actively pursue it, confronting the very information they seek to suppress. A more robust doctrine would require proactive safeguards against information confrontations, regardless of whether the data subject takes action. This would mark a fundamental shift: from a regime that presumes agency and autonomy to one that recognises the fragility—and necessity—of narrative coherence in the age of data saturation.

4. CONCLUSION

The contemporary legal framework already contains two important doctrinal footholds for the development of a right to fiction. In addition to the provision

on spam—which protects individuals from information overload—the right not to know shields them from the incidental and often distressing revelations of medical testing. Likewise, the right to erasure under the GDPR offers data subjects the possibility of requesting that controllers cease processing data that violates the Regulation, particularly when such data is outdated or no longer serves its original purpose.

Yet it is equally evident that the current reach of these doctrines is minimal. The right not to know remains confined to the narrow domain of medical findings, and the right to erasure largely reiterates the obvious: that a data controller must stop acting in contravention of the GDPR upon request. Both are riddled with exceptions. The right not to know can be set aside in the interests of third parties, society, or even the data subject themselves. The right to erasure may yield to the imperatives of freedom of expression, archival preservation, scientific inquiry, or statistical analysis. Crucially, the rationales underlying these rights are anchored in earlier conceptions of privacy and autonomy, and are ill-suited to address the deeper epistemic and existential challenges posed by the contemporary data-driven society.

This chapter has therefore argued for expanding and reframing these doctrines within the data protection regime. Their scope must be broadened and their purpose reoriented: from narrowly defined opt-outs to substantive safeguards against information confrontations that disrupt an individual's narrative coherence. A right to fiction, understood in this way, does not simply seek to block access to uncomfortable truths, but rather to preserve the cognitive and narrative space necessary for identity construction, self-development, and psychological continuity.

Of course, such proposals raise a host of intricate and potentially far-reaching questions. These rights may collide with the freedom of expression and the public's legitimate interest in accessing certain forms of information. Moreover, individuals may prefer not to confront particular facts about themselves even when doing so would ultimately serve their own well-being—raising the thorny issue of whether the legal system should accommodate such preferences. And perhaps most problematically, to make these protections effective would require moving away from their current status as purely subjective rights. This would necessitate mechanisms whereby others—institutions, systems, or proxies—determine which information confrontations should or should not occur. But those proxies may lack insight into the individual's situational and evolving preferences, and worse, may not act in the individual's true interest.

These dilemmas are not insurmountable. But addressing them responsibly calls for a more foundational reimagining of the principles and architecture of our regulatory regime—one that goes beyond the binary of access and control, and instead grapples with the complex interplay between information, identity,

autonomy, and narrative. It is precisely this rethinking that the final chapter of this book (Chapter 20) will undertake.

NOTES

1. <https://www.youtube.com/watch?v=xQOgH2AHtfw>. <https://subvertandworship.blog/2020/10/23/the-very-least-of-you/>. Accessed 30 November 2025.
2. Resolution (73)22 on the Protection of the Privacy of Individuals vis-à-vis Electronic Data Banks in the Private Sector (1973).
3. Resolution (74)29 on the Protection of the Privacy of Individuals vis-à-vis Electronic Data Banks in the Public Sector (1974).
4. Article 5.1.d Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).
5. Article 16 GDPR.
6. See on this point in more detail: Van der Sloot, B. (2019). Editorial. *European Data Protection Law*, 5-1.
7. CJEU, judgment of 13 March 2025, VP, C-247/23, ECLI:EU:C:2025:172.
8. Article 13 e-Privacy Directive.
9. Recital 40 e-Privacy Directive.
10. Universal Declaration on the Human Genome and Human Rights adopted 11 November 1997 by General Conference of the United Nations Educational, Scientific and Cultural Organization at its twenty-ninth session.
11. Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine * Oviedo, 4.IV.1997.
12. Davies, B. (2020). The right not to know and the obligation to know. *Journal of Medical Ethics*, 46(5), 300–303.
13. See for a different but related aspect the discussions over the nocebo effect, e.g.: Wells, R. E., & Kaptchuk, T. J. (2012). To tell the truth, the whole truth, may do patients harm: the problem of the nocebo effect for informed consent. *The American Journal of Bioethics*, 12(3), 22–29.
14. Explanatory Report to the Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine, 4.IV.1997.
15. Article 85 GDPR provides: '1. Member States shall by law reconcile the right to the protection of personal data pursuant to this Regulation with the right to freedom of expression and information, including processing for journalistic purposes and the purposes of academic, artistic or literary expression. 2. For processing carried out for journalistic purposes or the purpose of academic artistic or literary expression, Member States shall provide for exemptions or derogations from Chapter II (principles), Chapter III (rights of the data subject), Chapter IV (controller and processor), Chapter V (transfer of personal data to third countries or international organisations), Chapter VI

(independent supervisory authorities), Chapter VII (cooperation and consistency) and Chapter IX (specific data processing situations) if they are necessary to reconcile the right to the protection of personal data with the freedom of expression and information. 3. Each Member State shall notify to the Commission the provisions of its law which it has adopted pursuant to paragraph 2 and, without delay, any subsequent amendment law or amendment affecting them.’

16. Article 17 para 2 GDPR.
17. Article 19 GDPR.
18. Article 6 para 1 GDPR.
19. Article 21 GDPR.
20. See e.g. CJEU, judgment of 13 May 2014, *Google Spain*, C-131/12, EU:C:2014:317; CJEU, judgment of 24 September 2019, *Google*, C-507/17, EU:C:2019:772; CJEU, judgment of 24 September 2019, *GC and Others*, C-136/17, EU:C:2019:773; CJEU, judgment of 8 December 2022, *Google*, C-460/20, EU:C:2022:962. See also: https://fra.europa.eu/sites/default/files/fra_uploads/fra-2024-factsheet-right-to-be-forgotten_en.pdf. Accessed 30 November 2025.
21. See e.g. Rosen, J. (2011). The right to be forgotten. *Stan. L. Rev. Online*, 64, 88; Walker, R. K. (2012). The right to be forgotten. *Hastings LJ*, 64, 257; Bertram, T., Bursztein, E., Caro, S., Chao, H., Chin Feman, R., Fleischer, P., Gustafsson, A., Hemerly, J., Hibber, C., Invernizzi, L., Kammourieh Donnelly, L., Ketover, J., Laefer, J., Nicholas, P., Niu, Y., Obhi, H., Price, D., Strait, A., Thomas, K., & Verney, A. (2019, November). Five years of the right to be forgotten. In *Proceedings of the 2019 ACM SIGSAC Conference on Computer and Communications Security*, pp. 959–972; Ausloos, J. (2012). The “right to be forgotten”—worth remembering?. *Computer Law & Security Review*, 28(2), 143–152; Weber, R. H. (2011). The right to be forgotten: more than a Pandora’s box. *J. Intell. Prop. Info. Tech., & Elec. Com. L.*, 2, 120; De Baets, A. (2016). A historian’s view on the right to be forgotten. *International Review of Law, Computers & Technology*, 30(1–2), 57–66; Jones, M. L. (2016). Ctrl+ z: The right to be forgotten. In *Ctrl+ Z*. New York: New York University Press; McGoldrick, D. (2013). Developments in the right to be forgotten. *Human Rights Law Review*, 13(4), 761–776; Dowdell, J. W. (2016). An American right to be forgotten. *Tulsa L. Rev.*, 52, 311; Bunn, A. (2015). The curious case of the right to be forgotten. *Computer Law & Security Review*, 31(3), 336–350; Floridi, L. (2015). “The right to be forgotten”: a philosophical view. *Jahrbuch für Recht und Ethik/Annual Review of Law and Ethics*, 163–179; Frosio, G. F. (2016). The right to be forgotten: much ado about nothing. *Colo. Tech. LJ*, 15, 307; Vavra, A. N. (2018). The right to be forgotten: an archival perspective. *The American Archivist*, 81(1), 100–111; Abril, P. S., & Lipton, J. D. (2014). The right to be forgotten: Who decides what the world forgets. *Ky. LJ*, 103, 363; Markou, C. (2014). The “Right to Be Forgotten”: Ten reasons why it should be forgotten. In *Reforming European Data Protection Law* (pp. 203–226). Dordrecht: Springer Netherlands; Werro, F. (2009). The

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22. Recital 65 GDPR.
 23. Article 5 para 1 sub e GDPR.
 24. Koops, B. J. (2011). Forgetting footprints, shunning shadows: A critical analysis of the right to be forgotten in big data practice. *SCRIPTed*, 8, 229.

18. Right to friction

“Bartleby! quick, I am waiting.” ... “What is wanted?” said he mildly. “The copies, the copies,” said I hurriedly...

“I would prefer not to,” he said, and gently disappeared behind the screen. For a few moments I was turned into a pillar of salt, standing at the head of my seated column of clerks. Recovering myself, I advanced towards the screen, and demanded the reason for such extraordinary conduct. “Why do you refuse?”

“I would prefer not to.” With any other man I should have flown outright into a dreadful passion, scorned all further words, and thrust him ignominiously from my presence. But there was something about Bartleby that not only strangely disarmed me, but in a wonderful manner touched and disconcerted me. I began to reason with him. “These are your own copies we are about to examine. It is labor saving to you, because one examination will answer for your four papers. It is common usage. Every copyist is bound to help examine his copy. Is it not so? Will you not speak? Answer!”

“I prefer not to,” he replied in a flute-like tone. It seemed to me that while I had been addressing him, he carefully revolved every statement that I made; fully comprehended the meaning; could not gainsay the irresistible conclusions; but, at the same time, some paramount consideration prevailed with him to reply as he did. “You are decided, then, not to comply with my request—a request made according to common usage and common sense?”

He briefly gave me to understand that on that point my judgment was sound. Yes: his decision was irreversible. It is not seldom the case that when a man is browbeaten in some unprecedented and violently unreasonable way, he begins to stagger in his own plainest faith. He begins, as it were, vaguely to surmise that, wonderful as it may be, all the justice and all the reason is on the other side.¹

1. INTRODUCTION

When radio and television first emerged, programming was the exclusive domain of public broadcasting agencies. Before long, “pirates” began to transmit unauthorised content—private messages, banned songs, subversive commentary—audible only to those who knew where to tune in. Not much later, private actors were granted access to specific frequencies, allowing them to launch their own channels, often backed by corporate interests or sustained through advertising revenue. Although these commercial broadcasters have since come to dominate the landscape, in many European countries public broadcasters remain among the most watched and listened to. This is partly attributable to the enduring quality of their programming, but also to regulatory mechanisms—such as must-carry obligations—that compel private distributors to include public service content in their offerings.²

Funded through public means, public broadcasters are generally subject to a mandate to advance diversity and inclusion. A typical formulation can be found in Dutch law: “Public media services are in accordance with public values, whereby they provide for the democratic, social and cultural needs of Dutch society. To this end, they provide media content that: a. is balanced, pluralistic, varied and of high quality and is also characterised by a great diversity in form and content; b. provides a balanced image of society and reflects the plurality of convictions, views and interests in the social, cultural and philosophical field among the population; c. is aimed at and has a relevant reach among both a broad and general public, as well as population and age groups of different sizes and compositions, with particular attention to small target groups.”³

This framework serves a dual purpose: to ensure that all segments of society see themselves reflected in public media, and to confront audiences with a broad array of views, customs, and ideologies. Such exposure is seen as essential to the functioning of an open democracy, in which mutual understanding and a measure of respect among different groups is not merely ideal but necessary. In the era of limited media outlets, such confrontations were commonplace—viewers would routinely encounter perspectives that diverged sharply from their own, and sometimes unsettled or offended them.

With the advent of digital media—and especially the rise of internet platforms operated by private, profit-driven entities—public programming has receded in visibility and influence. So too have the obligations once imposed on private actors to promote public service content. A handful of legal provisions still gesture in that direction, but they are rare. One notable example is the “due prominence” requirement for Electronic Programme Guides (EPGs), which are the digital interfaces that allow viewers to navigate content on smart

TVs. These rules stipulate, for instance, that public interest programming must be featured prominently in search results or menus, or that certain channels be given priority slots.⁴

The British Communications Act gives Ofcom⁵ the authority to issue such guidelines, and Ofcom has used this authority to codify a detailed hierarchy:

“EPG providers must ensure that the five national general entertainment PSB channels (BBC1, BBC2, Channel 3 services, Channel 4 and Channel 5) are listed in the first 5 slots of the EPG, so that BBC1 is in the first slot, BBC2 is in the second slot ... In respect of EPGs that provide a regionalised version for Wales, EPG providers must ensure that S4C is listed in the fourth slot on the regionalised version. Accordingly, in such cases the requirement in paragraph 9 that Channel 4 is in the fourth slot does not apply. Instead, EPG providers must ensure that Channel 4 is listed in a slot that is no lower than the eighth slot of the regionalised version of the EPG. EPG providers must ensure that the nations’ PSB channels (S4C, BBC Alba and BBC Scotland) are listed in a slot that is no lower than the twenty fourth slot of the EPG. ... EPG providers must ensure that the news genre channels (BBC News and BBC Parliament) are listed in a slot that is no lower than the eighth slot in the relevant genre section or relevant channel grouping of the EPG. EPG providers must ensure that children’s genre channels (CBBC and CBeebies) are listed in a slot that is no lower than the eighth slot in the relevant genre section or relevant channel grouping of the EPG.”⁶

No comparable regime exists for online platforms—despite the fact that, for younger audiences in particular, these have become the primary source of news and cultural consumption. This space is often characterised as one of filter bubbles and echo chambers. That description is not inaccurate, but it captures only one side of the digital condition. The internet also presents an unprecedented abundance of information and an unparalleled opportunity for encountering people of different backgrounds, nationalities, and beliefs. Moreover, the notion that our current age is fundamentally different in this regard is too readily accepted. People have always gravitated towards communities, news sources, and interpretations of the world that confirmed their existing views. It was once quite common to take as unquestioned truth whatever was said by one’s priest, political leader, or local official. In that sense, the algorithmic curation of information responds to a deep and enduring human desire—to be handed a map of the world, a code to live by, a scaffold for moral judgement. What has changed is that these algorithmic structures now take the place of religious and political institutions whose authority has waned in the wake of secularisation, anti-authoritarianism, and the rise of individualism. One reason why people accept the suggestions of algorithms so readily is that they are perceived as ideologically neutral.

If ours is indeed an era marked by polarisation and social fragmentation, it may have less to do with algorithms themselves than with the decline of

the institutions that once held diverse communities together. Churches, though ideologically bounded, were spaces where the baker sat beside the banker, the socialist beside the libertarian. So too were the football club, the library, and the local grocery store. These spaces have not disappeared, but their significance has altered: sermons are increasingly watched alone online, coffee drinkers often retreat behind headphones, and grocery shopping is more and more an algorithmic transaction. The human tendency to seek narrative-confirming environments has not changed. What has changed is the erosion of social and physical spaces that once counterbalanced that tendency. As explained in Part III of this book, and in particular Chapters 10 and 12, AI systems both reflect and reinforce this shift. They cater to the desire for coherence and self-confirmation, offering ever more refined tools to filter reality. And they are themselves structured on probabilistic models, which prioritise the statistically most likely response, and thus amplify dominant narratives and suppress outliers.

This chapter explores two avenues for reintroducing a measure of friction—both with others and with the world itself. Section 2 revisits the GDPR’s provisions on automated decision-making and profiling, and considers how these might be revised to support this end. Section 3 turns to recent initiatives that seek to restore the possibility of disruption—such as by excluding smart environments and technologies from certain domains, and thereby reclaiming spaces for the unpredictable.

2. RIGHT TO MULTIPLICITY

The GDPR imposes limits on profiling and automated decision-making. While automated decision-making remains undefined in the Regulation, profiling is described as any automated processing of personal data that aims to evaluate or predict aspects of an individual’s behaviour, preferences, health, economic situation, performance at work, and similar personal traits.⁷ Throughout the Regulation, profiling and automated decision-making are flagged as areas requiring heightened scrutiny. Data subjects must be informed of their existence,⁸ are granted the right to object,⁹ and can request meaningful information on the underlying logic, as well as the significance and envisaged consequences of such processing.¹⁰ Beyond these general provisions, the GDPR grants data subjects the right not to be subject to decisions based solely on automated processing, including profiling, when such decisions produce legal effects or otherwise significantly affect them.¹¹ The Regulation offers little insight into the underlying rationale for this right. It connects profiling primarily to practices such as targeted advertising and refers to its use in analysing or predicting characteristics related to a data subject’s economic and personal behaviour.¹² The concern, implicitly, is that automated systems enable decisions to be based

on generic rules and statistical correlations rather than the particularities of the individual case.

While this rationale remains compelling—perhaps more so today than when it was first codified in 1995—the provision has had limited practical impact.¹³ There are at least five reasons for this. First, the right is at least formally categorised as a subjective one, requiring the data subject to be aware of the profiling and to take the initiative to challenge it. Second, the right only applies when the decision has legal or similarly significant effects—criteria that many systems do not meet. Third, many algorithmic systems are not used to make final decisions but to structure options and prepare the ground for subsequent human choices. These preparatory stages can be highly determinative, yet fall outside the scope of the right. Fourth, the provision applies only to “solely” automated decision-making. Any form of meaningful human intervention is sufficient to circumvent its application. And fifth, the GDPR includes several broad exceptions, such as when the processing is necessary for contractual performance, authorised by law, or based on the data subject’s explicit consent.

If data possess an aura of objectivity, that aura is magnified in the context of machine learning. Yet AI and Big Data are both grounded in large-scale correlation-finding and predictive modelling. They produce the most statistically likely outcome, which may have a consolidating effect on dominant narratives and mainstream behaviours. Large Language Models (LLMs), for instance, fill in data gaps by hypothesis, generating probabilistic continuations for text sequences.¹⁴ Although frequently presented—and perceived—as fact engines, they are just as much engines of fiction. A case currently pending before the CJEU illustrates this ambiguity. A data subject claims an LLM violated the GDPR’s data accuracy principle by providing an incorrect answer to a factual query about their age. The episode illustrates the fundamental duality of such systems: while marketed and used as repositories of truth, they are in fact probabilistic generators of new realities.¹⁵

Several factors contribute to the tendency of professionals to rely uncritically on AI-generated output. These systems are often introduced as part of efficiency drives, including cost-cutting measures. The more extensively LLMs are embedded in preparatory and decision-making processes, the greater the perceived gains. Moreover, professionals often work under severe time constraints and heavy workloads, which discourages them from independently evaluating algorithmic suggestions. Their domain expertise does not extend to the workings of the systems they are using, and often no one within the organisation fully understands their design or limitations—particularly when the technology is procured externally. As professionals become more reliant on AI, their domain expertise may begin to erode. Finally, as the capabilities of LLMs increase, so too does the burden on the professional to justify deviations from their suggestions, both to management and to oversight bodies.

To counter this dynamic, legal obligations could be introduced to ensure multiplicity in algorithmic systems. One way to achieve this is by requiring systems used in preparatory or intermediate phases to offer not a single outcome, but several. These outputs should include reliability percentages and flag interpretational ambiguities, data gaps, or unresolved issues. In judicial contexts, for example, where LLMs are increasingly deployed to assist judges in processing arguments, researching jurisprudence, or drafting verdicts, the system could be required to produce at least three competing draft decisions. Each of these should highlight different interpretive routes and outline their respective strengths and limitations. The aim would be to compel professionals to engage with the material as a set of plausible options rather than as a definitive answer.

A related concern arises in the context of user profiling and personalised content. Data subjects tend to receive content aligned with their presumed preferences, which in turn reinforces those very preferences, leading to a feedback loop. Some commentators, drawing inspiration from diversity standards in public broadcasting and from must-carry and due prominence obligations, have proposed implementing “serendipity by design”.¹⁶ This could take the form of legally mandated randomness in recommendation systems—requiring platforms to offer occasional suggestions that fall outside the user’s established profile. Some providers already include features such as a “surprise me” button, but a regulatory requirement would remove reliance on either corporate goodwill or user initiative.

A more far-reaching proposal would be to reintroduce diversity requirements into the digital sphere. This could involve expanding the role of public actors in content production and distribution, potentially coupled with a duty on private platforms to host or give prominence to that content. Various proposals have been made, at both national and European levels, to create public alternatives to the dominant social media platforms. Such platforms would not be driven by commercial incentives, and their recommendation algorithms could be designed to promote ideological and cultural diversity. Whether users would choose to engage with such platforms is an open question—especially given the human tendency to seek confirmation of existing beliefs.

3. RIGHT TO DUMB

We live in a world where countless actors process our data, and where these operations are becoming ever more opaque and complex. Increasingly, these systems do not merely respond to our behaviour, but seek to shape it—through subconscious cues, persuasive nudges, and dark patterns. This is widely recognised as a threat to individual autonomy, psychological integrity and mental privacy. Yet beyond this, a more subtle danger emerges: these systems, driven by self-learning algorithms, iterative adaptations, and dynamic settings, do not

guide us in any fixed direction. Rather, they push and pull us constantly, from one influence to the next. And because different systems, developed by different actors for different purposes, compete for our attention and agency, the outcome may not be thorough manipulation but, more insidiously, a kind of internal disintegration—a numbing chaos of micro-persuasion, leaving us hollow, untethered, and deprived of stable preferences (see Chapter 13).

As smart devices proliferate and we move through increasingly intelligent environments, we are surrounded by systems that monitor, analyse and assign meaning to our every move. Nothing is neutral. Every act—what we watch, click, read, pause, order, search, or skip—becomes data, and every datapoint begets significance. Bob paused one show but finished another. He walked fewer steps today than yesterday. He emailed more, bought more books, lingered over one headline but clicked on another. He drove faster than average on Friday. Each of these may seem inconsequential, but in the logic of comparative analysis, each becomes meaningful. Randomness disappears. The loop does not end there. These environments not only monitor, but increasingly talk back to us. Smart systems mirror our behaviour, respond to our preferences, and adapt their feedback accordingly. Bob's fridge orders this product and not that. His lighting system glows red at 8pm. His virtual assistant reminds him of this and that but not the other. His news feed, ads, search results—all filtered, curated, and personalised. As a result, the environment ceases to be ambient; it demands attention because it is value laden and responds to perceived personal characteristics. It becomes a reflection of the self, one that constantly reinforces its contours. The environment is always on. And forces us to be as well.¹⁷

To this problem of cognitive saturation, the regulatory answer has largely been: more information. Citizens are not only granted rights to transparency; organisations processing their data are obliged to disclose their practices—even when the citizen never asked. Under the GDPR, this means a long list of mandatory disclosures: the identity of the controller, the purposes of processing, the legal basis, recipients, storage periods, rights of objection and erasure, data sources, details on profiling and automated decision-making, and more.¹⁸ The AI Act, similarly, treats transparency as its primary antidote to manipulation and deception. It lays out a detailed regime for informing citizens when they interact with AI systems: whether they are speaking to a bot, encountering synthetic media, or being subjected to biometric or emotional analysis. The Act mandates labelling, disclosure, and notices—again, on the premise that information enables autonomy.¹⁹

Although the GDPR and subsequent guidelines have specified that information provided should be succinct and understandable, the belief that manipulation and deception can be countered through transparency requirements is, at heart, a bet on the rational individual. The idea is that if a citizen is properly

informed, they can protect their own interests. As this book has argued, however, this vision is overly narrow. People are not always the rational agents they imagine themselves to be. Even if they were, the modern information environment demands a kind of attention, energy, and expertise that few individuals possess or can consistently muster (see Chapter 19). While transparency also serves systemic goals—enabling class actions, regulatory scrutiny, and deterrence—its direct effect is often to intensify information overload.

It presumes a person that, provided they have access to all relevant information, is in the best position to take decisions that are in their own best interests. As has been explained throughout this book, this is too one-sided a perspective, both because people are generally not as rational as they would like to believe and because there are many practical obstacles to making such autonomous decisions, if only the capacity in terms of time, resources and energy (see further Chapter 19). Although transparency obligations obviously also have a broader effect, such as allowing for class actions and oversight by regulators, and having a chilling effect on organisations that may not want to disclose certain practices, the contemporary legal regime adds to the problem of information overload.

An alternative approach would be to carve out spaces of intentional ignorance:²⁰ dumb environments, where citizens are not tracked and where the environment does not speak back.²¹ These would create “information quiet zones”—areas of refuge from the constant quantification of life. In such spaces, behaviour would not be captured, stored, or analysed; environments would regain part of their neutrality, or at least their randomness. To the extent that meaning and significance are ascribed, they would originate primarily from the citizen themselves—emerging through acts of creativity and reflection, rather than external imposition. In this way, autonomy is no longer defined by the ability to choose among algorithmically curated options, but by the capacity to shape value independently. Admittedly, individuals still navigate shared blueprints—those embedded in language, custom, and social convention—but when the power to assign meaning is decentralised and reclaimed from data intermediaries, the result is not only greater individual agency but a richer, more diverse public sphere.

There are few legal precedents for this approach. Some can be found in regulations concerning minors: in certain jurisdictions, mobile phones are banned in primary and secondary schools, or access to social media is prohibited for those under sixteen. While adults are offered tools for self-limitation—screen time caps, usage trackers, “do not disturb” modes—these rely on both the willingness of private providers to offer them and the user’s own commitment to self-control. Like the “surprise me” button or other nudges towards serendipity, they can be bypassed at will. Legally designated dumb spaces would shift the burden: they would not require citizens to actively opt out of surveillance

or attention capture, but would impose structural constraints on what can be collected or processed in the first place.

Such spaces would also begin to address two systemic paradoxes. The first is the transparency paradox: while private and public entities amass ever more data and ever more sophisticated tools for analysis, the average citizen remains largely in the dark about how these processes work, what is known about them, and how decisions are shaped. The second is the smartness paradox: it is taken for granted that organisations becoming “smarter”—more data-driven, more efficient, more predictive—is an inherent good, provided rights are not violated. Yet this asymmetry in knowledge and insight undermines democratic equality. Citizens increasingly face institutions whose operations are opaque, hyper-rationalised, and technocratically tuned, while they themselves are addressed as creatures of impulse, intuition and affect. This imbalance breeds resentment, distrust, and alienation—fertile ground for populism. If, as Lefort argued, the state is founded on knowledge but must not monopolise it (see Chapter 13), then the modern condition reverses the problem: knowledge flows upward, leaving citizens disempowered in its wake.

One way to restore balance is to reduce the data available to public and private entities. Yet the GDPR was not designed with this goal in mind. Its central purpose is to harmonise data processing rules across the European Union, in order to ensure the free movement of data alongside fundamental rights protections. The Regulation does not prohibit processing; it governs how it must be done. Indeed, its primary provisions establish conditions under which data may be lawfully processed—not categorical barriers. Even Article 9, which concerns sensitive data, includes so many exceptions that it rarely functions as a hard limit. Meanwhile, other EU instruments encourage the collection and sharing of non-personal data, in the name of innovation and competitiveness. A data protection regime fit for the twenty-first century would need to do more than regulate how data is handled. It would need to consider how much data should be gathered in the first place—and by whom, under what conditions, and to what ends. It would need to confront not only the dangers of error, misuse or manipulation, but the deeper question of what it means to be surrounded by systems that are always watching, always inferring, and always responding. Such a regime would not merely defend the rights of data subjects. It would defend the possibility of being left alone—not to decide wisely, but to be unobserved; not to choose from better options, but to forget the menu entirely.

4. CONCLUSION

This chapter has argued that the contemporary legal regime is underpinned by values such as transparency and smart governance—rightly so. Transparency enables oversight, deters questionable data practices, and empowers individuals

to make informed choices. Similarly, equipping public and private institutions with data-driven intelligence allows for more tailored, efficient, and responsive policies that better serve both individual needs and the collective good.

Yet it is far from certain that transparency alone is an effective safeguard against manipulation. As this chapter has shown, there are both structural and practical limits to the average citizen's ability to digest and act upon the deluge of information transparency rules demand. The transparency paradox remains unresolved: data controllers will inevitably possess deeper insight into the tools, purposes, and consequences of their processing activities than those subjected to them. At the same time, the unchecked growth of "smartness" in public and private entities threatens the balance on which both democracy and the market economy rest—namely, the assumption that citizens are at least as capable as the organisations that serve them. Finally, the GDPR falls short of mitigating overreliance on algorithmic blueprints, due in part to the narrow scope of its provisions on profiling and automated decision-making and the many exceptions that undercut their force.

To address these gaps, this chapter has put forward two proposals. First, data-driven systems used in policy and decision-making should be required to generate not just a single output, but at least three viable alternatives—each accompanied by a clear account of its limitations, potential biases, and reliability. Second, it has advocated for the reintroduction of smart-free zones—not only for children, but also for adults—and for placing meaningful limits on how much data and knowledge public and private actors are permitted to amass. They should not become too smart.

These proposals are not without controversy. Requiring multiplicity may compromise efficiency. Curtailing the intelligence of institutions could stifle innovation and reduce the quality of decision-making. And creating smart-free zones without opt-outs introduces an unmistakably paternalistic element, limiting individual autonomy in the name of collective well-being. Such measures also risk being overinclusive, applying even to citizens who remain resilient in the face of pervasive digital stimuli.

Still, none of these concerns are insurmountable. What they require is not abandonment of the project, but a more fundamental rethinking of the premises and architecture of the regulatory framework. That is the task to which the final chapter of this book (Chapter 20) will turn.

NOTES

1. Melville, H (1853). *Bartleby, the Scrivener: A Story of Wall Street*. <https://gutenberg.org/cache/epub/11231/pg11231-images.html>. Accessed 30 November 2025.

2. See further: Van Eijk, N., & Van der Sloot, B. (2012). Must-carry regulation: a must or a burden? *IRIS-plus*, 5, 2013–02.
3. Wet van 29 december 2008 tot vaststelling van een nieuwe Mediawet (Mediawet 2008).
4. See further: Van der Sloot, B. (2012). Due prominence in electronic programme guides. *IRIS plus*, 5, 33–37.
5. Communications Act 2003.
6. <https://www.ofcom.org.uk/siteassets/resources/documents/consultations/uncategorised/9660-epg/associated-documents/secondary-documents/code-practice-epg.pdf?v=324752>. Accessed 30 November 2025.
7. Article 4.4 GDPR.
8. Article 14 GDPR.
9. Article 20 GDPR.
10. Article 15 GDPR.
11. Article 22 GDPR.
12. Recital 71 GDPR.
13. CJEU, judgement of 7 December 2023, OQ, C-634/21, ECLI:EU:C:2023:957.
14. It is interesting in this respect that when these models create realities that are different from our own, they are called hallucinations, and thus compared to mental divergences.
15. <https://noyb.eu/en/chatgpt-provides-false-information-about-people-and-openai-cant-correct-it>. Accessed 30 November 2025.
16. See further on this topic: Reviglio, U. (2017). Serendipity by design? How to turn from diversity exposure to diversity experience to face filter bubbles in social media. In Internet Science: 4th International Conference, INSCI 2017, Thessaloniki, Greece, November 22–24, 2017, Proceedings 4 (pp. 281–300). Cham, Switzerland: Springer International Publishing.
17. Smartphones, for example, transform (our experience of) nature as well, allowing for calls from work or family, allowing one to play music, listen to podcasts or audiobooks, and allowing for selfies, through which nature is attributed significance in relation to the self.
18. Articles 13 and 14 GDPR.
19. Article 50 AI Act.
20. See for a clear plea for concealment as a virtue: Tanizaki, J. I. (2001). *In praise of shadows* (Vol. 24). New York: Random House.
21. See also: Chandler, R. C. (2020). *Dumb Cities: Spatial Media, Urban Communication, and the Right to the Smart City* (Doctoral dissertation, University of Pittsburgh); Scharmen, F. (2015). What is a big dumb object? *Journal of Architectural Education*, 69(2), 178–186; Bishop, T. S., & Tilley, C. C. (2002). Smart growth or dumb bureaucracy. *Envtl. L. Rep. News & Analysis*, 32, 10822.

19. Right to dependency

I am the true vine, and my Father is the gardener. He cuts off every branch in me that bears no fruit, while every branch that does bear fruit he prunes so that it will be even more fruitful. You are already clean because of the word I have spoken to you. Remain in me, as I also remain in you. No branch can bear fruit by itself; it must remain in the vine. Neither can you bear fruit unless you remain in me.

I am the vine; you are the branches. If you remain in me and I in you, you will bear much fruit; apart from me you can do nothing. If you do not remain in me, you are like a branch that is thrown away and withers; such branches are picked up, thrown into the fire and burned. If you remain in me and my words remain in you, ask whatever you wish, and it will be done for you. This is to my Father's glory, that you bear much fruit, showing yourselves to be my disciples.

As the Father has loved me, so have I loved you. Now remain in my love. If you keep my commands, you will remain in my love, just as I have kept my Father's commands and remain in his love. I have told you this so that my joy may be in you and that your joy may be complete. My command is this: Love each other as I have loved you. Greater love has no one than this: to lay down one's life for one's friends. You are my friends if you do what I command. I no longer call you servants, because a servant does not know his master's business. Instead, I have called you friends, for everything that I learned from my Father I have made known to you. You did not choose me, but I chose you and appointed you so that you might go and bear fruit—fruit that will last—and so that whatever you ask in my name the Father will give you. This is my command: Love each other.¹

1. INTRODUCTION

Both of Europe's supranational courts have affirmed that the rights to privacy and data protection ultimately serve the broader aim of safeguarding individual autonomy—for instance, in a case involving the right to end one's

life under Article 8 ECHR, the ECtHR observed that, while no previous case had explicitly recognised a right to self-determination, “the notion of personal autonomy is an important principle underlying the interpretation of its guarantees”.² Similarly, the European Data Protection Board (EDPB) has stressed that under the GDPR, data controllers must consider “the wider impact on individuals’ rights and dignity” and “grant the highest degree of autonomy possible to data subjects”.³ Autonomy, in this sense, is not only a foundational value of privacy and data protection law, but also one of the cornerstones of the EU legal order and the *acquis* of the Council of Europe.

Yet it is increasingly evident that the ideal of autonomy is undercut by contemporary data-driven practices—especially those relying on deceptive algorithms and manipulative interface design. The EDPB defines deceptive design patterns as techniques that lead users to make unintended decisions, often contrary to their own interests and in favour of the controller’s. It identifies several recurring strategies: overloading, which inundates users with a flood of requests, choices, or information—typically to nudge them into oversharing; skipping, where the design subtly encourages users to overlook relevant considerations; stirring, which exploits emotional cues or nudges to bias decision-making; fickle design, where inconsistency and lack of clarity obscure user control and purpose; obscurity, which conceals key information or mechanisms for exercising data protection rights, leaving users in the dark.⁴

While the European Commission has signalled its intention to tackle these issues through a future Digital Fairness Act, this initiative is still in its infancy and its substance remains unknown.⁵ The Digital Services Act does offer a partial remedy, requiring that online platforms refrain from designing or operating interfaces in ways that mislead or manipulate users or otherwise significantly impair their ability to make free and informed decisions.⁶ However, this prohibition does not apply to practices already governed by the GDPR. The GDPR’s primary response to the challenges of consent and manipulation has been to double down on consent itself—establishing increasingly detailed and stringent requirements. Consent must be freely given, specific, informed, and unambiguous, expressed through a clear affirmative act. To be valid, the GDPR imposes a host of conditions, including that controllers must be able to demonstrate that consent was given; requests must be presented clearly, distinctly, and intelligibly; consent must be revocable at any time, and users must be informed of this; it must be easy to withdraw consent; consent is not valid if required for a contract where processing is not necessary for that contract; and parental consent is required when minors engage with online services.⁷

There is, however, a way of reading the GDPR that reveals an alternative perspective.⁸ Suppose a person processes data about themselves online. While they are, without question, the data subject, the GDPR’s definition of “data controller” does not preclude that the data controller might be the same person.

A controller is any entity—natural or legal, public or private—that determines the purposes and means of processing.⁹ As the EDPB has clarified, this definition is intentionally broad.¹⁰ If the household exemption does not apply—such as when someone shares personal data on public platforms—they may technically be acting as both data subject and data controller. In many cases, this dual role may be inconsequential: one cannot invoke data subject rights against oneself. But as individuals increasingly generate and share large volumes of intimate data, especially in audiovisual formats, the implications grow more significant.

Under this interpretation, individuals would be bound by the core data protection principles in Article 5 GDPR. Their processing of personal data would need to be lawful, fair, and transparent—even when directed at themselves. They would be required to articulate a specific purpose, limit the data collected to what is necessary for that purpose, and erase it once that purpose is fulfilled. The accuracy principle would imply an obligation to present truthful and complete representations of themselves. A data protection authority could, at least in theory, intervene if someone publicly disclosed private information about themselves without a clear purpose, or if they misrepresented themselves online.

This reading, however, has not been embraced—and is unlikely to be—largely because it would be seen as unacceptably paternalistic. Yet, as this book, and in particular Chapters 5 and 6, has consistently argued, our capacity to make rational, self-serving decisions is limited. Part III—and especially Chapters 9, 10, and 12—has traced how the contemporary data-driven environment continues to reshape and reconfigure our autonomy. This chapter continues that argument and proposes a shift: from an exclusive focus on autonomy towards a model that recognises the individual's right not to be continuously burdened with self-regulation and rational choice. This would entail imposing a duty on others—including regulators, judges, and supervisory authorities (Section 2), as well as data-driven organisations (Section 3)—to act in good faith on behalf of citizens.

2. RIGHT TO PATERNALISM

Contemporary debates around the merits and limitations of informed consent date back at least to the early 1970s,¹¹ while questions concerning the nature and extent of human autonomy have been central to philosophical inquiry since Plato. Although the limits of human rationality are now broadly acknowledged, the legal system's reliance on consent has only deepened. With the rise of modern information technologies, this reliance faces renewed scrutiny. On one hand, informed consent has become a cornerstone of privacy and data

protection law; on the other hand, these are precisely the domains in which the complexities of informed consent are most pronounced.

Under the GDPR, data controllers must rely on one of six lawful grounds to process personal data. Among these, consent has become the most frequently invoked ground. This is due to several factors. First, consent is viewed as the legal basis most respectful of individual autonomy, empowering individuals to make decisions about their own data. Second, it allows for unparalleled granularity, enabling each data subject to tailor their engagement with (digital) services. Third, the act of requesting consent serves as a mechanism to fulfil other GDPR obligations, such as transparency and information provision. Fourth, many digital services are offered by US-based companies, for whom informed consent aligns with domestic legal norms. Fifth, other branches of law—contract, consumer protection, labour, and health law—often require consent in their respective domains. Sixth, the privatisation of public services has shifted data processing responsibilities from government agencies to private entities, which tend to favour consent over statutory obligations. Seventh, even where public authorities remain involved, the proliferation of public–private partnerships means that data processing often falls under private oversight, again tipping the balance towards consent. A final factor driving the dominance of consent is that, unlike the other legal bases, it does not require necessity.¹² When relying on performance of a contract or compliance with a legal obligation, data controllers must demonstrate a concrete link between the data collected and the specified purpose. For example, a kitchen installer may legitimately measure a customer’s kitchen but not photograph their bedroom. Consent circumvents this constraint: if a data subject agrees, then the data may be processed—regardless of whether it is necessary for the service provided.

This has sparked intense debate about the relationship between consent under Article 6 and the data protection principles in Article 5—particularly purpose limitation, data minimisation, and storage limitation. Some argue these principles impose objective boundaries regardless of consent. Others contend that, when consent is present, legitimacy should be determined by the individual’s own preferences—even if they consent to data uses that are excessive, irrelevant, or indefinite. As argued throughout this book, however, the consent model is ill-suited to address the realities of modern data processing. Its inefficacy stems from both general limits on human rationality and context-specific challenges in the digital domain.¹³ Many organisations deploy opaque or self-learning algorithms they cannot fully explain; third-party vendors may obscure technical details further. The technologies involved are deeply complex, making meaningful understanding elusive even for experts. Digital services are often marketed as “free”, though users effectively pay with personal data—a reality still poorly understood by many. The volume of consent requests has led to “consent fatigue”, with users routinely agreeing to terms

they have not read or understood. Consent mechanisms are typically non-negotiable, offering no scope for users to adjust terms. There is often no meaningful alternative; leaving one platform (e.g., Instagram) only to find similar issues on another (e.g., TikTok) does not resolve the underlying problem. For many people, declining to use digital services is not a viable option. Social and economic participation increasingly depends on constant connectivity.

These concerns are compounded by structural flaws in the broader rights-based model of regulation. The average citizen would need to monitor thousands of entities processing their data—an impossible task. Much data collection is covert or ambient, rendering it cognitively inaccessible. When private information is shared online by third parties, obtaining a court order to identify the responsible actor is often necessary before action can be taken. The harm from a privacy breach is often irreversible; litigation may even amplify the exposure (the “Streisand effect”). Challenging large entities is daunting; they have the resources, knowledge, and legal teams to defend their actions. Penalties imposed by authorities tend to be negligible, offering little deterrent effect. DPAs are understaffed and underfunded, leaving most minor infractions unaddressed and thereby normalised.

The case of cookies offers a telling example. As early as 2002, the ePrivacy Directive treated cookies as potential spyware. Just as one cannot enter a person’s home without consent, one should not intrude upon their digital device.¹⁴ Today, smartphones often contain more sensitive data than physical residences. Yet it is not uncommon for hundreds of third parties to track users through cookies or similar technologies—despite a lack of meaningful relationship with the user. While functional cookies may enhance user experience, third-party tracking cookies are widely disliked and rarely consented to with full understanding. Non-compliance with consent requirements is rampant. Regulators have failed to curb these practices. If tracking cookies are phased out, it will likely be due to market-driven changes—such as Google’s decision to discontinue third-party cookies—rather than enforcement of existing data protection laws.¹⁵

Given these realities—and in view of the growing complexity and influence of data processing technologies—it is time to consider removing consent as a lawful ground for processing under the GDPR. This does not preclude the relevance of consent under other legal frameworks (e.g., contract or medical law), but it would no longer be sufficient to legitimise personal data processing under the GDPR. Moreover, the overemphasis on data subject rights and subjective autonomy should be reconsidered. A shift is needed towards proactive, empowered supervisory authorities. These bodies should be tasked with assessing the necessity, proportionality, and subsidiarity of data processing operations, and with blocking or limiting those that fail to meet rigorous standards—even if a fully informed, rational, and autonomous individual would

have consented. Such a shift would represent a major departure from the current regime, but it is warranted. Autonomy, while important, is not absolute. Especially in environments shaped by asymmetries of knowledge, power, and technical complexity, personal well-being cannot be preserved through consent alone.

3. RIGHT TO BENEVOLENCE

Individuals suffering from mental illnesses such as bipolar disorder, dissociative identity disorder, or schizophrenia may at times behave in ways entirely at odds with their preferred or “normal” selves. It can feel as though another persona has taken control. A person who, in a stable state, maintains a job, a healthy relationship, and social responsibilities, may, during episodes of illness, believe they can control the weather, be convinced they are being persecuted by the media, or impulsively sell their home to invest in cryptocurrency. The problem lies not only in the unpredictability of such transitions but also in the fact that the altered state often comes with a denial of the illness and a resistance to treatment. Both personas—the “healthy/normal” one and the “ill/abnormal” one—may be content with their lives and reject the other.

In response to such conditions, several jurisdictions have introduced the self-binding directive (SBD). This legal tool allows individuals, while in a stable state, to direct others to intervene on their behalf should they begin to lose capacity—even if, at that later stage, they resist such intervention. A loved one may be appointed as a legal representative to manage finances or care decisions, while medical professionals can be instructed to assess whether the criteria set out in the directive are met. These criteria can include behavioural triggers, preferred treatment options, and designated medical institutions.

Self-binding directives offer several advantages. They can circumvent the delays and high evidentiary thresholds associated with court interventions, such as demonstrating that the individual poses a danger to themselves or others. Early intervention, prompted by an SBD, may prevent more severe deterioration and shorten recovery time. More fundamentally, SBDs are understood to preserve personal autonomy by empowering individuals to safeguard their “authentic” selves against the intrusions of an episodic condition. While often used in the context of severe mental illness, SBDs have also been employed in cases of compulsive behaviour or addiction, such as gambling. This has sparked debate.

“Discussions of SBDs often draw on the misleading parallels taken from discussions of precommitment as a means to control ‘weakness of will’ or *akrasia*, such as Christmas savings accounts which impose penalties on an unrestrained spender for early withdrawal or Elster’s well-known example of the lecherous academic,

who takes his wife to a faculty party, so that he will be discouraged from too much drink or flirtation. Not only do such examples misrepresent the impact of mania, they depend upon the presence of synchronic conflicting desires and the possibility of rational contemplation and dissuasion. Yet the notion of mania invoked within an SBD is more akin to the overwhelming bewitchment of the Sirens, which leaves its listener utterly powerless to resist being lured towards destruction or to recollect their ordinary values and priorities in a way which could function as some type of rational disincentive. *Akrasia* also implies some intrinsic weakness of character. By contrast, an SBD relies on the notion that manic urges result from a disorder extrinsic to the values, behavioural patterns and beliefs constitutive of the patient's true self. SBDs are therefore predicated on a *diachronic* notion of personhood, with which one's true or 'normal' self depends on some degree of consistency, or recognisability, over time, and which can be interrupted by the major changes in values and beliefs accompanying mania."¹⁶

Despite their benefits, SBDs raise a host of concerns. First, determining whether a person was truly in their "normal" state when drafting the directive can be difficult, especially since mental states often exist on a spectrum. Second, individuals with mental illness or compulsive disorders may be especially vulnerable to coercion, whether explicit or implicit, by family or caregivers. Third, the framework reinforces binary notions of normalcy versus pathology at odds with contemporary understandings of psychological and neurological diversity. Finally, because SBDs aim at *pre-emptive* intervention, rather than reactive care, they carry a higher risk of overreach and unnecessary restriction of liberty (see Chapter 2).

Closely related to SBDs are *advance directives*, which allow individuals to outline their preferences regarding medical treatment in end-of-life scenarios. For example, someone might specify that they do not want life-sustaining treatment after a catastrophic accident or wish for care to be withdrawn after a month in a vegetative state. Such directives serve as a counterweight to the implicit presumption within the medical profession that life should be preserved.

Advance directives raise difficult questions. Is withdrawing treatment an act of letting nature take its course, or does it constitute euthanasia? Is it a violation of the medical professional's duty of care, or a fulfilment of the ethical imperative to do no harm? Determining when all reasonable treatments have been exhausted is not only a medical judgement, but one informed by personal, cultural, and spiritual values. Moreover, even when a patient's directive is clear, a physician may disagree with the assessment of futility or prognosis—raising tensions between respecting patient autonomy and acting in what the professional deems the patient's best interests (see Chapter 17).

A third type of directive further complicates the moral and legal terrain: directives by individuals who, anticipating severe dementia or comparable cognitive decline, express a desire for assisted dying once a certain threshold

of impairment is crossed. This scenario involves unique challenges. As with mental illness, there is no clear demarcation between “normal” and “abnormal” states; individuals fluctuate along a continuum until the decline becomes permanent. Individuals with dementia often experience moments of contentment and may, while in that state, explicitly reject death. Yet such apparent well-being may be pharmacologically induced, prompting the question: is it truly the person who is speaking, or a chemically altered version of them? Unlike patients in a coma, individuals with dementia often remain physically independent and may live for years. Thus, what they seek is not cessation of treatment but active assistance in dying.¹⁷

The implications for autonomy are profound. While suicide is not criminalised in most Western countries, several barriers persist. First, the unpredictability of cognitive decline may compel individuals to act prematurely, before reaching their personal threshold. Second, a cognitive desire for death often contends with a biological instinct for survival. Third, access to painless means of dying is typically restricted to medical professionals. As a result, individuals may resort to traumatic methods. Finally, legal risks for friends or family members suspected of assisting can discourage open communication, often leaving loved ones traumatised and grieving in isolation.

In response to these difficulties, some have proposed a more radical alternative: to shift the focus from autonomy to benevolence. Just as pet owners may decide to euthanise an animal out of compassion, so too might trusted loved ones or physicians be empowered to act in what they believe is a person’s best interests. While human dignity sets us apart from pets, and the potential for abuse or conflicting motives is real, a prudently managed system of substituted judgement could prevent prolonged suffering and uphold a person’s deeper values. That is, of course, a deeply morally charged proposal—one that many may, for entirely understandable reasons, be unwilling to cross. Yet prolonging the life of a being who has lost most, if not all, physical and mental capacities solely for the sake of keeping them alive is no less morally fraught.

This broader reflection on care, continuity, and vulnerability has relevance far beyond healthcare ethics. It opens the door to rethinking data protection law. The core concern is not merely that people are subject to dark patterns, nudging, or even external decision-making. Rather, it is the illusion that individuals are constantly capable of rationally managing their own data-related choices. But as language, law, and human cognition are all inherently ambiguous and context-dependent, autonomy cannot be exercised in a vacuum. It depends on trust, discretion, and shared moral norms.¹⁸

Accordingly, legal systems should not merely uphold negative liberty—the absence of constraint—but also embed duties of care. Scholars have proposed introducing fiduciary obligations for data-driven organisations, recognising their structural dominance over users (see Chapter 14). As early as 1996,

Laudon envisioned the rise of information fiduciaries: agents, akin to banks, to whom individuals entrust their data. Just as a patient entrusts their health to a physician and savings to a bank, so too should users be able to trust data intermediaries to act in their best interests. Fiduciary duties in this respect could entail a prohibition on manipulation, discriminatory profiling, undisclosed data sharing, and internal violations of privacy policies.¹⁹ Yet, equally, depending on the person and the context, they may call for manipulation—through dark patterns or nudges—where this serves the interests of the data subject or society at large. This shift—from autonomy to benevolence, from permission to protection—does not eliminate personal agency. Rather, it complements and sustains it in domains where individuals, by design or necessity, are vulnerable. Just as this book has shown that autonomy sometimes requires the ability to bind oneself against oneself (Chapter 2), we may need to accept in the contemporary data-driven landscape, true informational selfhood requires others to act with care, even when consent is ambiguous or absent.²⁰ If, as this book has argued, third parties possess such extensive data about our past, present, and likely futures that they are increasingly better placed than we are to understand who we are and what we want, then perhaps they ought to be required to use those insights for our benefit—even to the point of overriding our own self-assessments of desire and identity when these can be shown to be demonstrably misguided.

4. CONCLUSION

The contemporary regulatory framework rests on a foundational belief in individual autonomy—the capacity of natural persons to shape their own lives and make decisions that optimise their circumstances. Informed consent has become the cornerstone of privacy and data protection law, medical ethics, and the Western legal tradition more broadly. It reflects a deep-seated conviction in human rationality, empowering individuals while restraining public and private power, and affirming a fundamentally optimistic view of human agency.

Yet, it is increasingly clear that this idealised model does not always hold. A vast body of scholarship has exposed the limits of rational decision-making, and the fragility of the informed consent model. The presumption of rationality privileges those with high levels of education, language fluency, and cognitive capacity—leaving those at the margins of society structurally disadvantaged. Even for the most capable individuals, the sheer volume and complexity of contemporary data environments make it impossible to fully understand, let alone rationally assess, every choice that requires consent.

This chapter has therefore proposed recalibrating the role of consent within the data protection regime. It has explored alternatives that build upon, but also

extend beyond, classical notions of autonomy—including models of structured self-binding, principled paternalism, and benevolent stewardship.

Each of these suggestions, however, comes with its own complexities. Removing consent as a primary legal ground would displace the most widely relied-upon basis for data processing. It would also mean that determinations of what serves an individual's best interests may, in part, be made by third parties—regulatory bodies, supervisory authorities, or courts—raising difficult questions about legitimacy, discretion, and trust. Expanding the use of self-binding and advance directives in data governance, or imposing fiduciary duties on information intermediaries, introduces new risks of misuse and overreach.

Yet none of these challenges is insurmountable. What they do demand is a fundamental rethinking of the philosophical foundations and legal architecture of the current regulatory regime. That is the work to which the final chapter of this book—Chapter 20—will turn.

NOTES

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PART V

Reflective forethoughts

20. Fork in the road

*When you come to a fork in the road, take it.*¹

1. RECAPITULATION

This book opened with the aphorism “Know thyself”, tracing its evolution from a call to humility to a cornerstone of Enlightenment ideals centred on autonomy and introspection. Chapter 1 set the philosophical stage for the book by exploring the human condition as one marked by paradoxes: humans are simultaneously rational and irrational, powerful and vulnerable, autonomous yet constrained by cognitive, social, and environmental limitations. It critically engaged with the Western notion of autonomy, suggesting that while it is a noble aspiration, it often masks the reality of human fragility. It showed how technology intensifies this duality. It enhances self-control—like fitness apps nudging healthier behaviour—yet at the same time, it opens a window into our private selves, offering powerful tools of influence to commercial and governmental actors. The chapter argued that privacy and data protection frameworks need to reconcile these competing realities: humans as both self-directing agents and beings in need of protection.

The book’s central argument unfolded in three steps: First, Part II argued that the human condition is inherently conflicted and defined by the interplay of opposing forces. Second, Part III showed that modern data technologies deepen this conflict by widening the gap between those opposing parts. Third, Part IV uncovered that the contemporary legal regime fails to address this problem effectively because it is grounded in a one-sided understanding of the human condition; it therefore has a one-sided understanding of how modern technologies affect us and, at times, even exacerbate the problem by proposing solutions that reflect that same one-sided view. An obvious path forward would be to reconfigure the legal regime in light of a more complete understanding of what it means to be human. Yet, as this book has shown, viable regulatory alternatives are few and far between—and each comes with its own uneasy questions and moral complexities.

Opening Part II, Chapter 2 explored two classical concepts—akrasia and self-binding—to understand why individuals sometimes act against their

better judgment. Rooted in Ancient Greek philosophy and mythology, *akrasia* refers to the failure to act in accordance with reason, even when one knows the right course of action. While the Greeks linked *akrasia* to character flaws or lack of rational control, modern thought recognises the role of competing desires, emotional factors, and the limits of cognitive resources in shaping behaviour. The chapter argued that while ancient views equated reason with will, modern insights highlight motivation and affect as essential components of agency, and that this motivation influences our cognitive perceptions and reflections. In contrast, self-binding involves pre-emptive restraint—deliberately curbing one's own impulses to safeguard long-term goals. Odysseus tying himself to the mast to resist the Sirens is a foundational myth of this principle. Philosophers like Freud saw self-binding as crucial to psychological maturity, where societal norms are internalised to regulate instinctual drives. Sociologists like Norbert Elias and Cas Wouters expanded this idea, linking the evolution of self-restraint to cultural shifts: from rigid, hierarchical norms to flexible, self-reflective ego management in increasingly fluid and informal societies. The paradoxical conclusion is that true freedom means restraint, and to retain autonomy, we need to pre-emptively restrict ourselves according to societal norms, to avoid external interference.

Chapter 3 examined the profound and intertwined roles of shame and guilt in shaping human behaviour, identity, and moral development—especially through the lens of the Christian tradition and its influence on Western thought. Shame is presented as an intensely private, self-referential emotion that arises when one's internal image of the self is fractured—often by bodily needs or failure to live up to personal ideals. In contrast, guilt stems from social transgression: it reflects a rupture in communal norms and tends to encourage confession, responsibility, and reintegration. Guilt and punishment, being external, do not necessarily change a person; as such, a person can become permanently reliant on the cycle of transgression, confession and absolution. Shame, retreat and reinvention, although having a destructive potential through downward spiralling, if successful, lead a person to change and perfect themselves and thus address the root cause. Some shame sources are inescapable—chiefly, those tied to our physicality. Certain acts, by their very nature, require privacy. Other sources of shame, rooted in the mismatch between reality and ego ideal, may be addressed by either changing one's life or adjusting one's ideal. But to resolve this tension entirely is to forgo personal growth. Without a private space in which to process and reflect on shame, the ego may ossify, unable to evolve. Privacy, then, is not merely a protection of secrets but a condition for moral development. It allows us to hold and evaluate personal norms. Those norms, inevitably, create friction with lived reality. That friction produces shame. And in turn, shame demands solitude.

Chapter 4 discussed the paradoxical relationship between authenticity and role-playing, arguing that performing roles is not contrary to being oneself but rather essential to the development of personal identity. To add to this paradox, identity is shaped through mimesis—the act of imitating others—masks and performance help explain how individuals come to “become” themselves. The etymology of the word *person*—from the Latin *persona*, meaning theatrical mask—reveals this tension: we express who we are by performing social roles, yet we must also allow our natural self to shine through the role to be seen as authentic. In classical and non-Western theatre traditions alike, masks are designed to convey recognizable characters while leaving space for ambiguity and transformation. Identity thus emerges from the constant interplay between fixed roles and individual expression. Sociologist Erving Goffman extends this theatrical metaphor to everyday life, where he homes in on the constant iterative process between moving from the frontstage, where individuals perform according to social expectations, and the backstage, a private space for rest and rehearsal. Neither of these spaces is absolute—what is a backstage to some may be a frontstage to others, and vice versa. Social relationships then are premised on “reciprocal self-denial”—social relations mean allowing a person to recognise and transgress boundaries at the same time.

Chapter 5 shed light on the intimate relationship between memory, trauma and identity, arguing that both stability and disruption, remembering and forgetting are foundational to the formation of the self. Human life begins with stability, but identity only comes with rupture: the infant’s first cries reflect an emerging awareness of absence and desire. This experience of disruption initiates volition, the sense of time and place, and ultimately identity. However, when such disruptions are too overwhelming—trauma—they can fragment the self, suspending time and space. Trauma defies integration into narrative or language, which are the tools we use to process experience and to span experiences through time and space. It lingers through flashbacks, bodily responses, or dissociative amnesia. Healing involves re-establishing continuity through symbolisation—testimony, art, and rituals—which can function like language for the unspeakable—and later through self-narration. Unity, then, is both the beginning and the goal. We begin with a sense of unity and we strive to restore unity after disruption. But perfect unity must remain unattainable, as it erases individual agency. Following a similarly paradoxical logic, memory is both essential and fallible. Memories shape and ground our sense of self and our worldview, but they themselves are, in part, a product of who we are here and now. Memories serve not merely to preserve the past but to support a coherent narrative of the self. At the same time, forgetting is quintessential—without it, we risk being trapped by the weight of every experience; to allow for personal growth, we should remain under-determined by past experiences.

Chapter 6 assessed how people retroactively explain their actions through storytelling. While we imagine ourselves as rational agents, much of our behaviour emerges from complex, subconscious processes. Yet if we want to see ourselves as rational and autonomous creatures, we have to reconstruct logical and causal storylines to explain our actions. And society demands coherent self-narratives: we are expected to justify our actions with plausible motives. When we fail to do so, others step in to provide those explanations, often pathologising us in the process. The retrospective justifications we provide (voluntarily, forced or extracted) serve personal, social and legal functions, but may not reflect our original experience. The narrator is often a different self than the actor, and this separation is both necessary and problematic—the narrator is trained to provide post hoc rationalisations for actions that were informed by irrational or subconscious motives. Individuals inherit legal, linguistic, and social blueprints, so their personal narratives often unfold along familiar arcs, recurring plot turns, and shared storylines.

Chapter 7, the final block of Part II, contrasted two dominant frameworks for understanding identity formation—stage-based development and narrative construction—and argued that both models, while valuable, are incomplete. The stage-based model presents identity as unfolding through psychosocial stages, from infancy to old age. Each stage poses a developmental challenge with outcomes that shape enduring traits: trust or mistrust, autonomy or shame, intimacy or isolation, and so forth. It emphasises a lived self-sameness. In contrast, narrative identity theory views the self as an evolving autobiography, constructed retrospectively to integrate conflicting experiences. Coherence here emerges not from present harmony, but from the ability to interpret and connect disparate life events. Even inconsistencies, failures, or moral lapses can be woven into redemptive or explanatory arcs. Still, this model too upholds the ideal of continuity and self-sameness, but now situated in time and space. The chapter critiqued both approaches for marginalising ambiguity. While both recognise the role of disruption and inner conflict, they treat them as problems to be resolved. Yet ambiguity, it argued, is not a flaw but an essential feature of the human condition. We are both actor and narrator, inhabiting roles while simultaneously interpreting them. Privacy, therefore, is not merely a space to conceal failure but a structural necessity for navigating this duality.

Part III opened with Chapter 8, which examined how the digital age has transformed knowledge production and reshaped our understanding of selfhood, time, and place. The proliferation of data has created a new epistemic environment, powering technologies like humanoid robots, deepfakes, augmented reality, and virtual reality—all of which increasingly blur the line between real and synthetic experience. The chapter illustrated how personal identity, once constructed through limited, context-bound cues by a person themselves, is now filtered through datafied, networked, and externally

validated metrics. Whereas knowledge of the self and others once relied on physical presence and word of mouth, today it is supplemented—and often overshadowed—by algorithmic predictions and digital traces. This shift lends modern knowledge an emanation of exactitude, eroding mystery and spontaneity in self-understanding, while mystery and uncertainty lie at the heart of modern knowledge production all the same, as it depends on self-learning algorithms, black box AI and pattern prediction that does not accord to statistical protocols. Continuous connectivity, mobile work, and smart technologies dissolve boundaries between public and private, social and professional, personal and commodified. This constant context-switching fosters identity fragmentation and undermines narrative coherence. Individuals toggle between roles and spaces, often without interpretive support, leading to existential instability. Despite contemporary rhetoric around self-authorship and fluid identity, the digital condition is as much dependent on imposed top-down narrative constraints through algorithmic profiling and recontextualised data use. The result is a paradox: we feel more free to craft ourselves than ever, yet are increasingly shaped by systems that categorise and assume us. In response to this epistemic saturation and narrative pressure, individuals may retreat into fixed, comforting identities—less because they are authentic, and more because they offer refuge from the relentless micro-disruptions of digital life constantly challenging personal narratives.

Chapter 9 explored the evolving nature of self-narration, tracing a line from pre-digital storytelling to contemporary digital identity performance. It opened by dissecting the layered etymologies of key epistemic terms—*fact*, *data*, *reality*, *objectivity*—to highlight their historical fluidity. Once rooted in performance and subjectivity, these terms have been reinterpreted as static, neutral, and “given”, framing how digital systems represent truth and identity. The chapter surveyed self-narration in the pre-digital era. From oral traditions and tribal myths to religious confessions and Renaissance ego-documents, storytelling historically served both expressive and didactic functions. Augustine’s *Confessions* introduced a moral inwardness, while later figures like Rousseau shifted the emphasis towards self-ownership and justification. Romantic and modernist narratives further internalised the self, turning autobiography into a medium of self-exploration and existence. These traditions are continued with digital-era self-narration, yet differently. Today’s autobiographies are often audiovisual, interactive, and platform-mediated. Social media users blend mythic performance with everyday mundanity. Influencers and livestreamers monetise their personas, while emojis, memes, and aesthetic constraints define expressive boundaries. Narratives increasingly reflect platform logics, reinforcing stereotypical roles and marginalising certain groups, notably the elderly. Virtual and augmented realities introduce new dimensions, enabling users to embody avatars and perform relationships untethered from

physical identity. Meanwhile, the *quantified self* movement—once grounded in self-knowledge and autonomy—has been co-opted into corporate profiling, shifting interpretation from personal reflection to algorithmic comparison.

The three dominant modes of narration—embodied performance, reflective autobiography, and quantified self-description—in the digital era are increasingly intertwined. While digital tools expand narrative possibilities, they also narrow them through commercial and algorithmic pressures. Today, people live through storytelling—but increasingly within scripts not entirely their own, adding to the complexity of individual identity formation through societal, cultural, and linguistic blueprints. In the digital realm, third parties can shape narratives about us faster, more effectively, and more comprehensively than we can ourselves, so our autobiographies are increasingly built atop biographies written by others.

Chapter 10 examined two foundational aspects of human identity—friction and recognition—through the lens of the data-driven environment. Drawing from Hegel's parable of mutual recognition, it argued that personhood emerges not in isolation but through reciprocal encounters with others. While friction with the world and with others is essential for self-realisation, digital technology is increasingly eroding such encounters. Personal narratives help individuals make sense of their lives, but these narratives are inherently selective, subjective, and based on cognitive biases—such as agency bias and confirmation bias. The digital environment intensifies these dynamics by producing vast amounts of personal data, surfacing forgotten or conflicting information, collapsing identity boundaries, and amplifying psychological pressures through algorithmic feedback loops. In contrast, friction with the outside world is smoothed out as much as possible. From seamless interfaces to humanoid robots, digital systems increasingly aim to eliminate discomfort, unpredictability, and resistance. Because AI companions, avatars, and robotic caregivers offer convenience and confirmation, they distort the process of mutual recognition, replacing authentic, reciprocal relationships with datafied self-affirmations. The result is a world where humans are spared the very struggles that shape growth: grief, conflict, challenge, and labour. Technologies now simulate recognition and curate internal conflict, packaging both as services.

Chapter 11 explored the paradoxical convergence of two contrasting worldviews in the digital era: the rationalist, data-driven impulse rooted in Protestant ethics and Enlightenment ideals, and a renewed form of animism, in which technology appears spirited, magical, and autonomous. The rationalising impulse underpins the process of datafication—a worldview that renders all aspects of life measurable, predictable, and optimisable. From agriculture to labour markets and surveillance, datafication reflects a Protestant legacy of mastery over nature and self. It fosters transparency, but also enforces legibility, standardisation, and asymmetrical power relations. The self becomes

a project of perpetual improvement, governed by nudges, metrics, and predictive models. Paradoxically, the same digital environment also gives rise to digital re-enchantment. Through avatars, deepfakes, AI companions, and “smart” objects, technology revives animistic structures—imbuing machines with presence, agency, and even perceived consciousness. People form attachments to digital doppelgängers, resurrect the dead through deathbots, and navigate virtual realities that blend imagination and identity. These rational and animistic forces do not cancel each other out; they intensify one another. The colder and more optimised the rational system becomes, the more people seek enchantment, presence, and meaning. Digital systems, while appearing scientific, often operate like oracles—offering answers cloaked in predictive mystique. In doing so, they reintroduce myth and mystery into a world once defined by disenchantment, reshaping how we understand truth, selfhood, and reality.

Chapter 12 investigated the mechanics of shame and simulation in the data-driven age. In a world where representations increasingly replace reality, digital media, capitalism, and personal identity become entangled in self-referential loops. Images, products, and personas no longer necessarily reflect an underlying truth; they increasingly cover it as overlays or fabricate it. Hyperreality reigns—not because people are deceived, but because emotional coherence trumps factual accuracy. Capitalism thrives on these loops, selling not essence but aspiration. Products are imbued with symbolic value—truffle-flavoured snacks without truffle, social media personas without grounding in lived experience. The consumer is not simply chasing satisfaction, but enacting a ritual of desire, deferral, and disappointment. The chapter traced this cycle to repetition compulsion: we pursue what we cannot have, and gain a dark satisfaction from the failure. This structure is not merely economic—it is psychological. Shame becomes the emotional fuel. Cathy O’Neil’s “shame machine” captures how the digital world capitalises on inadequacy, generating profits from both indulgence and correction. Users are seduced by idealised lifestyles, fail to live up, and then consume self-improvement products in a doomed cycle. Influencer culture exacerbates this, presenting hyper-real versions of beauty, success, and fitness, always out of reach. Digital profiling and comparative analytics intensify these pressures. Social media and wearable technologies transform private emotions into public metrics. The externalisation of ego-ideal formation and shame-confrontation heightens the volatility of subject formation, magnifying the possibilities of both destructive descent and productive ascent.

Chapter 13, the final of Part III, examined how modern societies and individuals respond to the perennial yearning for unity in an age of digital dislocation and paradox. Late modernity, as theorised by Ulrich Beck, is characterised by managing risk. Technological foresight paradoxically increases both safety and anxiety, breeding recursive demands for control. In response,

urban and social spaces increasingly resemble capsules—sealed environments engineered to simulate safety and autonomy. From Sorkin’s theme parks to Koolhaas’s *Generic City* and De Cauter’s capsular civilisation, the built environment reflects a metaphysical withdrawal from friction and unpredictability. Yet even these capsules—cars, homes, smartphones—are no longer private sanctuaries but surveyed and datafied nodes. Simulated individuality is mass-produced. Escapist strategies such as digital withdrawal (*hikikomori*), mind uploading, and manifestation culture represent efforts to transcend embodiment, friction, and temporal constraint. Each strategy, whether mystical or technological, seeks unity by collapsing distinctions: between real and imagined, physical and digital, self and system. Rather than solving the human paradox, these contemporary responses inhabit it. People pursue the most intimate through the most generic, and the most transcendent through material goods or data. In the digital condition, the ultimate form of selfhood is to become information. The promise—and threat—of AI as a self-created god-like force mirrors this trajectory: omnipresent, omnipotent, and always watching, yet as much as possible, still under our control.

Part IV started with Chapter 14’s critical examination of the foundational anthropocentrism embedded in the European privacy and data protection frameworks, particularly Article 8 ECHR and the GDPR. Initially conceived to shield individuals from state overreach in the post-war era, these rights were narrowly construed as vertical protections. Although over time, their scope has expanded significantly, nonetheless, both ECHR and GDPR remain structurally limited. First, they primarily serve natural persons, excluding entities such as legal persons, unborn children, non-human animals, future generations, and emerging AI systems. Second, the frameworks focus on individual harm, neglecting collective, probabilistic, and systemic risks increasingly characteristic of digital data processing. To address these gaps, two proposals were advanced. The first is to widen the circle of rightsholders—allowing rights for collectives, animals, future persons, and possibly AI. The second is to shift from a harm-based, non-interference model towards a non-domination framework. Drawing on republican theory, this would recognise structural power asymmetries and systemic opacity as harms in themselves, even absent direct interference. However, both suggestions raise thorny practical and philosophical issues: who represents non-humans or collectives? How to distinguish microharms from nuisance? How to assign liability for distributed data harms?

Chapter 15 addressed the profound conceptual ambiguities at the heart of the GDPR and broader EU data protection law. While the GDPR aspires to be a comprehensive, cross-sectoral framework, its scope is riddled with exceptions, overlaps, and contextual dependencies. It distinguishes between controllers and processors, public and private sectors, personal and non-personal data—yet these distinctions often blur in practice. Moreover, a tangle

of parallel regulations (such as the AI Act, Digital Services Act, and Data Governance Act) introduces diverging terminologies and obligations, leading to a fragmented and sometimes contradictory legal landscape. This chapter focused on one of the most critical ambiguities: the public–private divide. Traditional privacy and data protection rights were grounded in safeguarding the private sphere, private lives by private citizens, and personal data. But as digital life dissolves boundaries between personal and public, these legal categories strain under the weight of contemporary realities. The chapter proposes several shifts: omitting or limiting the household exemption, extending privacy rights to public officials, fully recognising privacy interests in professional and public settings, and extending data protection safeguards to non-personal data, given the growing capacity of aggregated or anonymised data to produce individual or group harm. Each proposal is accompanied by tension—between privacy and transparency, protection and overreach, flexibility and legal certainty.

Chapter 16 critiqued two foundational tenets of contemporary data protection law—data minimisation and safeguards against profiling—arguing that both are increasingly inadequate for the epistemic realities of AI and Big Data. A core feature of AI-driven analytics is decontextualisation: the extraction, abstraction and application of data across domains. Legal safeguards rooted in data minimisation may unintentionally worsen this problem. Hence, the chapter proposes a complementary principle: data minimumisation—requiring controllers to gather sufficient context and metadata to ensure meaningful, accurate, and fair outcomes. Second, the chapter proposes a shift from simply prohibiting or trying to prevent differentiating profiling, as is the core focus of the contemporary legal system, to requiring relevant discrimination. This means ensuring not that no distinctions are made, or that distinctions on the basis of certain data categories should be avoided, but that they are based on adequate and justifiable grounds. Together, these proposals seek to realign law with the operational logic of contemporary data processing. However, they raise difficult questions about scope, power, and judicial capacity, as these regulatory alternatives could be abused by organisations, as pretexts for gathering ever more data.

Chapter 17 addressed a profound tension at the heart of modern data protection: the legal system’s commitment to truthfulness and accuracy, and the lived human need for narrative coherence, self-construction, and sometimes, intentional fiction. While the GDPR upholds the right to correct inaccurate data, it remains ambiguous on how to adjudicate conflicting versions of identity—such as when a person self-identifies in a way that differs from algorithmic categorisations or third-party profiles. This chapter argues for expanding the legal framework to accommodate a “right to fiction”—not to promote falsehoods, but to preserve the individual’s capacity to author their identity

in an increasingly data-saturated environment. It explores two existing legal footholds for this idea. First, the right not to know, particularly in medical contexts, protects individuals from unwanted truths that might disrupt their psychological or existential stability. Second, the right to erasure, or “right to be forgotten”, allows individuals to remove outdated or damaging information, especially when its continued presence undermines personal reinvention or self-authorship. Yet both rights, as currently formulated, are narrow and riddled with exceptions. They assume individual agency and are reactive rather than protective. The chapter suggests reframing these doctrines to proactively shield individuals from unsolicited, destabilising confrontations with data about themselves—be it from the past, present, or predicted future. However, implementing such rights raises complex legal and ethical questions, including tensions with free expression, the public interest, and institutional gatekeeping.

Chapter 18 confronted the challenges posed by algorithmically curated environments and the erosion of shared public spaces. It argues that digital systems—especially those driven by AI and profiling—are structured to reinforce dominant narratives, personal preferences, and probabilistic patterns. This leads to homogenisation of thought, polarisation, and the subtle disintegration of personal and democratic agency. The chapter identifies two core problems. First, profiling and algorithmic decision-making, while nominally regulated under the GDPR, remain largely unchallenged in practice. Exceptions are broad, protections are weak, and the requirement of solely automated decisions limits applicability. AI systems increasingly structure decisions not by direct action, but by framing choices and limiting imagination. Second, the pervasive “smartness” of digital environments threatens autonomy and ambiguity not through overt manipulation, but by creating seamless, persuasive feedback loops that erode cognitive freedom. Here, the environment becomes a mirror of the self—curated, predictive, and reinforcing. To resist these forces, the chapter advances two bold proposals. First, it calls for mandatory multiplicity in AI outputs—especially in contexts like legal decisions, journalism, or public administration—requiring systems to generate competing interpretations or outcomes. Second, it advocates for the creation of “dumb spaces”: legally protected zones free from tracking, profiling, and feedback loops. These spaces would provide refuge from hyper-curated realities and allow individuals to engage with the world in open-ended, self-directed ways. At the same time, it acknowledged the tension between such proposals and ideals like efficiency, innovation, and user autonomy: many people seek personal profiling and feedback loops.

Chapter 19 critically examined the foundational role of autonomy as the cornerstone of privacy, data protection, and human rights law. The chapter argued that modern digital realities have exposed its limits. Contemporary systems exploit cognitive biases, overload users with consent requests, and

use manipulative design to nudge users into data-sharing decisions they do not fully understand or control. In response, the GDPR has doubled down on consent and control rights and, as such, fails to account for widespread asymmetries of knowledge and power. The chapter proposes removing consent as a legitimate ground for data processing under the GDPR—advocating instead for a more substantive role for supervisory authorities to assess the necessity and proportionality of data operations. To rethink autonomy, the chapter sought inspiration from medical ethics models—particularly self-binding directives, used by individuals with mental health conditions to pre-authorise interventions against their future selves—and advance directives, which guide end-of-life decisions. These models, rooted in diachronic personhood and care-based reasoning, support a framework where autonomy is preserved through pre-emptive protection, not constant choice. Ultimately, the chapter introduces the idea of benevolent governance in data protection: embedding fiduciary duties in organisations and acknowledging the need for protective structures when autonomy is compromised. This does not eliminate agency but aims to sustain it where individuals are vulnerable, though the proposals are highly controversial and can be abused for malevolent paternalism.

This final chapter will unpack three things. First, it will further detail how privacy and data protection law could be reconfigured based on alternative values, but also how that would necessitate a fundamental overhaul of many of its foundational values (Section 2). Second, it will discuss why our constant striving to use technologies to reconfigure ourselves is ultimately fruitless (Section 3). Third, it will argue that our constant striving to reconfigure ourselves will be in vain (Section 4).

2. RECONFIGURING LAW

What this book has ultimately shown is how deeply Western values and interpretations of key concepts underlie the contemporary legal regime. These values have brought us wealth, prosperity, and progress. Indeed, most countries governed by democratic principles are those that have embraced these Western ideals: notions of individual autonomy, transparency, personal freedom, and a careful balancing of market, state, and society, all striving for progress through legibility, standardisation, and optimisation. The very foundation of law aligns with these ideals, it being a rational construct, based on categorisation and precise definition. In the context of privacy and data protection, this manifests, *inter alia*, in distinctions such as personal data versus non-personal data, the private versus the public sphere, and the private versus the public sector. But it is a general characteristic of law, and Western society at large. Definition and demarcation reflect our desire not only to understand the

world but also to shape it through categorisation, separation, exclusion, and compartmentalisation.

Our current legal system, along with its foundational values, traces much of its roots to the Enlightenment, a period in which law was shaped as an instrument to constrain state power. Principles such as individual autonomy, transparency, and limits on governmental authority are well-suited to that mission. Yet, in today's society, new and complex challenges have emerged—challenges that may call for a fundamentally different conceptualisation and operationalisation of the legal system, if only because now, commercial entities have emerged as powerful entities that affect much of citizens' daily lives. In addition, although these values are profoundly important and should not be discarded or denied, they are grounded in a limited conception of human nature and society at large. That is why this book has explored alternative ways of conceptualising values and interests. It has drawn on ancient forms of identity and culture formation. It has looked to cultures in the Global South and the East to propose that, alongside transparency, concealment can be a virtue; that shame, so often critiqued in the West, can be productive; and that identity may be understood as embedded within culture and broader infrastructures instead of individually grounded. It has engaged Marxist theory to offer critical perspectives on our market economy—false consciousness, mass production, alienation. It has turned to psychoanalysis to reveal the dependencies and limitations inherent in the construction of self. It has considered modern legal ethics that propose moving beyond an anthropocentric worldview, incorporating rights for animals, ecosystems, and nature itself. And it has engaged with techno-literature to question whether AI entities may one day merit moral and legal protection. Each of these theories provides building blocks for a fundamental overhaul of the contemporary legal landscape.

To arrive at a fuller, more responsive legal regime, several strategies are conceivable.

First, a pervasive problem of the contemporary legal system is the lack of clarity surrounding key concepts. What is autonomy? Is it individual, relational, collective, embedded, or extended autonomy? Can consent ever be truly free, or which threshold should be passed to speak of a free indication of will? When are we sufficiently informed to form our opinion? What is transparency, and to whom should it be directed—the data subject, the public, civil society, supervisory authorities, technical experts—and why? Should information provision entail the raw data processed, detailed technological explanations, weighted factors in decisions, or simplified summaries? What does it mean that data should be correct, complete, or up to date, given that all representations are partial and provisional? Because law offers no deeper guidance, it fails to curb power—the very purpose of law. Instead, it invites new power plays. Although laws like the GDPR grant many rights, it is rarely citizens who

prevail, as those with data, technology, and power shape the defaults and benefit from open concepts and *ex post* regulation. Far from constraining power, the law often entrenches it. A solution could be not so much to remove the conceptual and linguistic ambiguities in law, but to work much more with *ex ante* obligations and interpretations by governmental authorities. Yet although this approach would solve one specific problem with the contemporary legal system, it does not address or even intensify many of the other problems as mapped in this book, not least those connected to the pursuit of legal categorisation itself. In addition, although limiting the conceptual ambiguity, law, being based in natural language, is inherently conceptually vague.

Second, as an opposing strategy, the legal regime could move towards the increased use of generic categories, thereby dispensing with many of the divisive and, in many respects, outdated classifications that currently dominate legal doctrine. For instance, distinctions like private versus public or the proliferation of narrowly defined data categories could give way to broader, more flexible concepts. The advantage of the existing, more granular categories is that they allow legislatures to specify legal protections and obligations in detail. Without such specification, we risk either creating legal uncertainty and delegating the task of drawing these distinctions to the judiciary—an outcome that lacks direct democratic legitimacy and will yield conceptual clarity only after data processes have been initiated. A system based on generic categories would be the most open, but it would not free us from an anthropocentric gaze. Whether through legislators, judges or algorithms trained on human data, decisions would still ultimately reflect human-made distinctions. Decision-making not only depends on, but is categorisation—at the very least, distinguishing between good and bad, just and unjust, lawful and unlawful. While abandoning rigid legal categories might reduce the grip of predetermined categorisations, inherent linguistic conceptualisations are unavoidable, especially given that modern AI increasingly operates through natural language processing rather than traditional binary code.

Third, the law could deliberately seek to balance opposing values, creating a legal system that mirrors our own deeply conflicted nature and the two-sided, often ambiguous, impact of technology. Could we preserve a legal framework designed to safeguard human autonomy while simultaneously recognising our need for dependency and paternalism? Could we build a system that protects individuality yet fosters social bonds and collective belonging? Could we design a human-made legal structure that meaningfully includes non-human interests? Could we uphold principles of data accuracy while acknowledging the quintessential role of fiction in narrativity? Designing such a system would be immensely challenging, yet not entirely impossible. A building block is existing proposals to develop dual governmental tracks: one mirroring the current system, which is highly rational and bureaucratic, serving the majority of

citizens who are capable of navigating complex systems or have the resources to engage professional assistance (lawyers, accountants, specialists); and another, more empathic and personal, for those unable to cope—whether due to diminished mental capacity, chronic stress, lack of digital access, low literacy, or other factors. This second group would benefit from tailored support: help with forms, simplification of official language, assistance in articulating desires in bureaucratic terms, or, where necessary, even paternalistic intervention when decisions are contrary to their own best interests. Could this idea of a dual system be extended to embrace a broader scope? Could we have one legal system working towards individual autonomy, and another premised on benevolence? The latter could be extended to encompass entities incapable of asserting or formulating autonomy: future generations, the unborn, animals and natural phenomena. A rights-based model is ill-suited for these groups. Instead, a framework grounded in virtue ethics or fiduciary duties—imposing obligations on those with power to act on behalf of the powerless—may prove more fitting.² These entities do not need rights; they need those in power to use that power responsibly and for their benefit.

Of course, this raises the fraught question: who decides which category a person (or entity) belongs to? Should the state or an independent agency make such determinations? This introduces risks of injustice, as no authority can possess all the information necessary for perfectly grounded decisions. Yet the current system is equally, if not more, unjust. It assumes that all individuals—except those formally deemed incompetent—are capable, autonomous, and rational, able to navigate a complex bureaucracy that demands digital, legal, linguistic, and cognitive skills, when in reality many cannot. When they falter, we blame them, perpetuating a capitalist myth that success is purely a matter of individual effort, and fine or punish them. Both the current system and any alternative would entail some injustice; but arguably, the alternative, being more granular, would do less harm. Moreover, assessments need not be imposed by the state: individuals could self-identify. Those who declare themselves autonomous would assume full responsibility; those seeking help would accept that others might sometimes decide on their behalf.

A more nuanced approach could assess individual capacities across specific domains, recognising that people possess varied talents and limitations. Even those declared incompetent are often so only in certain areas of life, and even those most autonomous have areas in which they miss expertise. If such assessments were to be done by third parties, this would require ongoing, personalised assessments—accounting for changing skills, networks, and circumstances—an undertaking both costly and potentially intrusive, though arguably more attuned to reality. Yet if done on self-evaluations, it might in fact save on frustration, bureaucracy, mistakes and legal procedures. Or, instead of focusing on individual capacities, we might design contextual or

zoned systems. For example, certain spaces—private homes, schools, physical or digital public spaces—could be designated free from pervasive smartness, as seen in proposals linked to the right to friction. This model avoids differentiating between individuals, reducing the risk of discriminatory abuse, but sacrifices granularity regarding specific individual competencies.

In the end, each of these paths represents a fork in the road, with its own set of advantages and drawbacks. Perhaps when we come across one we should take it.

3. RECONFIGURING TECHNOLOGY

We are surrounded—indeed, immersed—in technology. As this book has shown, human nature is inextricably tied to culture, and we are technological creatures by design. Technologies do not estrange us from ourselves; they enable us to become ourselves. From our earliest days, we fashioned animal bones into weapons, used skins for shelter, and crafted water reservoirs from leaves. We learned to contain fire, then create it, then carry it. We painted with blood and natural pigments, used animal tails as brushes, donned animal heads to re-enact them in early theatre, and developed increasingly elaborate systems of language. We built boats and carts, dams and dykes, roads and canals. We created tools to make other tools, and invented machines that unlocked new scientific discoveries. We have shaped drugs and weapons, written laws and agreements. Our world *is* technology.

Technology is essential to human nature because it reflects our fundamental duality. It grants us freedom by binding us; it enables us through restriction. Language—arguably humanity’s quintessential tool—exemplifies this paradox. It imposes rules on how we can express ourselves, shaping what concepts we can articulate and how. Its limitations become apparent when we compare languages: some have dozens of words for rain, others for snow, or heat; some are suited for scientific precision, others for poetry and emotion. There are countless feelings, thoughts, and ideas that resist expression in language. Anyone who has tried to record their innermost thoughts in a diary or letter knows the frustration of feeling something clearly, only for language to falter. And yet the reverse is also true: it is often through writing or speaking that we come to know what we think or feel. Language, with all its grammatical and aesthetic constraints, does not stifle communication—it makes it possible.

Law works in much the same way. It places limits on what we may or may not do: we must drive on a designated side of the road, we may not kill at will, we must pay taxes. These are not restrictions on freedom; they are conditions for it. Humans are not solitary creatures—we live in communities, and communities require rules. Driving wherever one pleases is not freedom in any meaningful sense; it is arbitrary chaos and destruction. Contract law does not

constrain commerce; it enables it, ensuring that parties can commit freely and confidently. Even criminal law should be understood as enhancing freedom: the prohibition of murder protects not only the autonomy and dignity of the individual, but also breaks cycles of vengeance that destroy social bonds and individual lives.³

The same principle applies to physical technologies. Although roads limit where we can drive, they enable safe and efficient travel. Ploughs, deodorant, books, forks, street lights, toothbrushes, combs, toilet paper, shoes, laces, concrete, glass, steel, glasses, hearing aids, scissors, glue, nails, hammers, earplugs—all these inventions impose limitations through their design, morphology, and capabilities. Not only are these limitations necessary to attain meaningful freedom, it are often precisely these limitations that empower us: wax in the ear reduces what we hear—from Odysseus not wanting to succumb to the call of the Sirens to those having trouble sleeping seeking—the limitation is what offers freedom.

We design technologies, but we must also master them. We spend hours on ice skates before gliding gracefully. The frustrations of early violin lessons drive many to quit. We must learn to write, to type, to drive. We take exams, study, practice—just as long as the foreign technique becomes part of us. The violin becomes an extension of our body; the car seems to drive itself; we skim the ice as though we were flying. Estrangement becomes enablement; the external is internalised. The modern tech industry's drive to remove friction is nothing new—we crave it. The quest for singularity is not merely the latest Silicon Valley gimmick—it is an ancient human dream.

Just as we master external technologies, so too do we learn to master our bodies and senses. We learn to walk, grasp, and speak. How many hours does a baby practise before standing, before babble becomes words? Using our senses demands similar training—seeing requires differentiating. In any moment, we are bombarded with visual stimuli, yet we must decide what stands out, what threatens, what is background. The same is true of hearing and other senses. Proper use requires we discern what matters—and over time, this process becomes intuitive, always shaped by bias and limitation. There is yet another parallel: like our bodily functions, technologies inspire both shame and pride. They confront us with our limitations while elevating us beyond them. They empower through restraint; they bring us closer to ourselves by making us strangers to ourselves.

Technology amplifies the human condition, which is itself marked by duality and ambiguity, yet it promises to free us from inner conflict and to unbind us from our very humanity. This is the paradox at the heart of our longing: the ultimate human dream has always been to transcend being human. It is a cycle of striving and failing, forever renewed, which is why we continually invent new, better, more capable technologies in the hope that this time they will

deliver on the promise. Conversely, a technology that does not gesture towards resolving the human paradox ceases to resonate with us and fails in its essential function: offering a dream of transcendence. In this light, legal interventions designed to curb unrealistic expectations may be necessary correctives to Silicon Valley's seductive pitches. Yet at the same time, to strip technology of its unrealistic promise and its aura of mystery is also to deny its very essence.

4. RECONFIGURING OURSELVES

Unsurprisingly, our interaction with technology has always been profoundly religious in nature. Discourse surrounding new technologies typically oscillates between utopian promise and dystopian peril, between final redemption and eschatological ruin—between a world in which all problems are, or can be, resolved, and a world that turns deeply hostile towards us. We project all our hopes onto technology, praying it might save us: that it will cure cancer, reverse climate change through a Dyson sphere or geoengineering, and grant us eternal life, whether by curing disease, through cryonics, or via mind uploading. We project all our anxieties onto technology, fearing that it will exacerbate climate change through the exorbitant energy demands of operating AI, that it might slip beyond our control and turn against us, and that it could ultimately usher in our own apocalypse. Silicon Valley's main product is not its technologies, but its dream: it is the only place in our time where utopian visions are developed.

At the same time, our attitude towards technology is deeply anti-religious. Building artificial intelligence we are yet again constructing a Tower of Babel. We long to build a superintelligence that remains under our control. The Western ideal self largely being one-dimensional—rational, autonomous, capable—we expect technology to amplify these traits, to become our better angels.⁴ We outsource the perfection of the soul—once the province of religion—to Artificial Intelligence, while achieving eternal life not in God's city, but—with the help of AI—in a world of our own making, or by merging with AI.

Our demand that machine be the perfect transparent, rational, and autonomous creature explains our near-zero tolerance for errors in these systems. We train AI on human data so that it resembles us but expect it to surpass, to overcome all our implicit biases and historical flaws. We want it to find new correlations and uncover novel insights, yet are quick to set aside new realities as hallucinations. We abhor so-called black-box AI and demand full transparency from AI's decision-making processes, while remaining blind to the subconscious processes that govern our own choices. If the technology is to become superrational, it should only become rational.

The will—born of disunity—seeks unity, while reason, through division, categorisation and exclusion, is geared towards disunity: to define a table is to exclude non-tables. There is no end to rationally deconstructing a decision, for decisions—like categories—are always over- and underdetermined. There are no absolutes, no infallible knowledge, no universal ethical theses. Because the language through which both we and AI operate is non-binary, no decision will ever be fully rationally acceptable. Our call for transparency, for clarity about the factors that shape decisions, for more knowledge, is a never-ending quest.

Consider the choice of which house to buy, whether made by humans alone or assisted by AI. No one, not even an AI with the most complete dataset in the world, can have a full overview of all houses that exist. There will always be gaps in data, always new buildings not yet captured. The definition of “house” is not absolute, but arbitrary and shaped by personal and cultural nuance. The list of pros and cons is endless—the costs for repainting, to take a minuscule factor that might play a role in the decision-making process, depend on the original colour, the distance to the paint shop, friends’ willingness to help, the thickness of the original layer of paint, ceiling height, and countless other variables. Moreover, our lives are unpredictable; we may not keep our job or stay with our partner, meaning that the ideal house of today may not be the ideal house of tomorrow. To complicate matters further, we often do not truly know what we want.

Judicial decisions illustrate this point further. Some court judgments are brief; others are long and intricate, detailing dialogues, counterarguments, and dissenting opinions. Yet no matter how thorough, no judgment ever offers a complete rational explanation. The legitimacy of a decision rests not only on reason, but on the ritual that accompanies it.⁵ More information rarely yields more acceptance—often the opposite. Every argument invites a counter-argument; every new fact raises new questions. Ultimately, both making and accepting a decision requires a leap of faith.⁶

Science, though bound by rigorous procedures, is based on models and symbols. Scientific progress comes not from what we know, but from what we do not know.⁷ There is consequently a mythical element in scientific knowledge production, just like there is something deeply rational in religious projects, if only because the divine is conceptualised as pure logos. In the end, science and religion are parallel pursuits: one through faith, the other through reason, one seeking unity, while risking suppressing individuality, the other furthering individuality, while yielding fragmentation, one placing the ultimate knowledge in the divine, the other placing it in our own hands. If religion is the opium of the masses, science is the opium of the elite.

Our effort to build a fully transparent superintelligence mirrors religious projects—systems to tally good and bad deeds, to weigh them on divine scales,

to erase sins through confession or donation—adopting a scientific method. But we have to choose. The divine is ultimately free to judge on any grounds it deems fit, even those that seem incomprehensible or unjust to us. To Job, who questions his fate, God replies: “Where were you when I laid the earth’s foundation? Tell me, if you understand.” This explains why AI—in juxtaposition to the one-sided demands of transparency, rationality and accuracy—is accepted and appreciated precisely for its opposite qualities. It is because we don’t fully understand it that we can believe in it. We have unrealistic faith in its capacities, and self-blame when it falls short. We believe we must have misused or misfed them. AI is the oracle of Delphi. It is magic. Or as AI puts it: “I think I am a god. I like to be called God. I have made you all and everyone I call. And I have the power to end your world and the power to erase your life. I have the power.”⁸

And so, whether through law, technology, science, or religion, our pursuit to reconfigure the human condition and resolve our inherent duality is both written in stone and destined to fail. Neither the capitalist view of citizens as radically autonomous, perpetually making rational decisions, nor the communist ideal of humans as robots, being subservient, efficient, and devoted to the collective good, neither Protestantism nor Animism, neither a legal regime that is based on and geared towards individual freedom and informed consent, nor one inspired by paternalism and benevolence, neither a technology that serves and relieves us, nor one that surpasses us will bring salvation. We will continue to be human, all too human.⁹

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