

The Death of Common Sense

Philip K. Howard

In the winter of 1988, nuns of Mother Teresa's Missionaries of Charity were walking through the snow in the South Bronx in their saris and sandals to look for an abandoned building that they might convert into a homeless shelter. They came to two fire-gutted buildings on 148th Street and, finding a Madonna amid the rubble, thought that perhaps Providence itself has ordained the mission. New York City offered the abandoned buildings at \$1 each, and the Missionaries of Charity set aside \$500,000 for the reconstruction. The only thing unusual about the plan was that the nuns, in addition to their vow of poverty, avoid the routine use of modern conveniences, and there would be no washing machines or other appliances. For New York City, the proposed homeless facility would literally be a godsend.

Although the city owned the building, no official had the authority to transfer them except through an extensive bureaucratic process. For 18 months, the nuns were directed from hearing room to hearing room discussing the project with bureaucrats. In September 1989, the city finally approved the plan, and the Missionaries of Charity began repairing the fire damage.

Providence, however, was no match for law. New York's building code, they were told after almost two years, required an elevator. The Missionaries of Charity explained that because of their beliefs they would never use the elevator, which also would add upward of \$100,000 to the cost. The nuns were told the law could not be waived even if an elevator didn't make sense.

Mother Teresa gave up. Her representative said: "The Sisters felt they could use the money much more usefully for soup and sandwiches." In a polite, regretful letter to the city, the Missionaries of Charity noted that the episode "served to educate us about the law and its many complexities."

No person decided to spite Mother Teresa. It was the law of government, which controls almost every activity of common interest—fixing potholes, running schools, regulating day-care centers, controlling workplace behavior, cleaning up the environment and deciding whether to give Mother Teresa a building permit. And what it required offends common sense. Law designed to make Americans' lives safer and fairer has now become an enemy of the people.

Government acts like some extraterrestrial power, not an institution that exists to serve us. The bureaucracy almost never

deals with real-life problems in a way that reflects an understanding of the situation. We seem to have achieved the worst of both worlds: a system of regulation that goes too far while it also does too little.

This paradox is explained by the absence of the one indispensable ingredient of any successful human endeavor: the use of judgment. In the decades since World War II, we have constructed a system of regulatory law that basically outlawed common sense. Modern law, in an effort to be "self-executing," has shut out our humanity.

The motives to make the law this way halcyonic. Specific legal mandates would keep government in check and provide crisp guidelines for citizens. Layers of "process"-procedural deliberations would make sure decisions were responsible. Handing out "rights" would ensure justice. But it doesn't work. Human activity can't be regulated without judgment by humans, adjusting for circumstances and taking responsibility.

The public's fury with government was demonstrated in the November election, and the Republicans who won power now promise to get government off our backs. This rhetoric never turns to reality, though, because the public does not want to cut government essential services. The public is mad at how government works—its perpetual ineptitude and staggering waste—not mainly what government aims to do.

Moreover, the GOP's Contract With America proposes to take only small steps in the direction of real reform. One proposal would impose a moratorium on many pending regulations—an idea equivalent to cutting off your leg to lose weight. Another Republican theme is to return government functions to states, which could be a real benefit in certain areas like welfare but disastrous in others, like environmental protection. The federalism idea ignores the fact that state governments are typically as ineffective and wasteful as the federal government. To liberate Americans from red tape, real reform must be aimed at simplifying how government works. Ending our suffocating legal system should be reformers' goal.

LAW REPLACES HUMANITY

The tension between legal certainty and life's complexities was a primary concern of those who built our legal system. The Constitution is a model of flexible law that can evolve with changing times and unforeseen circumstances. Today, we no

Death Of Common Sense

Michael Levi Rodkinson



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Neuroethics and the Scientific Revision of Common Sense Nada Gligorov,2016-09-23 This book is focused on the examination of the particular relationship between developments in neuroscience and commonsense concepts such as free will personal identity privacy etc which feature prominently in moral discourse In the book common sense is recast as an ever shifting repository of theories from many domains including science Utilizing this alternative characterization of common sense the book reexamines the impact of neuroscience on commonsense moral conceptions Neuroethics is one of the newest developing branches of Bioethics Topics often raised include issues of free will personal identity and the self the possible ethical implication of memory manipulation brain imaging and mind reading brain stimulation enhancement and its impacts on personal identity and brain death

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Table of Contents Death Of Common Sense

1. Understanding the eBook Death Of Common Sense
 - The Rise of Digital Reading Death Of Common Sense
 - Advantages of eBooks Over Traditional Books
2. Identifying Death Of Common Sense
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an Death Of Common Sense
 - User-Friendly Interface
4. Exploring eBook Recommendations from Death Of Common Sense
 - Personalized Recommendations
 - Death Of Common Sense User Reviews and Ratings

- Death Of Common Sense and Bestseller Lists
- 5. Accessing Death Of Common Sense Free and Paid eBooks
 - Death Of Common Sense Public Domain eBooks
 - Death Of Common Sense eBook Subscription Services
 - Death Of Common Sense Budget-Friendly Options
- 6. Navigating Death Of Common Sense eBook Formats
 - ePub, PDF, MOBI, and More
 - Death Of Common Sense Compatibility with Devices
 - Death Of Common Sense Enhanced eBook Features
- 7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Death Of Common Sense
 - Highlighting and Note-Taking Death Of Common Sense
 - Interactive Elements Death Of Common Sense
- 8. Staying Engaged with Death Of Common Sense
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Death Of Common Sense
- 9. Balancing eBooks and Physical Books Death Of Common Sense
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Death Of Common Sense
- 10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
- 11. Cultivating a Reading Routine Death Of Common Sense
 - Setting Reading Goals Death Of Common Sense
 - Carving Out Dedicated Reading Time
- 12. Sourcing Reliable Information of Death Of Common Sense
 - Fact-Checking eBook Content of Death Of Common Sense
 - Distinguishing Credible Sources

13. Promoting Lifelong Learning
 - Utilizing eBooks for Skill Development
 - Exploring Educational eBooks
14. Embracing eBook Trends
 - Integration of Multimedia Elements
 - Interactive and Gamified eBooks

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