Lessig Modalities Assessment

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Abstract

This essay summarizes Lawrence Lessig’s four proposed modalities: laws, norms, architecture, and the market. It compiles information from various sources either talking directly about Lessig’s theory, or in a way that is directly related to Lessig’s theory. This essay is not meant to be comprehensive. It is quite brief, as the assignment this was written for stressed brevity and conciseness and seemed to serve more as a review of APA formatting specifications than a substantive investigation of Lessig’s literature.

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This essay is meant to serve as an introduction to Lawrence Lessig’s four constraints: laws, norms, architecture, and the market. These constraints are outlined in what Lessig calls the New Chicago School (as opposed to the Old Chicago School). In Lessig’s ethical paradigm, these four simple modalities are mechanisms which regulate all human choice and behavior, whether explicitly or implicitly.

Laws

For the purposes of this paper, laws as a modality are very straightforward to conceptualize. Simply consider them using their traditional definition of rules being imposed by the government with explicit punishments enforced for committing a wrongdoing. The fact that punishments are clearly outlined ahead of time and are enforced ex-post is critical to Lessig’s definition of law. It can be reasoned that law’s authority comes from its coercive character (Forji 2010). Because people know that they will be arrested and go to prison for robbing a bank, they generally avoid robbing banks. In this way, law can generally suppress and constrain individual behavior.

Norms

Norms, while slightly more abstract than laws, are still relatively straightforward to understand. Norms can be defined as “rules and standards that are understood by members of a group, and that guide and/or constrain social behavior without the force of laws” (Melnyk et al., 2022, para 1). While it is important to note that this definition differentiates norms from laws by a lack of (explicit) force, the underlying power of a norm in shaping behavior comes from social consequences of breaking norms. For example, a person seen smoking in an area with “no smoking” signs is going to be looked negatively upon by people that walk by. Another example can be found in group dinners: people’s portion sizes change to match the norms presented by the people around them.

Architecture

While Lessig himself never formally defines architecture in his own paper on the subject, it is quite easy to intuit by looking at a few examples. Consider an individual looking to steal a couch. If he cannot physically lift the couch, then he is prevented from stealing the couch by the architectural weight of the couch. Similarly, a homeless person looking to sleep on a park bench is constrained from doing so if there is an intentionally designed handle sticking up in the middle (Lessig, 1998). The notion that architectural constraints can be designed is crucially important in cyberspace when considering the software engineer, who can use this idea to limit user behavior to whatever they want it to be.

Architecture’s underlying power to control behavior is unique from the previous constraints for one reason in particular: It constrains behavior ex-ante. Whereas law and norms prevent people from doing a certain thing in fear of punishment that happens after doing the thing, architecture prevents people from doing or even attempting a certain thing through the way the world is designed.

The Market

Finally, the market constrains behavior through the mechanism of supply and demand. This can manifest itself on various levels. The price of goods is an example of how the market (i.e. supply and demand) constrains behavior on the scale of the individual. With all else being equal, an expensive product will sell less units than a cheaper one (Zhao, 2021). The higher price can be considered a constraint on the individual’s ability to buy said product.

On a larger scale, the market (i.e. supply and demand) can be seen exerting influence in financial regulations and policies legislated or enforced by groups like the SEC or FTC, such as breaking up monopolies to protect consumer interests. Legislation lends itself to the creation of more laws and architectures to reinforce the constraints of the market.

Conclusion

After looking through each of Lessig’s modalities, it is clear how these four different forces can all act in ways to control (either subtly or not-so-subtly) an individual’s behavior. Law and norms enforce punishments ex-post, while architecture and the market are ex-ante in nature. While not discussed at length, the intersectionality and interplay of the various modalities provides each constraint with significant latitude over human behavior and are subject to shifting over time. Of particular importance for computer scientists is the responsibility to code responsibly and ethically, as it can very easily be used as a form of architectural control in the digital world.

References

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