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Informational Stress and Legal Judgment: Truth Shall Set You Guilty?

Abstract

Socio-legal theory has long described legal judgment as a practice oriented toward truth through the structured evaluation of facts. Across positivist, interpretivist, and institutional traditions, the dominant assumption is that law approaches correctness by organizing information sequentially, stabilising facts, and correcting error over time. Whether judgment is understood as rule application, principled interpretation, or institutional coordination, it is generally modelled as cumulative and corrigible[1].

This assumption becomes fragile under conditions of informational stress. Informational stress arises when legal actors must decide under urgency, evidentiary fragmentation, and instability of meaning. In such contexts, information does not present itself as a coherent body of facts awaiting orderly assessment. Instead, evidentiary elements emerge asynchronously, with uncertain relevance, contested credibility, and shifting interpretive frames. New information does not merely add to an existing picture; it frequently alters the conditions under which interpretation itself takes place.

Keywords: legal judgment, information overload, judicial decision-making, truth and evidence, uncertainty in law.

Introduction

Much socio-legal theory implicitly treats such situations as cases of incomplete information. The standard response is procedural and epistemic:

[1] H.L.A. Hart, *The concept of law*, Oxford 1961; L.L Fuller, *The morality of law*, London 1964; R. Dworkin, *Law's empire*, Cambridge 1986; F. Schauer, *Thinking like a lawyer*, Cambridge 2009.

improve fact-finding, refine standards of proof, increase reliance on expertise, or strengthen review mechanisms. These responses presuppose that uncertainty can be reduced by accumulation and that truth remains the implicit horizon of judgment[2]. Yet under informational stress, accumulation does not necessarily converge. Additional information may multiply interpretive possibilities rather than narrow them, producing instability rather than clarity[3].

Legal systems nevertheless cannot suspend judgment. Courts must rule, police authorities must act, and administrative bodies must issue binding decisions. Informational stress therefore produces a structural tension between epistemic adequacy and normative necessity. Judgment is required precisely when the conditions for truth-oriented evaluation are weakest. The central claim of this article is that, under these conditions, legal judgment does not simply fail or deteriorate. It undergoes a transformation in its governing rationality. When truth-oriented evaluation becomes impracticable, law increasingly privileges coherence.

Narrative stabilization, collective judgment, and coherence

Under informational stress, legal judgment proceeds through processes of narrative stabilization. Evidence fragments, witness accounts, institutional expectations, emotional cues, and normative assumptions interact within a constrained social environment until one interpretation converges and becomes dominant. Narrative, in this sense, is not merely a way of representing facts but a mechanism for producing intelligibility and coordination[4].

Narrative stabilization has three salient properties. First, it is asymmetric. Interpretations that are simple, emotionally legible, and normatively reassuring tend to stabilize more rapidly than those that are complex, ambiguous,

[2] J. Raz, *The authority of law: Essays on law and morality*, Oxford 1979; C.R. Sunstein, *Laws of fear: Beyond the precautionary principle*, Cambridge 2005; C.F. Manski, *Public policy in an uncertain world*, Cambridge 2013.

[3] N.N. Taleb, *The black swan: The impact of the highly improbable*, New York 2007.

[4] R.M. Cover, *Nomos and narrative*, "Harvard Law Review" 1983, No. 1, p. 4-68; K.E. Weick, *Sensemaking in organizations*, London 1995.

or disruptive, regardless of their factual accuracy[5]. Second, stabilization is path-dependent. Early interpretive commitments disproportionately shape later reasoning, increasing the institutional and social cost of revision as stabilization progresses[6]. Third, once stabilization occurs, it becomes resistant to reversal. Subsequent information is filtered, reinterpreted, or discounted to preserve coherence.

At this point, legal reasoning shifts from evaluation to constraint management. Judgment no longer asks which interpretation is most accurate, but which interpretations remain compatible with the stabilized narrative. Coherence becomes the operative criterion of validity. This shift is often described critically as bias, ideology, or institutional inertia. Such descriptions obscure a more fundamental point: under informational stress, coherence is not merely preferred but functionally necessary.

This necessity helps explain why collective judgment can appear 'right' even when individual reasoning is limited or partial. The literature on collective intelligence and the 'wisdom of crowds' emphasizes that aggregated judgments can outperform individual expertise under certain conditions, particularly when information is dispersed and uncertainty is high[7]. In socio-legal contexts, narrative stabilization performs a related function. It aggregates fragmented perceptions, partial knowledge, and normative expectations into a single, shared account that enables coordinated action.

The crowd, in this sense, is 'right' not because it discovers truth in a robust epistemic sense, but because it generates coherence sufficient for action. Under informational stress, such convergence may be the only way to restore order, allocate responsibility, and re-establish normative expectations. Collective judgment produces a socially intelligible outcome, even if it does not track underlying facts[8].

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[5] E. Zerubavel, *Social mindscapes*, Cambridge 1997; D. Kahneman, *Thinking, fast and slow*, New York 2011.

[6] W.B. Arthur, *Competing technologies, increasing returns, and lock-in by historical events*, "The Economic Journal" 1989, No. 99, p. 116-131; P. Pierson, *Politics in time: History, institutions, and social analysis*, Princeton 2004.

[7] J. Surowiecki, *The wisdom of crowds*, New York 2004; S.E. Page, *The difference: How the power of diversity creates better groups, firms, schools, and societies*, Princeton 2006.

[8] É. Durkheim, *The elementary forms of religious life*, New York 1912; M. Douglas, *Risk and blame: Essays in cultural theory*, Milton Park 1992.

Mainstream legal theory struggles to accommodate this insight. Hart's account of rule-following presupposes a background of settled social facts[9]. Dworkin's theory of integrity assumes that coherence serves truth by integrating principles into the best moral reading of legal practice[10]. Even critical traditions tend to treat coherence as mystification or domination rather than as an operational necessity[11]. What these approaches fail to capture is that, under informational stress, coherence does not merely supplement truth; it replaces it as the condition of judgment.

Responsibility, harm, and the paradox of truth

The privileging of coherence over truth has significant socio-legal consequences. Once a narrative stabilizes, all actors connected to the situation are retroactively positioned within it. Witnesses, relatives, professionals, and bystanders acquire normative identities they did not choose and cannot easily contest. Their intentions, credibility, and moral standing are interpreted through a framework that has already closed[12].

This produces harm that is independent of factual accuracy. Whether the stabilized narrative is ultimately true or false, premature closure restructures the normative environment in ways that are difficult to reverse. Subsequent corrections become socially and institutionally unintelligible because they threaten the coherence on which order now depends. This explains why appeals, inquiries, or new evidence often fail to alter outcomes even when their epistemic force is widely acknowledged[13].

Here the paradox announced in the title becomes visible. Truth, when it arrives late, can become normatively disruptive rather than liberating. A factual correction may destabilize settled responsibilities, undermine institutional legitimacy, or reopen conflicts that the legal system has already closed. In such contexts, truth does not 'set free'; it can render actors guilty, insti-

[9] H.L.A. Hart, *The concept of law*, Oxford 1961.

[10] R. Dworkin, *Law's empire*, Cambridge 1986.

[11] R.M. Cover, *Nomos and narrative*, "Harvard Law Review" 1983, No. 1.

[12] M. Douglas, *Risk and blame: Essays in cultural theory*, Milton Park 1992; E. Zerubavel, *Social mindscapes*, Cambridge 1997.

[13] S. Jasanoff, *States of knowledge: The co-production of science and social order*, Milton Park 2004; A. Riles, *Collateral knowledge: Legal reasoning in the global financial markets*, Chicago 2011.

tutions fragile, and social coordination precarious. Law may therefore resist truth not out of bad faith, but out of a structural need to preserve coherence.

Socio-legal scholarship often locates responsibility for such failures in individual decision-makers or institutional pathologies. This focus misidentifies the source of the problem. Under informational stress, harm arises not primarily from wrong decisions, but from premature stabilization. Once coherence has been achieved, correction threatens not merely a conclusion but the social order built upon it.

This also explains the limited impact of scientific knowledge about uncertainty, memory, and error on legal practice. Scientific knowledge presupposes openness, delay, and revisability. Legal judgment under stress presupposes immediacy, closure, and resistance to destabilization. When scientific insights imply suspension of judgment or tolerance of ambiguity, they conflict directly with the operational imperatives of law and are neutralized at the point of application[14].

The concept of epistemic insulation helps clarify this mismatch. Epistemic insulation does not imply secrecy of content, but protection from premature use. Certain forms of knowledge lose their epistemic value when applied too early, under conditions that force closure. In socio-legal contexts, restraint-delaying judgment, limiting narrative convergence, or preserving interpretive openness may be more normatively responsible than decisiveness[15].

Conclusion

Informational stress exposes a fundamental tension at the heart of legal judgment. When information is non-sequential and decision cannot be delayed, law cannot operate primarily as a truth-tracking enterprise. It becomes a coherence-preserving system. This transformation helps explain why collective judgments often prevail, why correction proves difficult, and why truth, when it arrives late, may produce guilt rather than liberation.

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[14] B. Wynne, *May the sheep safely graze?*, [in:] *Risk, environment and modernity: Towards a new ecology*, S. Lash, B. Szerszynski, B. Wynne [eds.], London 1996; P. Galison, *Science and secrecy in the nuclear age*, Chicago 2004.

[15] E. Fisher, *Risk regulation and administrative constitutionalism*, Oxford 2007; C. Mukerji, *Tacit knowledge, secrecy, and science*, "American Journal of Sociology" 2006, No. 2, p. 440-480.

Socio-legal theory has largely failed to account for this shift. By treating uncertainty as a deficit rather than a structural condition, it overlooks how judgment changes when evaluation precedes understanding. Recognizing the primacy of coherence under informational stress does not justify injustice or error. It clarifies where responsibility lies: not only in individual decisions, but in the conditions under which decisions are forced to occur[16].

A socio-legal theory attentive to informational stress must therefore move beyond critiques of bias or ideology and confront the deeper problem of epistemic timing. Law does not fail because it prefers coherence to truth. It does so because, under certain conditions, coherence is the only form judgment can take.

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Stres informacyjny a orzekanie prawne: czy prawda czyni winnym?

Streszczenie

Teoria socjoprawna od dawna opisuje orzekanie prawne jako praktykę zorientowaną naprawdę, realizowaną poprzez uporządkowaną ocenę faktów. W tradycjach pozytywistycznych, interpretatywnych i instytucjonalnych dominuje założenie, że prawo zbliża się do trafności poprzez sekwencyjne porządkowanie informacji, stabilizowanie faktów oraz korygowanie błędów w czasie. Niezależnie od tego, czy orzekanie rozumiane jest jako stosowanie reguł, interpretacja oparta na zasadach, czy koordynacja instytucjonalna, modeluje się je zazwyczaj jako proces kumulatywny i korygowalny.

Założenie to staje się jednak kruche w warunkach stresu informacyjnego. Stres informacyjny pojawia się wtedy, gdy podmioty prawne muszą podejmować decyzje w warunkach pilności, fragmentaryzacji materiału dowodowego oraz niestabilności znaczeń. W tym kontekście informacje nie jawią się jako spójny zbiór faktów oczekujących na uporządkowaną ocenę. Przeciwnie, elementy dowodowe wyłaniają się asynchronicznie, o niepewnej relewantności, spornej wiarygodności i w zmieniających się ramach interpretacyjnych. Nowe informacje nie tylko uzupełniają istniejący obraz, ale często modyfikują same warunki, w których zachodzi interpretacja.

Słowa kluczowe: orzekanie prawne, przeciążenie informacyjne, podejmowanie decyzji sądowych, prawda i dowody, niepewność w prawie.