

39th SYMPOSIUM ON THE SEARCH FOR EXTRATERRESTRIAL INTELLIGENCE (SETI) – The  
Next Steps (A4)  
SETI II : SETI and Society (2)

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THE LIMITS OF METALAW AND THE NEED FOR FURTHER ELABORATION

**Abstract**

Metalaw – fundamental legal precepts of theoretically universal application to all intelligences, including extraterrestrial – was first suggested over 50 years ago by Andrew Haley and further developed by Ernst Fasan in the decades since. However, the evolution of scientific thought since Haley regarding ETI and its likelihood of detection by humans may call into question several fundamental assumptions or premises of Metalaw – for example, whether ETI is likely to be a sentient, biological, living being. It is increasingly regarded as probable that our first contact with ETI may be with an artificially intelligent machine, not with biological beings as we currently understand biology. Some premises of Metalaw involve projections of biological limitations, abilities and desires onto other intelligent but still biological beings. These projections may not be valid if ETI is an artificially intelligent machine, especially one greatly removed in time from its biological ancestors/creators. Examples of possibly invalid assumptions might be the conflation of sentience with intelligence, or the projection of free will onto a programmed machine, or the attribution of mortality. A mechanistic ETI could be intelligent by some definition but not necessarily sentient, or free, or mortal, as we understand those concepts. As a result, such concepts apparently fundamental to Metalaw that seem irrefutably universal to humans as biological beings might not be applicable to extraterrestrial intelligent machines.

These potential deficiencies of current Metalegal concepts are not just an abstraction. Various jurists, space lawyers and other legal thinkers have at times posited that treaties, protocols or other legal or quasi-legal measures should be considered to regulate or even forestall activities such as Active SETI or METI. The justifications for such proposed measures have sometimes been informed, at least in part, by Metalegal concepts.

Given our nascent understanding of human legal relations with terran intelligent machines, whether robots or computers, circumspection is advised before relying on current Metalegal concepts in considering protocols, treaties or other legal measures. Space lawyers should be cautious before projecting human legal understanding onto alien intelligences of probable artificial (ie., machine) nature, particularly when one unintended result in doing might be to justify restrictions on human scientific inquiry. Metalegal concepts might be elaborated further by analogizing from legal concepts established or under development in related and/or unrelated fields such as AI, robotics, transhumanism and even animal rights.

This work has not been previously presented or published. Attendance at Prague is assured.