PREFACE

Foreword for the occasion of the publishing of the book series

The "order of humans" that has been taken for granted in the "modern era" is not a given. In fact, at certain times, the "order of God" was the absolute given. With the Renaissance as a turning point, humans challenged the "order of God" by considering human rationality as the ultimate authority, shedding blood repeatedly to reach the "order of humans" that gives centrality to humans and not the gods.

An important guardian of the modern order was the Leviathan, that is, the sovereign nation-state.

The violent nature of this "monster" has been governed by the constitution and is mainly used against those who disrupt the order. In this way, despite the many inherent issues, it can be said that the paradigm that we call the modern era has been maintained for hundreds of years (over 350 years if we take the Treaty of Westphalia as the starting point).

Today, however, another "monster" that competes against the Leviathan has appeared. Accelerated by the development in information technology centered on artificial intelligence (AI), Big Tech, represented by Google, Amazon, Facebook (Meta], Apple, and Microsoft (GAFAM) became a new force. Of course, other global entities have affected the Leviathan. But never, in history, has there emergerd an entity that has a user base far exceeding the population of a sovereign state, that captures and manages all aspects of each user's behaviors and thoughts through vast amounts of data to form a comprehensive infrastructure for daily life, and that effectively shapes and influences users' behavior and thoughts by feeding individually tailored information and content. Borrowing the words of an international politics scholar, Ian Bremmer, Big Tech represents entities from "a completely different dimension" when compared to global corporations that have existed until now.

They exist in the virtual world, and they slip through physical barriers, penetrating deep into the territories of nation-states. They are starting to control not only the way nation-states exercise their power but also the way war and safety between nation-states are shaped. In this way, it seems that the Leviathan that used to have absolute power already has its hands and legs tied by this other "monster." Due to their unparalleled geopolitical influence, Big Tech's "heads of government" attend international meetings such as The Group of Seven (G7). They are starting to exercise substantial influence in shaping the global norms of the Leviathans (Junki Watanabe "The "G11" is in control of AI: the IT giants that walk shoulder to shoulder with the G7" *The Asahi Shimbun Digital*. June 11, 2023).

Within the sovereign-state system that emerged by suppressing other authorities of power, such as the church and lords, the Leviathan was the only existence that was allowed to be a "monster." However, today, against the backdrop of rapidly evolving scientific technology—especially AI—a different "monster" has appeared again, one that seems to be beginning to shake up the modern legal system, which is based on the premise of the Leviathan's hegemony.

This can be interpreted as the crisis of the "order of humans" that has been maintained by the power of the Leviathan (sovereignty=law). This is because both the existence of constitutions (that control the power of the Leviathan) and the destiny of liberal and democratic order (that we have barely been able to maintain in practice) are in the hands of this other "monster" that is different from the Leviathan. Moreover, we do not have sufficient knowledge of the theories and technologies to control it.

This series, titled "The Monsterizing Platform Power and Law," examines the global Big Tech using the metaphor of the sea monster, Leviathan, and the two-headed land monster described in the Old Testament (Job 40-41), Behemoth. Specifically, it examines the antagonism between Leviathan's and Behemoth's power and ways to control them through a legal approach to try to envision the future of freedom and democracy. This examination also involves fundamental questions about the essence and legitimacy of the power held by these two "monsters," the "law" (either as law or as algorithms and code) they generate, and the "order of humans" and the "order of algorithms."

——Behemoth. As you know, Thomas Hobbes also challenged the Leviathan in his late life and modeled the powerful entity seeking to seize sovereignty after this aberrant "monster" (Hobbes (Translated by Sonoko Yamada). *Behemoth*. Iwanami Shoten, 2022). However, what Hobbes had in mind were the Presbyterians and Roman Catholics who revolted against the secular royalty (Charles I) in the English Civil War (1640–50s) and the Parliamentarians who supported them, which differs greatly from today's Big Tech companies. Nevertheless, there are some similarities with Big Tech in that the Presbyterians destabilized the Leviathan by preaching to the people (Demos), manipulating their conscience toward rebellion, and provoking political division and confusion. Today's "Behemoth" also manipulates the conscience of the people through algorithms that disseminate misinformation and defamation. I trust that Hobbes would forgive my appropriation of his metaphor of the Behemoth for the present day.

However, in contrast to Hobbes who scrupulously described the Behemoth as a dark force of civil unrest that must be suppressed by the Leviathan, this course will take a more flexible position regarding Behemoth's role. Even amid the rapid rise of information technology, the European Union (EU) is indeed trying to control the Behemoth's force through legislation, such as the General Data Protection Regulation (GDPR) and the Digital Services Act (DSA), based on the belief that sovereignty should remain with the "nation-state," established by the consent of the people. However, this is because there is some degree of trust in the "nation-state." In Asian countries under military rule, the Behemoth may rather seem to be the flagbearer of freedom and democracy. In the modern sovereign-state system, where the Leviathan has absolute power over its territory, it is not possible to conceive of a higher-level power entity—that mediates disputes between the Leviathans. The system is inconvenient for tackling global issues and cannot ultimately prevent wars since the "state of nature" remains default condition on the international plane. If we emphasize the limitations of the modern sovereign-state system in this way, the idea of placing certain expectations on Big Tech as global power entities that transcend nation-states also becomes plausible. Thus, this book series does not impose on the authors the Hobbesian conclusion that the Leviathan wins over the Behemoth.

In this way, this book series embraces all considerations about "Leviathan vs. Behemoth" but assumes the following shared perceptions. The modern "order of humans" is being shaken by the Behemoth and its means of dominance —namely, AI and algorithms—and we can no longer simply focus on the power and law of the

Leviathan. We must pay intellectual attention to the antagonistic relationship between the two power entities while keeping an eye on the Behemoth and its "law" (algorithms or codes). It is a bold proposal from the perspective of the traditional modern philosophy of law, but it seems that the day will surely come when its significance will be historically proven.

Each volume explores the tensions and collaboration between the Leviathan and the Behemoth, as well as the embedded challenges and ideals. Volume 1, ***Platforms and States: How to Settle the Battle of Monsters*** (edited by Tatsuhiko Yamamoto as chief editor, Pauline Türk and Haluna Kawashima), examines the ideal relationship between the Leviathan and the Behemoth by comparing each country and region's response to the increasing significance of the Behemoth's power, such as the EU's "digital sovereignty." In Volume 2, ***Platforms and Power: How to Tame the Monsters*** (edited by Sotaro Ishizuka), analyses theories for controlling the power of Big Tech and practical approaches from the perspective of constitutional law and competition law. In Volume 3, ***Platforms and Democracy: The Future of Another Monster 'Demos'*** (edited by Keigo Komamura), the transformation of "the people (Demos)" brought by the rise of Big Tech is examined logically, and the future of democracy is discussed. Volume 4, ***Platforms and Social Foundations: How to Engage the Monsters*** (edited by Tetsu Isobe as the chief editor, Haluna Kawashima, Yojiro Shibata, Goro Horiguchi, and Sho Mizubayashi), examines how labor, education, and healthcare policies, which have traditionally been the responsibility of the nation-state, are being reshaped as Big Tech increasingly function as social infrastructure.

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