

Utilitarianism As a Public Philosophy

You Zhang*

Abstract: Utilitarianism, as a subversive theory that once led to legal and social reforms, has come in for the opponents to construct a number of thought experiments to push the theory to the opposite side of people's moral intuition and sense of justice, which makes the theory gradually lost its dominant position in the theory of political philosophy and legislative practice. Although utilitarians have made a series of self-corrections in the theory on the composition of utility and the object of evaluation, they seem to be unable to retreat from the criticism of the four basic elements of consequentialism, welfarism, impartiality and the equal consideration of interests, and the aggregationism. To deal with such a dilemma, contemporary utilitarian Robert Goodin advocates limiting utilitarianism in its scope of application, arguing that treating utilitarianism as a public philosophy will transform the indignities it suffers in the private sphere into virtues in the public affairs. However, this paper finds that Goodin's strategy still fails to avoid Rawls's criticism against aggregationism in utilitarianism and the Dirty Hands Problem's reproach that utilitarianism raises internal moral tensions in agents in public affairs. To this, the paper responds with reference to Hessani's average utility maximization and Susan Wolf's "real-self view".

Keywords: Utilitarianism; Public Philosophy; Aggregationism; Dirty Hands Problem; Moral Responsibility

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The Game Between Indigenization and Globalization
——Extended from Su Li's *Rule of Law and Its Local Resources*

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Abstract: “Local Resources” proposed by Su Li is one of the most discussed theories in the field of Chinese jurisprudence, but Su Li did not provide a particularly clear framework for it. Based on sorting out Su Li’s argument framework in the book *Rule of Law and Its Local Resources*, this article submits that local resources should refer to the combination of China’s own logic of social development and the development model of Western society. The local advocacy itself is an academic reminder that scholars should focus on the integration and utilization of Chinese and Western resources, rather than focusing on one side. This article also provides some common points of local resources.

Keywords: Globalization; Indigenization; Modernization; Legal Transplantation

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The Evolution of Chinese Fiscal System and Land Administration System Since the Reform of Tax Sharing System: Associated with the Function of Social Conflict

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Abstract: The 1994 Reform of Tax Sharing System (TSS) of China changed the current Chinese society a great deal. This paper starts with issues revealed from present news, by discussing the causes and effects of the Reform of Tax Sharing System, and therefore takes relatives issues such as the Fiscal Responsibility System (FRS), the Land Finance (LF), the Local Debt (LD) into consideration. This paper intends to analyze such issues in the perspective of legal system and eventually summarize them using Lewis Coser's Combination of Structural Functionalism and Social Conflict Theory, i.e. the theory emphasized in The Function of Social Conflict. The history showed in this paper, concerns the evolution of Chinese legal system including the Chinese Constitution. Meanwhile, the theory combined Structural Functionalism and Social Conflict Theory offers quite some explanation power when analyzing issues above. Besides, this paper is more like a report of syntopic reading about a series of articles and books concerning TSS, FRS, LF and LD.

Keywords: Chinese Constitution; Land Administration Law; Functions of Social Conflict; Land Finance; Local Government Debts

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Conflict of Interest and Balance in Medical Compliance Reform: A Case Study of Sanming City

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Abstract: As our society continues to age, the tensions between the public, hospitals, pharmaceutical companies, and the government are becoming even more pronounced. It is crucial to establish a system that incentivizes and regulates these parties, ensuring a balance where everyone's interests are taken into account and mutually beneficial outcomes are achieved. A recent document titled "Guangzhou In-depth Promotion of Fujian Province Sanming experience to deepen the implementation plan of medical and health system reform" has been issued, highlighting the valuable insights gained from the medical reform carried out in Sanming City. These experiences hold significant importance for the broader comprehensive medical compliance reform. Consequently, this paper focuses on studying the medical compliance reform in Sanming City, examining the conflicts of interest that arise and exploring the best path to achieve balance. It also identifies key principles that should guide the universal medical compliance reform, providing recommendations for the further advancement of this new medical reform agenda.

Keywords: Medical Reform; Medical Compliance; Sanming Medical Reform; Legal Guarantee

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Is Bitcoin a Virtual Property on the Internet?

Ruizhi Lv*

Abstract: The network virtual property is independent, exclusive and property value, and the property existing in the network space in the form of electronic data. Our country protects the network virtual property in accordance with relevant laws and regulations. Unlike virtual property on the web, Bitcoin is a decentralized digital "currency" that does not require a central authority to operate. From the perspective of legal attribute, Bitcoin is more like drugs, guns and other contraband, which does not have the property attribute of civil law; The harmfulness of its own existence and the potential risks brought by it make it have no legal basis; Meanwhile, China has also banned the issuance, circulation and exchange of bitcoin and other virtual currencies. It is precisely because of the legal defects and prohibitive provisions that the holders of Bitcoin no longer have the possibility to dominate Bitcoin, so they no longer have the ownership of bitcoin in the sense of civil law, and thus cannot claim to exercise the right to return the original according to the ownership as argued in the "Case reference Book". In short, in the face of claims arising from Bitcoin in the future, not only can we not protect them, but we should impose the necessary penalties when necessary.

Keywords: Bitcoin; Virtual Property; Legality

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Weaponizing Peace

Yuvraj Joshi; trans., by Kexin Lu*

Abstract: American racial justice opponents regularly wield a desire for peace, stability, and harmony as a weapon to hinder movement toward racial equality. This Essay examines the weaponization of peace historically and in legal cases about property, education, protest, and public utilities. Such peace claims were often made in bad faith and with little or no evidence, and the discord they claimed to address was actually the result of hostility to racial equality. For a time, the Supreme Court rejected dominant peace claims for precisely these reasons. This Essay further documents the weaponization of peace in current attempts to restrict Black Lives Matter protests, denigrate calls for police defunding, outlaw critical race theory, and dismantle affirmative action. By linking these historical and contemporary arguments, this Essay finds that dominant logics of peace mask the injustice, frustration, and despair felt by subordinated groups. The Essay urges closer scrutiny of appeals to peace that primarily function to stifle the pursuit of racial justice and to maintain status quo inequality.

Keywords: Racial Segregation; Black Civil Rights; Equal Protection; Judicial Case; U.S. Constitution

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Mapping the Future of Insider Trading Law: of Boundaries, Gaps, and Strategies

John C. Coffee Jr.; trans., by Yizhou Jin*

Abstract: The current insider trading law has its gaps and imperfections, notably not covering scenarios where recipients acquire inside information unintentionally within the regulatory scope of insider trading. Given that the written law has not been altered yet, the SEC should, based on its own authority, formulate Rules 10b5-3 and 10b5-4 to rectify the deficiencies in the current law in defining the element of “deception”. The proposal of these rules, while addressing existing loopholes, reasonably expands the regulatory scope of current insider trading, and maintains market efficiency.

Keywords: Insider Trading Law; Rule 10b5; SEC

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Legacy and Accountability

Ian Ayres; trans., by Xinran Xu*

Abstract: This Essay considers the ways that the law can help or hinder the accountability of actors and institutions. It draws two implications from the failure of Justice Ruth Bader Ginsburg to retire at a time that would have better secured the constitutional right to abortion. First, it suggests ways including information escrows—that the law could better dissuade individuals from taking actions that might tarnish and counterbalance the good they’ve done earlier in their lives. Second, it provides new empirical support for “regular Presidential appointment” reforms as a way to make the United States Supreme Court more democratically accountable.

Keywords: Retirement System; Legal Decision-Making; Information Custody; Accountability

* Ian Ayres, Oscar M. Ruebhausen Professor, Yale Law School, US; Xinran Xu, University of Chinese Academy of Social Sciences, China. Eni Iljazi and Jacqueline Huang provide excellent assistance. I thank Sai Prakash and Richard Re for helpful comments.

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