

Abstracts and Tables of Contents

Nature, Deterrence, and Law: The Core Social Logic of “The Three-Body Problem” and a Philosophical Dialogue

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Abstract: Following the success of Liu Cixin’s *The Three-Body Problem* series, relevant discussions in humanities and social sciences have more or less revolved around the concept of deterrence and its jurisprudential basis. The fundamental view and operational logic depicted in the series, spanning from human society to the cosmic society, create a macro and multidimensional reflection of numerous related issues, posing an objective challenge to traditional humanities. Nature, deterrence, and law constitute a set of conceptually intertwined constructs with profound internal relationships, which can be interpreted as the foundational logic governing the universe in a broad sense within the novel’s context. Furthermore, they offer insights into the inherent evolution and transformation of these concepts within modern societal thought. Comparing relevant topics in the theories of Hobbes and Kant, and their respective influences on the author’s creative endeavors, can provide perspectives for a more multifaceted exploration.

Keywords: *Three Body Problem*, Deterrence, Nature, Law, *Leviathan*, Kantian Philosophy

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Robots in the Courtroom: Implications of Humanoid Robots Testifying in Court for Mitigating the Difficulty of Witnesses Appearing in Court

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Abstract: The real-time interactivity and autonomy of chatbot technology enable humanoid robots to appear in court and respond to judges' inquiries. Nevertheless, the unpredictability and uncertain reliability of their statements raise the question of whether judges can accept the humanoid robot testimony in the same way as that of a human witness. If humanoid robots were allowed to testify in place of human witnesses, it would appear to significantly reduce the difficulty of securing witness attendance in court proceedings. However, according to the theory of virtue jurisprudence, humanoid robots are incapable of establishing social relationships or assuming legal responsibility. As a result, judges cannot derive justified beliefs from the statements generated by humanoid robot. Any judicial assertions based on such statements would lack justification. Moreover, since humans responsible for the humanoid robot cannot predict the content of the judge's inquiries or the robot's responses, requiring humanoid robots to testify may indirectly motivate those humans to appear in court themselves, mitigating the persistent challenge of securing witness attendance in court.

Keywords: Humanoid Robots, Generative Artificial Intelligence, Virtue Jurisprudence, Witness Testimony, Witness Testifying System

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Research on Security Exceptions Clauses in International Investment Treaties

Yujie Chen*

Abstract: The security exception clauses in international investment agreements, as a special expression of the exception rule in the treaty, are a necessary attribute of national sovereignty and have the dual significance of macro-flexibility and micro-balancing. In recent years, due to the particular importance attached by each country to its own national security and the increasing popularization of the concept of national security, security exception clauses have appeared in an increasing trend in international investment agreements and judicial cases. Nevertheless, such clauses are suspected of abuse both in stipulation and application. By summarizing the provisions of safety exception clauses in the texts of international investment agreements by China and other countries, it is believed that there is room for improvement in the setting, number, and content of the clause. Proposing targeted solutions will contribute to the sound development of the application of security exceptions in the field of international investment in China.

Keywords: International investment agreements, Provision of security exception, China's BITs

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Rethinking and Progression of the Adult Guardianship Paradigm: from Substitute Decision-Making to Assisted Decision-Making

Ke Deng*

Abstract: Substitution decision and assistance decision are the two classic paradigms of adult guardianship. Article 22 of the Civil Code points out the position of applying partial guardianship to adult wards based on the integration of Article 47 of the former Contract Law. Article 35, paragraph 3, of the same law expresses the new concept of guardianship in a textual sense, which is “based on independence, supplemented by safeguards and assistance”. Both articles make it clear that adult guardianship is not full guardianship, but there is a dispute as to whether it should be primarily independent and assisted guardianship or non-independent and substituted guardianship. The understanding of the adult guardianship paradigm should be based on the systematic interpretation of Chapter 2 of the General Provisions of the Civil Code, and the direct interpretation of Article 35(3) as assisted guardianship lacks the value support of other articles. This paper will start from the argumentation of the Civil Code’s legislative technology for the guardianship model and the paradigm it adopts, analyze the problems of the adult guardianship system under the substitute decision, such as the ill-defined scope, the re-marginalization of the elderly, and the emphasis on property rather than human beings, etc., and then finally, through the expansive interpretation of Articles 22 and 33, achieve the unity of the value concepts and scope of exercise with Article 35, paragraph 3, and construct the space of the law for the transformation of the assisted decision.

Keywords: Assisted decision-making, Civil capacity, Adult guardianship

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Reorganizing NATO: Europe's Last Chance to Preserve Fundamental Rights

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Trump's Supreme Court Justices Must Kick Him off the Ballot

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The Path Not Taken in Trump's Immunity Case

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The Automated Administrative State: A Crisis of Legitimacy

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Abstract: The legitimacy of the administrative state is premised on our faith in agency expertise. Despite their extra-constitutional structure, administrative agencies have been on firm footing for a long time in reverence to their critical role in governing a complex, evolving society. They are delegated enormous power because they respond expertly and nimbly to evolving conditions. In recent decades, state and federal agencies have embraced a novel mode of operation: automation. Agencies rely more and more on software and algorithms in carrying out their delegated responsibilities. The automated administrative state, however, is demonstrably riddled with concerns. Legal challenges regarding the denial of benefits and rights—from travel to disability—have revealed a pernicious pattern of bizarre and unintelligible outcomes. Scholarship to date has explored the pitfalls of automation with a particular frame, asking how we might ensure that automation honors existing legal commitments such as due process. Missing from the conversation are broader, structural critiques of the legitimacy of agencies that automate. Automation abdicates the expertise and nimbleness that justify the administrative state, undermining the very case for the existence and authority of agencies. Yet the answer is not to deny agencies access to technology that other twenty-first century institutions rely upon. This Article points toward a positive vision of the administrative state that adopts tools only when they enhance, rather than undermine, the underpinnings of agency legitimacy.

Keywords: Administrative State, Algorithmic Governance, Institutional Legitimacy, Automated System

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Dam(n) Displacement: Compensation, Resettlement, and Indigeneity

Stephen R. Munzer; trans., by You Zhang*

Abstract: Hydroelectric dams produce electricity, provide flood control, and improve agricultural irrigation. But the building and operation of these dams frequently involve forced displacement of local communities. Displacement often has an outsized impact on indigenous persons, who are disproportionately poor, repressed, and politically marginalized. One can limit these adverse effects in various ways: (1) taking seriously the ethics of dam-induced development, (2) rooting out corruption, (3) paying compensation at or near the beginning of dam projects, (4) using land-for-land exchanges, (5) disbursing resettlement funds as needed until displaced persons are firmly established in their new locations, and (6) having entities that loan money to foreign governments for power dams insist that a percentage of the loan be sequestered to cover compensation and resettlement costs. This sextet of sensible measures must, however, be applied to highly different countries and indigenous persons. This application will be unsuccessful unless these measures fit the local situations on the ground. This Article shows how one can succeed in two quite different countries--China and Guatemala--in which past efforts have proved inadequate. Maya Achi displaced by the Chixoy Dam in Guatemala are an "indigenous people" under any traditional definition. Ethnic minorities displaced by dams in China are not traditional indigenous peoples because historical narratives of outsider conquest and colonization do not apply to them. They are, however, indigenous ethnic minorities. The Han Chinese supermajority dominates, represses, and discriminates against them. China ought to treat them in basically the same way that other countries ought to treat their indigenous peoples.

Keywords: Dam Displacement, Compensation, Resettlement, Indigeneity

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Protecting People from Their Own Religious Communities: Jane Doe in Church and State

Eugene Volokh; trans., by Jingfan Xiao*

Abstract: Suppose that people seek confidentiality in what would otherwise be a public process—such as litigating or applying for a firearms license—because they are afraid that publicly identifying them will stigmatize them in their (or their families’) religious communities. Should the law allow them to proceed anonymously to better protect their interests and to avoid discouraging their lawsuits or applications? Or would that unduly stigmatize the religious community by branding it as improperly censorious or judgmental—or interfere with religious community members’ ability to evaluate for themselves how their coreligionists are using the courts and other government processes?

Keywords: Privacy, Civil Procedure, Public Records, Anonymity, Pseudonymity

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