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ABSTRACTS

**Marx's Idea of Social Transformation**

Yang Haifeng • 4 •

Marx lived at a time when Western society was in transition from tradition to modernity, a transition that has been analyzed by different scholars from different standpoints. Romanticism, naturalism and critical reformism were the main trends of the time. At different stages in his intellectual development, Marx had different understandings of capitalist social change. While writing his doctoral thesis and editing the *Rheinische Zeitung*, he criticized Germany's feudal dictatorship on the basis of rational self-consciousness. After 1844, Marx described the transition from medieval to modern capitalist society by integrating philosophy, political economy and socialist thought, forming a critical discourse based on the logic of alienation, the logic of production and the logic of capital in three distinct phases. In contrast to romanticism, naturalism and critical reformism, Marx proposed the idea of a future-oriented reconstruction. Marx's reflections on the transformation of capitalist society provide theoretical guidance for our understanding of social development and change in the present.

**On Freedom, Difference and Human Social Existence**

Huang Yusheng • 23 •

Freedom is not only a matter of theories and practice, but also an existential matter. In the field of practice, tolerance precedes freedom, but on an existential level, freedom not only forms the basis of difference, it also precedes tolerance. As a unique and compelling way of being, freedom means breaking away from necessity, from nature, from instinct and from the decisions of the past. Such freedom places us in an existential situation in which we can always start again; thus we become differentiated not only from others, but also from ourselves. At the same time, this means that we exist in an openness in which there are always other possibilities; on the one hand, this enables each free person to place things in a system of possible associations and to carry out purposeful activities, thus making possible the labor that is specific to man. On the other hand, it enables those who are free to empathize and place themselves in a variety of possibilities, being present to and substituting for one another, and thus understanding each other and demanding mutual understanding. It is precisely this mutual understanding that makes possible not only mutual recognition and trust, along with the social division of labor, but also the linguistic and generational differences that allow people to generate language and history. This means, fundamentally, that it is freedom that enables us to give birth to "society," the community of autonomous interrelationships.

**The Application of Typification in the General Provisions of Commercial Law**

Yang Feng • 43 •

Statutory law countries have a large number of general provisions in their laws in order to overcome the lagged nature of the law. However, the substance of the general provisions is uncertain, so their application requires that they be made specific. The main way in which general provisions are made specific is typification. The theory behind this approach to the general provisions of commercial law contains four elements; the typified object, the criteria, the technique and results. The approach consists of five steps; clarifying the general provisions and their core meaning, finding and establishing typical cases, systematizing the typified results, linking pending cases to typical cases, and making value judgments and balancing interests. Due to the uniqueness of commercial law, the typification of the general provisions of commercial law should be carried out in accordance with legislative objectives, basic concepts and value orientation, and should focus on *Rechtsschein Theorie*; reference the conventions and rules of autonomy of commercial law; and strengthen the principle of the priority of the effectiveness of commercial law. Given the fact the accuracy of the typification of the general provisions of commercial law generally depends on experience of life and of the judicial system, therefore has a certain degree of subjectivity, it should be appropriately limited.

**An Ontological Interpretation of the Scope of Politics and Law** Huang Wenyi • 63 •

The category of politics and law is an intellectual product of China's political taxonomy and a hallmark of the Chinese tradition of legal civilization, and contains a distinctive philosophy of governance. From the ancient "orders and punishments" to the modern "politics and law," the category of politics and law has been infused with the classical philosophy of rites and law; with currents of thought on world rule of law in the 19th century and later; and with the essence of the Marxist theory of the rule of law, and has thus gradually materialized into a field of power with a unique system of organization, rules and discourse. Falling as they do within the category of good governance, politics and law contain profound ideas on how to use the rule of law to govern and secure the country, unveiling a vision of good governance in which the law brings peace to the world, makes the state stronger, lies in the hearts of the people, and is a public instrument. It also has accumulated profound wisdom on how to deal with the relationship between the rule of law and other ways of governance, and has developed a model of good governance with the rule of law and other forms governance that exercise the division of labor in cooperation, complementarity and integration.

**The Essay Tradition and the Reconstruction of Modern Chinese Prose Theory**

Wang Weidong • 83 •

Prose theory is the most likely area for a breakthrough in building a discourse for literary theory with Chinese characteristics. Modern Chinese prose originates from a long tradition of the essay (*wenzhang* 文章). In the shift from a literary field

dominated by the traditional essay to that of modern literature, the essay was transformed into prose, achieved through a complex historical process. The transformation has resulted in the atypical nature of the modern prose genre and its marginal position in the modern literary setting, but at the same time it has created the possibility of breaking through the dilemma faced by modern literature. The reconstruction of Chinese prose theory should have "human/writing" [the characters composing humanism] at its heart and should construct an overall theoretical structure that covers four levels: knowledge and experience, thought and emotion, spirit and realm, and style and language. The evaluation system should incorporate the historical features of the essay, this is, being based on the *Dao* and connected with history, touching upon real things, and highlighting ideas through literary composition. It should fully incorporate the wisdom of traditional Chinese thought and art, and build a practical discourse system rich with Chinese characteristics and operability for evaluating prose.

### **The Practice and Experience of the Communist Party's Social Policy in the Past Century**

*Guan Xinping* • 103 •

In its century-long development, adhering to its original aspiration of retaining people-centeredness, seeking happiness for the Chinese people, and realizing rejuvenation for the Chinese nation, the Communist Party of China has been committed to advocating, formulating and implementing social policies to achieve its goals of safeguarding and improving people's livelihood and promoting revolution, construction and reform. In the past century, the Party has always insisted on developing its social policy according to the fundamental interests of the Chinese people, combining revolutionary ideals with economic and social realities, attaching importance to the combination of social equity and economic efficiency, focusing on the integrity of the social policy system and its structural rationality, and constantly optimizing the main body responsible for safeguarding people's livelihood. In the new historical era, facing new challenges, in the future development of social policy, we should seriously learn from the experience of the development of social policy in the past century, always adhere to the philosophy of people-centered development, actively respond to the requirements of Chinese road of high-quality development and common prosperity, improve the ability to respond to various new challenges and risks in population, economic and social development, and play a more effective role, and enhance theoretical research in social policy, discipline development, and international communication and exchange.

### **China's Protected Area System in the Systematization of Environmental Laws**

*Du Qun* • 123 •

The construction of China's protected area system is an important progress of ecological protection in its building of an ecological civilization. The systematization of environmental law in the context of codification of environmental laws should take this progress into consideration. In practice, China's protected area system has developed a dual regulatory structure based on the system of protected area and the



“red line of ecological protection system in the natural ecological spatial pattern.” Since the protected area system, the natural ecological space and the red line of ecological protection have a shared feature of rule-of-law based logic, the environmental law system should make corresponding and integrated adjustments. The main path is to build a new jurisdiction under an “empirical nature conservation law” that protects the authenticity of nature and upholds spatial justice. An empirical nature protection law adjusted to the protected area system can also contribute to the systematization of environmental laws, because the logical analysis of the rule of law, which is based on the legal regulation of labor behaviors and their purpose, can also be applied to the construction of the basic jurisdiction of the environmental law system, and provide a jurisprudential explanation for the positioning of empirical nature protection law as a secondary legal regulation in the environmental law system.

**An Incremental Equilibrium Model of Poverty Governance: Theoretical Construction and Assessment on the Basis of Chinese Experience** *Zheng Yu* • 141 •

China’s achievements in poverty reduction have been widely recognized by the international community. However, its poverty governance is a one-dimensional policy of poverty reduction but a state-led systematic governance project with the goal of poverty eradication. China’s incremental equilibrium model of poverty governance originated in the country’s experience in development and poverty reduction. The joint effect of the three-fold mechanism of linkage, synergy, and evolution has promoted the Chinese economy’s transition from unbalanced growth to balanced development. This model has distinct Chinese characteristics also demonstrates the universal logic of economic development in developing countries. An analysis of poverty reduction practices in the three African countries of Ethiopia, Ghana, and Nigeria shows that the incremental equilibrium model provides a general analytical framework for understanding the effects of poverty governance in developing countries; demonstrates the interaction between government, society, and the market in terms of economic growth and poverty reduction; and helps to expand existing anti-poverty theories internationally. At the same time, this model also emphasizes combining knowledge of the unity and diversity of approaches to development. Sustainable poverty governance requires that developing countries practice policy in accordance with local conditions, focus on the sequencing of policy implementation, constantly reach out to more social groups who are beneficiaries and reduce social obstacles so that poverty reduction through development can become a process of self-strengthening.

**The Tension between Rule of Law and Effectiveness in Governmental Governance and Its Solution** *Fan Bonai and Lin Zheyang* • 162 •

Given the ideals of good law and good governance, achieving the parallel advance of rule of law and effectiveness is a major issue for the modernization of governmental governance. Unlike the Western context, in which the “rule of law vs. effectiveness” tension grows up through the interaction between judicial and administrative organs,



in Chinese governmental governance this relationship forms endogenously in the course of the modernization of governmental governance, a modernization in which the construction of rule of law and effectiveness are interconnected. Therefore, the independent construction of a rule of law government and governmental effectiveness also leads to multiple tensions between administrative autonomy and the expansion of powers, between rigid law and dynamic governance, between enclosed structures and open systems, between individual rights and technological privilege, and so forth. The current frameworks for assessment of the rule of law, the inclusive rule of law, and technological regulation and adjustment have more or less overlooked key integrative elements such as rules, procedures, and evidence. The reflective governance suggested by the sociology of law, meta-governance ideas, and the concept of evidence-based decision-making has the potential to achieve theoretical integration of rules, procedures, and evidence in governmental governance, creating a stronger explanatory power for the resolution of the rule of law vs. effectiveness tension endogenously formed in governmental governance.

### *Geng* and *Yao* in the Qin and Han Dynasties

Wang Yanhui · 185 ·

During the Qin and Han dynasties, corvée labor in the broad sense included *gengzu yaoyi* (“更卒”徭役), *waiyao* (外徭) and *shuyao* (戍徭), and in the narrow sense chiefly referred to *gengzu yaoyi* and *waiyao*. *Gengzu yaoyi* refers to the corvée labor performed by adult males in their own county; it fell under statutory obligations or was approved by the ruler. In Dong Zhongshu’s view, *waiyao* meant “a year of corvée labor,” levied by the court or ordered by the commandery. With *waiyao*, adult males would leave their home county to undertake tasks such as transporting grain by water. It was levied more than once a year and the length of time served was determined by the nature and duration of the corvée labor. The cumulative total of corvée was one month in the year and one year in a lifetime for each adult male. At the end of the year, the number of days by which the statutory service exceeded or fell short of the mandatory duration had to be recorded with the words “carried over to the following year” in the new service record. The *ruogan geng* (若干更) in the Zhangjiashan bamboo-slip version of the Han *Statutes on Scribes* meant the “duty” of service; it should not be confused with the *geng* (更) of *yaoyi*. Because of the special nature of their jobs, diviners, musicians and priests at sacrificial rites had to undergo strict training and examination by the state once they reached the legal age, and had to practice their art in the commandery or the capital city every year. *Nanjun Zu Geng Bu* (南郡卒更簿), the wooden slips excavated from the Jingzhou Jinan Songbai No. 47 Han dynasty tomb in present-day Hubei Province, is a copy of the Nanjun annual assessment figures for corvée labor in the counties, marches, and marquisates. The document reflects the reality of the corvée labor system in the Qin and Han dynasties; that is, the state controlled the overall amount of corvée in the localities, while counties, marches, and marquisates made their own arrangements in terms of the frequency of corvée labor and the number of adult males employed on each task according to their needs and their general approach.