

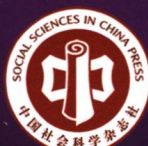


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SOCIAL SCIENCES IN CHINA

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## ABSTRACTS

**Constitutional Judgment in the Field of Criminal Justice and Criminal Law System Civilization**

*Zhou Guangquan* • 4 •

In China, the power of constitutional examination to interpret and supervise the implementation of the Constitution is exercised by the National People's Congress and its Standing Committee, but this does not prevent the people's court from making necessary constitutional judgments in the judicial process. In recent years, the Supreme People's Court has also made constitutional adjustments in a number of judicial interpretations involving guns, illegal lending, and criminal protection of wildlife. Criminal judicial activities are more in line with the requirements of the principle of legally prescribed punishment for crimes and responsibilities with constitutional rank, and with the constitutional principle of proportionality and equality, which also shows the sense of responsibility of the Supreme People's Court in promoting the implementation of the Constitution. This constitutional adjustment is a new trend of constitutional judgment in the criminal field, which belongs to the unique constitutional practice in the process of the formation and development of Chinese-style institutional civilization. It is a positive direction that guides constitutional judgment in the field of criminal law. In the future, criminal judicial activities should continue to be carried out in accordance with the logic of constitutional interpretation, and attention should be paid to the restrictive effect of constitutional rights norms on the interpretation of criminal law when formulating or revising judicial interpretation. The case judgment should interpret the criminal law on the basis of the Constitution, and give priority to the scheme closest to the spirit of the Constitution when there are a variety of possible interpretations. When the defendant and his defender raise doubts about unconstitutionality, judicial personnel should try their best to make the conclusion more in line with the spirit of the Constitution, so as to achieve appropriate punishment and promote the civilization of the criminal law system.

**Verbal Existentialism and the Creator's Vision**

*Zhao Tingyang* • 24 •

An epistemology-based philosophy is a nominal philosophy limited by the horizon of the knower; its subject-object framework is unable to explain human creation. Thus, a verbal philosophy is proposed that aims to reconceptualize existence and origin in the context of the creator's vision based on the existential theory of creation, taking creation (*facio*) as a starting point for understanding all orders, ideas and histories that require reflection.

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**Historical Materialism: A Shift from the Perspective of the Material Production Process to That of the Labor Process***Zhang Yibing* • 46 •

In bourgeois economics, material production as the active activity of man vis-à-vis nature can be an objective material process driven and produced by capital, while the “realistic person” who changes natural objects and social life can also be capitalists, overseers or scientists who dominate and direct the processes of production and reproduction. It was precisely with the objective process of material production and reproduction that David Ricardo completely obliterated the role of workers in machine production. Marx, who started the study of economics in the 1850s, realized that the most crucial internal driving factor and the real source of creativity of material production and reproduction were not the abstract “general production,” but labor. In the scientific theory of political economy, the “realistic person” can only be workers with labor capacity. Workers are the main body of the material production and reproduction of people’s direct means of life. The real creative basis of production, which as an “active activity” for people to actively transform the external natural objects, can only be the shaping and ordering of labor’s objectification. Therefore, when entering his own economic research, Marx not only started from the perspective of the material production process, but at the same time penetrated through the material production process and converted to start from the perspective of the labor process. In this way, the discourse of production in the context of historical materialism in the broad sense is once again embodied to a deeper level of the discourse of labor.

**The Philosophical Boundaries of the Unconscious: A Contemporary Turn in Continental Philosophical Subjectivity and Apriorism***Li Kelin* • 68 •

Ever since psychology introduced the theory of the unconscious, philosophical theories’ arguments for consciousness have been directly challenged. The unconscious, seen as the opposite of consciousness, seeks to demonstrate that people have so far failed to understand either consciousness or the entities and meanings rooted in it. The unconscious erodes the substratum of universal experience; through habit, it questions the absoluteness of the subject, and through meaninglessness it dissolves the clarity of meaning by breaking through the dark holes on the logical plane. In the face of the challenges of the psychology of the unconscious, the loss of traditional theory has been the impetus for philosophy to reflect on itself and redefine its core issues. From Husserl’s phenomenological defense of the a priori subject to Deleuze’s decomposition of the coupling between the subject and the a priori, the discussion of the unconscious suggests two theoretical orientations and approaches to argument: the understanding of the subject shifts from the constructor of experience to the carrier of experience, and the hermeneutic approach to the a priori is replaced by generation and breakthroughs from essential reduction. Deleuze started from within the theory of consciousness, contributing in complex detail to the self-proliferation of conscious content, annihilating the transcendental status of the concept of consciousness and arrogating to it the boundaries once set by the theory of

consciousness. Whereas phenomenology defined the boundaries of the study of consciousness through the unconscious, post-war French philosophy attempted to break down the boundaries of thought and reshape the mission of philosophical research.

### **The Legal Paradigm of Family Property Functionalism**

*Zhao Yu* • 88 •

In the context of the new era, the diversified functions of family property in China have become noticeable. In order to bridge family law and property law and to construct unified concepts and interpretive rules for Family Property Law, we need the methodological support of family functionalism. This can be divided into three legal paradigms on the basis of the functions of family property and applicable fields: the property of daily family life, family business property and family property liquidation. The legal paradigm for the first of these should help to enhance family cohesion and develop positive incentives for a harmonious family style. Technically neutral Property Law should serve the ethical values of Family Law through the innovation of the family life agency system, the limitations of contract freedom in family life property, and the introduction of theories of legal barriers relating to gifts between family members. The second, the legal paradigm of family business property, should contribute to the stability of family property and a smooth operational order. Through the theory of implied entrustment of family property and the principle of independent management of business entities, the public look of the exterior of the business property, the comprehensive relief mechanism for co-owners of family property, and the separation of business debt and family property, it will achieve interface and balance between the family and the market. The third, the legal paradigm of family property liquidation, should help to realize substantive justice in wealth distribution in society, should see through appearances in marital property division, should take into account the reliance on family property of the elderly and minors, and should ensure the stability of the family's social function. The enjoyment, exercise and disposal of family property are imbued with love, care and responsibility. The different legal paradigms based on the different functions of family property correspond to the variations in people's mental states.

### **The Underlying Role of Traditional Chinese Culture in the Uniquely Chinese Path toward Modernization**

*Shen Xiangping* • 109 •

Tradition and modernization are not dichotomy in the uniquely Chinese path to modernization; on the contrary, the latter constitutes one of the important underpinnings for the latter. Chinese traditional culture, which can provide inspiration for solving the major problems of the Western-style modernization and crises facing mankind, is one of the key logics for the Chinese path in sublating (*aufheben*) and transcending the Western one. The essence of traditional Chinese culture is, in Zhu Xi's words, *zhongheweiyu, ansuosuisheng* (let the states of equilibrium and harmony exist in perfection, and a happy order will prevail throughout heaven and earth, and all things will be nourished and flourish.) The inheritance and development of this theory can be illustrated from these four

perspectives: i. e., sheng (生), wei (位), suo (所) and yu (育). This means putting life above everything else and pursuing a beautiful life; correctly handling the relationships in reform and development and guarding against great risks by resolution; everyone being properly placed; a better-life-oriented development. However, the underlying role these ideas played in Chinese path to modernization has yet to be highlighted.

**China's Virtual Economy and Calculation of the Scale of Its Added Value: From the Perspective of Sources of National Income**      *Zhao Wen and Zhang Juwei* • 124 •

According to the principles of national income accounting, the sources of national income can be divided into new wealth and existing wealth. Considering the transfer of existing wealth as the creation of new wealth and including it in net value added will statistically exaggerate the share of net value added in GDP, and will inevitably produce new contradictions in income distribution trends. The essential attribute of the virtual economy is to transfer, not create, wealth. On this basis, we re-calculated the scale of value added it provides. We found that from 2006 to 2018, the proportion of the virtual economy's gross value added in national GDP was between 3.87 percent and 5.39 percent, and the proportion of the virtual economy's net value added in national GDP increased from 0.86 percent to 1.80 percent. Both showed an overall upward trend. Therefore, governments should allow the virtual economy to play its role in the concentration of wealth through fiscal and taxation policies. At the same time, however, what is more necessary is for the government to be vigilant and restrain the virtual economy's adverse impact on income distribution.

**Coordinating the Fiscal and Financial Framework of the Management of Local Government Debt: Evidence from Financial Markets**

*Wu Wenfeng and Hu Yue* • 143 •

Theories based on fiscal guarantees cannot explain either the fact that the decline in local fiscal resources has not significantly increased local government financing costs, nor the fact that local government debt has been rising at a time of strict central government regulation. The theoretical and empirical analyses provided in this study show that it is the financial resources under local government control that provide the implicit guarantee for local government debt. Such financial resources lower local governments' financing costs but have the potential to lead to the contagion of financial risk through local government to the financial sector. To look at the question solely in terms of either fiscal or financial sector guarantees will not be sufficient to resolve the problem of local government debt. The central government needs to coordinate fiscal and financial policy under a joint management framework in a way that rationally disperses and resolves the risks attached to local government debt and avoids the assumption of excessive risk by either sector. At the same time, close attention should be paid to local financial institutions' asset quality and their money market reputation to avoid the risk of contagion from local financial institutions to local public finance.

## **African Literatures and the Diversity of Civilizations**

*Zhu Zhenwu and Li Dan* • 163 •

The continent of Africa, with its long history and splendid cultures, was long regarded as a wilderness as Western colonialism darkened its civilizations. This meant that African literatures bloomed remote and unseen; they were met with indifference and had often been seen as “the Other” in world literature. But in 2021, African literatures burst out. Rather than being accidental, this is the cultural representation of decoloniality, diasporicity and hybridity, the crowning achievement of African peoples’ cross-border consilience, dogged perseverance and persistent struggle and hard work over more than a century. It also shows the unique attraction of the character of Africa, which cleaves to its own, does away with divisions, and never forgets the lessons of history while looking ahead to the future. Although African literatures originated in the history of Western colonialism, with its concomitant oppression and humiliation, it has evolved into a variety of aesthetic expressions, intellectual beliefs and historical forms. Its colonial, anti-colonial and decolonial writing practice features a sense of community and a comprehensive diasporic character in the context of contemporary globalization. This diasporic character, which concerns, absorbs and confronts the tension between heterogenous cultures, endows African indigenous writing with world consciousness and the idea of harmony. African civilizations have evolved into diverse civilizations with a modern African national spirit. African literatures thus actively participate in dialogue with world literature and world civilization, displaying vitality, creativity and influence in the positive-sum game between African and Western culture. They have a positive effect on the integration, mutual learning and symbiosis of world civilization.

## **White Racist Prejudice and the Construction of the Image of the North American Indians**

*Fu Chengshuang* • 185 •

Deeply influenced by racist prejudices shaped by their traditional perception of barbarians, European colonists simply placed the indigenous inhabitants of North America into one or the other of two opposing stereotypes: the noble and the ignoble savage. However, rather than being a true reflection of North American Indians and their culture, this betrays European colonists’ stereotyping of North American Indians as “Other,” refracting white Christians’ racist complexes and cultural prejudices. To achieve its goal of eliminating “barbarian” culture, white North Americans tried to conquer American Indians through cultural assimilation, but had little success. With the rise of multiculturalism and environmentalism, the “noble savage” has been recast as an “environmental Indian,” creating a tool for environmentalists to denounce environmental ethics. However, North American Indians have not only failed to resist this new label, as they did previously; instead, they have used it to construct a distinct new identity.



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