

## An Analysis on the Moral Cost of Chinese Peasants' Selection of Legal Acts

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### Abstract

Moral cost has a crucial impact on an individual's selection of a legal act. Under certain circumstances, when moral cost of a law-abiding action is higher than the moral cost of an illegal act, illegal act will prevail, and instead of being ashamed, people will even be proud of breaking laws. From a moral cost perspective, this paper uses economic analysis to explain the impacts of morality of Chinese peasants' selection on legal acts, which are important for the establishment and improvement of a legal environment in the rural areas of China.

**Key words:** Legal act; Selection; Moral cost

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### INTRODUCTION

In real life, people are always in certain social relations, and a person's survival and development are inseparable from the survival and development of others. With the technological advancement, economic growth, and increasingly refined social division of labor, people

have increasingly closer contacts with each other. Durkheim raised such a question in the preamble of *Social Division of Labor*: Why do individuals become more independent while they are more dependent on society? He believed that this was due to the evolution of social division of labor and society's development from mechanical solidarity to organic solidarity (Fu, 2008). When an individual makes a value judgment and behavior selection, he will make a comprehensive trade-off on the consequences and purpose of the behavior, the losses and benefits of personal interests and interests of others or society, input of personal intellectual, financial and material resources and output of benefits. Therefore, people's behaviors can be analyzed on a cost-benefit basis. Selection of legal act is also a result of a perpetrator's analysis of "cost-benefit". At present, China has weak legal construction in rural areas. Moral loss and interest-oriented thought make people do not select acts according to legality, but to the best realization of interest. Using an economic concept of "cost-benefit" to analyze this phenomenon can perhaps provide a new perspective to promote legal construction in rural areas.

### 1. MORAL COSTS OF ILLEGAL ACT AND LEGAL ACT

Ethical act and economic act are intrinsically integral rather than contradictory, and they are two different external manifestations of human nature. Human moral act and economic act are both derived from the despised and so-called "selfish" acts, and are actually expressions of human's self-interested nature of "love myself". Those commendable and praiseworthy moral acts are derived from human's compassion nature of "love others". As individuals, we take self-interested acts to care about our own fates, but on the other hand, we devolve our thoughts to others, showing sympathy and concern for others based on the cares of our own destinies, so we can generate a

sense of morality, sense of responsibility and sense of justice. Meanwhile, as human's nature of self-love is accompanied by compassion, some people would harm the interests of others in order to preserve their own interests, some would have a sense of shame and guilt while doing this, but some others would sacrifice their own interests or even their lives because of sympathy for others. They are regarded as real men who are valuable and respectable because these acts are seldom done by ordinary people (Sheng, 2008). The Economic Analysis School of Law emerged in 1970s and 1980s adheres to study legal issues with methods of economics, and the core concept of their study is rational subject, namely, the rational subject pursuing a maximized self-interest, including three propositions, the first one is self-interest, namely, the fundamental motive of pursuing a maximized self-interest; the second proposition is "rational behaviors", and the third one is the core proposition of brokers hypothesis that there is a good legal and systematic guarantees. It can be seen that cost-benefit analysis can be conducted whether in legal acts or illegal acts. However, for the party concerned, cost is the price that people paid for their pursuit of all kinds of goals, such as fame, safety, comfort, achievements and etc., and the price they paid in order to gain inner moral peace and satisfaction. The moral cost of law-abiding and illegal behaviors refers to the price people paid for gaining inner moral peace and satisfaction by assessing their own behaviors with inner moral standards when their behaviors violate or abide by laws.

When the doers doing things, they will evaluate the cost and weigh the benefits for the profits gained or price paid. Illegal behaviors are often behaviors that negated by moral standards. People draw on advantages and avoid disadvantages, so they naturally choose to abide by the law to reduce moral cost, and the good social moral condition thus reduces each doer's moral cost, but moral satisfaction is a inner heart need, and it varies with people. There is a low satisfaction needs for some people, so there will be low or none moral cost caused by illegal acts, thus will lead to crime for other benefits, all this are rooted in the individuals needs for moral satisfaction, thus it can be seen that an individual's moral standards has a crucial impact on an individual's selection of legal acts or illegal acts.

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## **2. THE INFLUENCES THAT MORAL IDEAS HAVE ON PEASANTS' LAW AWARENESS**

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### **2.1 The Necessity of the Existence of Moral Ideas**

Law and morality adjust social relations from different aspects. Morality has a function in prevention of crime that can not be replaced by any law. Because morality has an inner impact on controlling people's minds, and

restraint and prevent the occurrence of illegal acts from people's inner heart. So that criminal acts are suppressed by internal factors, criminal acts will naturally be greatly reduced. The law is to prevent and punish from external aspects, and morality needs to act to reduce or eliminate the underlying causes of crimes. Morality plays an important role in implementing laws. Due to the stability of laws and limitations and hysteresis of legislation, coupled with the variability and complexity of social phenomena, there are certain loopholes and shortcomings in law of any society.

For some behaviors should have been regulated and adjusted by laws, appropriate regulations is short of in law. At this time, morality should be functioned to evaluate these behaviors, to guide and adjust to make up legal vacancy. In reality, many social relations, like friendships, intimacy, love, etc., are mainly evaluated by social morality and guided by public opinions. Moral can make up legal vacancy. As for law, it is impossible to cover all the issues and contents in every field, and for those fields not yet involved or should not be involved, moral can play its complementary role. Moral and law are mutually intersected and penetrated, and their functions are basically the same, that is, to regulate and restrict people's behaviors, adjust social relations, maintain social order and promote social harmony and development. Therefore, the law prohibited acts are also moral condemned; acts required and encouraged by law are advocated and developed by moral as well. There is a certain law thought in morality, and there are many moral principles in law, and both of them contain factors of fairness, justice, goodness and honest. Regarding this, Aristotle once said, the actual meaning of the law should be a permanent system that can promote the city people to conduct justice and virtue. Thus it can be seen that the moral concept is very necessary and helpful.

### **2.2 Moral Ideas and Legal Awareness**

Moral ideas guide people's acts by acting on their inner heart. Ideas belong to the range of moral adjustment even if it does not come into practice. And those immoral acts will be condemned by public opinions, and will lead to alysmus in the doer's inner heart, and the moral satisfaction could not be realized. Good moral concepts help to promote the formation of correct right and wrong view, good and evil view, and rights and obligations view. And good moral concept plays an important role in cultivating peasants' law awareness, it has a profound meaning especially in enhancing peasants' law psychology and law concept. Legal psychological state can be divided into positive legal psychology, negative legal psychology and damaging law psychology. Positive psychology reflects people's confidence and support in the existing law; negative legal psychology manifests people's indifference toward law; damaging legal psychology shows people's disgust, resentment, and resistance

to the existing law. In society, due to different social positions and living conditions, people have different law psychology. However, law psychology is only a simple and direct reflection of law phenomenon, and is influenced by many factors such as the national attitudes toward law and people's moral quality, etc. Set a good moral concept can purify the social atmosphere, and is conducive to the establishment of good social order, encouraging people to organize their activities according to the law, and boosting people's confidence and support for the law, so as to enhance people's law awareness.

### **3. SIGNIFICANCE OF MORAL CONCEPT ON THE LEGAL CONSTRUCTION IN RURAL AREAS**

Morality is the origin of law, and legal thought rooted in moral concept, and law must have morality as its strong support. If the law pursues the realization of justice, then the law is good; if abandon the standard of justice, then the law is evil. Therefore, the law must be recognized in the community and social morality, then it will become a good law. Contemporary famous British jurist Hart once said, "If a system of rules impose violence on some people, it must have enough members voluntarily accept it; without their voluntary cooperation, the authority of the system and the coercive powers of law and government cannot be established."

Generally speaking, in the system of social norms, moral and law are two kinds of regulations in different attributes. Although using different methods in adjusting social relations, they are complementary with each other. The main function of moral manifest as induction and regulation of human behavior, its implementation mainly depends on public opinion supervision, inside self-cultivation and habits driven, so moral has a broad and far-reaching influence on family life and social occupations. The law expressly provides the specific rules of conduct, with the backing of the national force, it has the function of both guiding and promoting, more discipline and preventive effect, but law is not all-mighty, the standards it set for the subjects are different from the sage standards advocated by morality, so it is often powerless for criminal offenses in violation of morality, and at this time, the regulation function of morality is of key importance. In modern society, the law's heteronomous function should be mutually complement and closely cooperate with moral self-discipline function, then the construction of society with rules of law will gain a good effect. Therefore, moral concept plays a very important role in legal construction in rural areas. Only establish a good morality and enhance the legal awareness of peasants in the vast rural areas can establish the authority of the law, so that farmers truly obey the law. Cultivation of peasant's

legal awareness should also be based on the establishment of moral concepts and system.

## **4. MORAL STATUS IN RURAL CHINA AND IMPROVEMENT MEASURES**

### **4.1 Moral Status in Rural Areas**

Since China's reform and opening up, peasants' material and cultural living standards have been greatly improved. However, there are prominent accompanied social problems. For example, in economic life, money worship, greed, venality, and materialism and so wicked nonsense phenomenon brazenly filled every corner of rural society; in the language and behaviors, there is a emission of smell of greed; and its values extremely tilt to individual standard and private interests; in daily life, behaviors are unregulated, and many already extinct ugly phenomenon revive; the relationship between people is indifferent, and neighbors do not help even someone is in danger, and it is as the common occurrences. Peasants' adherence to lawful conduct rather than pursuit of illegitimate interests will not gain positive feedback from public opinion in the surrounding community, but to benefit through illegal acts will be envious by people, and become the embodiment of "capacity"; the venality awareness of the surrounding groups aggravates the trend of peasants' selection of illegal acts. The decline of current ethical standards of rural society in certain aspects and disorder of morality is only a temporary surface phenomenon, which will be changed as the economic development and improvement of the moral system in rural areas.

### **4.2 Measures to Improve the Moral Status of the China Rural Areas**

Firstly, regarding the influence of the market economy has on moral construction of rural areas, both of its positive effects and negative effects should be paid attention to, and be dialectically understood and studied. Only in this way can reduce the negative impact of the market economy to a minimum, and better to play the positive role of the market economy, and to promote moral construction in China's new rural areas, and increase peasants' ethical standards.

Secondly, on the issue of moral principle, the principle of public doctrine should be insisted and be dialectically understood, the dialectical unity of the common interests and the individual interest should be adhered to. Regarding this issue, the principle of public doctrine should be insisted and be dialectically understood, the dialectical unity of the common interests and the individual interest should be adhered to. Only in this way can people get rid of various misconceptions, and can better promote rural morality. Promote farmers moral realm in "model effect". High-level requirements of public doctrine should also

be seriously advocated in the new rural construction, and forming a social atmosphere of encouraging the advanced, and peasants' health psychology of respect, admiration, and learn from the advanced should be strengthened, people of different consciousness should be guided to boot up together (Li, 2001).

Finally, as for traditional moral values, both of negative value and positive value of traditional morality are necessary to be studied. In the long river of five thousand years of histories, the Chinese nation has formed a common moral awareness, moral emotion, moral psychology and moral habits in productive labor. For traditional morality, it can be neither negated nor overall inherited. The right attitude toward it is to adhere to discard the dross and select the essential, inheriting critically, comprehensive innovation and using it for today. Only in this way can people inhibit and reduce the negative effects of traditional moral values, learn and develop a positive role of traditional moral values.

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## CONCLUSION

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To sum up, China is undergoing a transition, and facing new severe challenges, so we must improve the rural social atmosphere and enhance the moral construction, and the promotion of peasants' moral concepts has a great significance on promoting their law awareness. Only establish the authority of law in rural areas and raise the moral standards in people's inner hearts can they realize the true unity of the rule of law and rule of moral in rural areas, and promote the new rural construction with the rule of law.

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