

The Discussion-ready Draft of “On the Accuracy of Legal Enforcement”

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By studying the American welfare economist and jurist Louis Kaplow’s ideas about the balanced program and following the welfare economics and information economics points of view, the paper pays attention to the accuracy of the law and its application in the Context of Chinese law. Here is the discussion-ready draft.

The first part is an introduction. Firstly, the research questions and research areas are defined. Compared with the several related concepts in the accuracy of the law, the paper presents the concept and characteristics of the accuracy of the law. The accuracy of the law means that law enforcement level, the degree of error on the verdict.

The second part describes the Louis Kaplow’s legal procedure thought. Before it, two popular theoretical model of procedural justice should be reviewed. Then, the content and the defects of the Rawls’ the "results oriented" and Habermas's "participatory" theory are reviewed. "Results oriented" procedural justice theory suggests that the standard of the procedural justice is whether the procedures can obtain a just result. In fact, this theory is equal to deny the independence of the standards about the procedural justice. "Participatory" procedural justice designs

the perfect program "rational debate on the rules", but in reality these conditions are difficult to reach, difficult for the judiciary to play a substantive role in the practice. Subsequently, the new theory of procedural justice - the balance of Louis Kaplow's is proposed. He believes that procedural justice is the balance between the system cost and the real justice. If the high cost of real justice, tolerance miscarriage of justice is appropriate and reasonable.

The third part is about the analysis of procedural justice . The core tools in the procedural justice theory - the legal accuracy. The core concerns of the Louis Kaplow's legal accuracy is the system cost. Substantive justice in law enforcement levels is the accuracy of the law observedly and evaluatedly. The accuracy concept of law makes the abstract and prone to dispute the value of the real concept of justice to be as a grasp of law and economics concept from heaven down to earth .

According to the Coase Theorem , the cost of the system consists of three areas: search cost , trial costs and enforcement costs. Penalties for violations can be divided into two categories: non-punitive social costs (socially costless) and social costs (socially costly). According to the Coase Theorem's cost of system ,Louis Kaplow divides the analysis of the law into two parts: compensation model and the responsibility model. When analyzing the specification of the system, the objective of the evaluation of the law is very clear. When the accuracy of the law is in

certain circumstances, the lower cost system of law should become the selection criteria.

Next question is about the model of the legal accuracy's analysis and application in China, which analyzing the "lure of law enforcement" and "prizes reporting" system, which has done a interpretative analysis to the two systems through the principles of information economics. Then, we carried out the regulated analysis by the accuracy of law, which proposes the measures to improve the legislative policy. The measures is to combine the credible "reports prizes" system, severe punishment and the combination of the independent administration of justice together.

Final part is the conclusion, which is about the argument about equity and efficiency that we often discuss. In the perspective of the law economics, the efficient legal precisely in a way is in line with the requirements of justice. And how to configure and balance the two part can be solved through the art of learning accuracy of the law deeply. The accuracy of the law should be seriously analyzed. We should try to explore the road about the rule of law by the close attention of the responsibility of the practical rule of law.