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1-AB33-4381

THE IMPACT OF 'GIG ECONOMY' CROWD WORKERS IN LARGE CORPORATIONS

Dr. Alison Lui[1]

The 'gig economy' started after the global financial crisis to provide workers the opportunity to do piecemeal work whilst the economy recovered. Seven years on, this sector has grown and looks likely to stay. Huws and Joyce's study (2016) shows that there are now 4.9 million crowd workers in the UK. Further, the crowd workers are engaged in a range of services from transport to professional services such as accounting and law. In America, a report by JP Morgan (2016) found that approximately 10.3 million Americans earn a portion of their income via the 'gig economy'. Only 13% of Britons believe they will be working in the traditional '9–5' employment pattern by 2025 (Schram 2015). The growth of the 'gig economy' has created challenges for workers, employers and the government. Much of the extant literature focuses on the employment status of crowd workers and the lack of employment protection. Very little research has been conducted into the impact of the 'gig economy' on large corporations (Brinkley 2016). Crowd workers offer flexibility and therefore small businesses which are growing would welcome such workers. Digital platforms also offer lower hiring costs. However, much has yet to be discovered in relation to the use of crowd workers in large corporations.

This paper therefore focuses on the opportunities and challenges which crowd workers can offer to large corporations. In particular, the recruitment process and the opportunity of outsourcing work to crowd workers will be discussed. Whilst hiring costs are cheaper, large corporations may lose control over the hiring process to digital platforms such as Freelancer or Upwork. Large businesses can however, retain some control by offering competitions to potential workers. NASA, the space agency, is an example. It offered an online competition for solving problems which astronauts could face in an international space station. Outsourcing creative work such as marketing or professional services is also beneficial. PricewaterhouseCoopers (PwC) have launched a digital platform called Talent Exchange in February 2016, which directly connects freelancers with the company. PwC offer specific projects to the freelancers based on their skills and experience. Tapping into the global labour market can be easier with such digital platforms. Yet, the 'gig economy' poses regulatory and governance challenges to large corporations. With a large network of freelancers and small businesses, large corporations have to find effective ways of managing and monitoring a web of networks. Flexible and innovative training methods are required to ensure crowd workers feel part of the company and deliver its values.

Brinkley, I. (2016) In Search of the Gig Economy. The Work Foundation

Huws, U. and S. Joyce (2016) Size of the UK's 'gig economy' revealed for the first time, University of Hertfordshire crowd working survey.

Morgan, J. (2016) JP Morgan Chase & Co. (2016) Paychecks, paydays, and the online platform economy: big data on income volatility.

Schram, B. (2015) Sharing economy: 87% of Brits see 'gig economy' taking over from 9–5 working days in 10 years. International Business Times, 15 September

2-AB26-4046

CAMEROON AND THE CORRUPTION CONUNDRUM: PROSECUTING THE OFFENSE OF MISAPPROPRIATION OF PUBLIC FUNDS IN CAMEROON

Prof. Avitus Agbor[2]

Beyond dispute is the fact that no political system is immune to corruption. Taking the form of an invisible enemy amongst people, corruption takes a great degree of responsibility for the parlous plight of underdevelopment, poor governance, crumbling institutions, stagnant socio-economic development, resource scarcity, decadent democratic institutions and values. Theoretical and empirical studies on corruption reveal that it is much easier to describe than to define what corruption is as it may be clandestine and protracted in nature, taking different forms and varying in perception from culture to culture. In Cameroon, corruption is deeply entrenched in state institutions, state-run corporations, and the private sector.

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Its normalization in Cameroon's sociological landscape has assaulted democratic norms such as accountability and transparency. Elevated to a medium of exchange, corruption has eroded the confidence in the public service and brought to the people venal justice. With such unpalatable consequences, socio-economic and political development has been severely hindered, and democratic values and institutions severely compromised. Despite the numerous legislative enactments and institutional mechanisms in place to combat corruption, the absence of political will mustered and exuded by top political figures has been the biggest flaw in all her anti-corruption efforts. The presence of political will is not only important and urgent, but also a conditio sine qua non to any genuine efforts made in fighting corruption at all levels in Cameroon. Without it, all efforts remain inadequate, ineffective and shallow.

3-AB48-4085

TWIN PEAKS FOR SOUTH AFRICA: A CASE FOR THE ADOPTION OF A MODIFIED MODEL OF FINANCIAL SECTOR REGULATION

Ms. Silindile Buthelezi[3]

Since the global financial crisis, policy makers around the world have been focused on mending the weaknesses the crisis has revealed in their financial regulatory frameworks. One of the main contributors has been the systemic failures across the financial industry. As a result, there has been a coordinated global effort to improve the way risk (especially systemic risk) is managed at both national and international level. Many governments around the world have been facing pressure and demand for reforms and regulatory improvements, and as a result, many of the regulatory authorities have implemented substantial systemic reforms. South Africa is one example of a country that has initialised such systemic reform.

South Africa has substantially reformed its banking and financial sector regulation by adopting a 'Twin Peaks' regulatory structure through the enactment of the 'Financial Sector Regulation Bill'. Under the Twin Peaks regulatory structure, two regulators will be established: 1) a Prudential Authority operating within the South African Reserve Bank which will supervise the safety and soundness of the banks, insurance companies and other financial institutions, and 2) a new Financial Sector Conduct Authority which will supervise how financial services firms are to conduct their business and treat their customers. The South African Reserve Bank will oversee the financial stability, within a policy framework agreed with the Minister of Finance.

The Twin Peaks structure represents a decisive shift from South Africa's current fragmented regulatory structure and attempts to harmonise South Africa's fragmented financial regulatory landscape. South Africa's move towards a Twin Peaks approach has been largely motivated by the success of the Twin Peaks model in other jurisdictions such as the Netherlands and Australia, and more recently, the United Kingdom's adoption of the Twin Peaks structure in 2013.

Although the United Kingdom only recently adopted the Twin Peaks model (making the task of an accurate assessment of the success or failure of the structure difficult), South Africa has chosen a reform model of twin peaks which is very much similar (if not almost identical) to the United Kingdom reforms, particularly in respect of the clear and distinct role for the central bank, a specialist prudential regulatory function within the central bank, and a separate market conduct regulator.

This paper seeks to argue that there are notable factors which distinguish South Africa's financial landscape from that of the United Kingdom which ought to be taken into consideration in the reform of South Africa's regulatory structure. Some of the factors include, as expressed by Dr Michael Taylor (2011), the fact that the twin peaks model is favourable to the United Kingdom as the banks do not dominate the financial sector, but rather occupy the financial sector with other non-bank financial institutions, and further, that the United Kingdom has a highly developed consumer protection regime. Contrastingly, the banks dominate South Africa's financial sector compared to the non-bank financial institutions which play a very limited role, and South Africa's consumer regime is not significantly developed in that the National Credit Act was only enacted in 2005, and the Consumer Protection Act only came into effect as recently as 2011.

The paper also seeks to argue that South Africa should consider a modified version of the twin peaks structure which is unique to South Africa's individual industry structures and its particular circumstances. Within this argument, this paper seeks to explore the concept of South Africa having to first define its unique problem and thereafter creating South African solutions unique to the South African problem.

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(South Africa). She is currently pursuing a Masters in Law (LLM in International Banking and Finance Law) at University College London (UCL) in London, England. Silindile is an Admitted Attorney of the High Court of South Africa.

4-AB10-2955

THE EFFECT/ROLE OF LAW IN THE FIGHT AGAINST CORRUPTION IN NIGERIA

Mrs. Chinawa Anthonia Tochukwu[4]

Corruption is prevalent and has particularly serious economic consequences in Nigeria today. The country has experienced a share of this problem through a substantial loss of its common wealth to few privileged office holders, investors as well as foreign aid. In fact, it can be safely described as the bane of the Nigerian nation state as it has brought down the country from her once Olympian and soaring height (as the light and giant of the African continent), such that in the comity of nations, smaller African nations including those which gained independence recently are the ones now speaking for the continent. Thus, the country has taken decisive measures to eradicate corruption as can be gleaned from its anti-graft laws and institutions but despite these laws and the relevant institutions/agencies of government to administer them, corruption activities still thrives in the economy unabated. This study therefore examines these anti-corruption laws in a bid to determine its efficacy in the fight against corruption in Nigeria. To achieve this, the researcher undertakes a critical survey of the anti-corruption laws and the surrounding controversies that has watered down its efficacy in eradicating corruption in Nigeria.

5-AB30-4198

THE ROLE OF THE WORLD HEALTH ORGANIZATION IN ENSURING A COORDINATED GLOBAL HEALTH GOVERNANCE SYSTEM FOR BETTER PANDEMIC PREPAREDNESS

Mr. Omowamiwa Kolawole[5]

The global health governance system as headed by the World Health Organization (WHO) has being tested in recent times; most notably by the Ebola virus pandemic which affected much of West Africa. WHO has been blamed for the spread of Ebola due to its failure to declare the virus a health emergency quickly enough, as well as other systemic problems that became apparent during the Ebola pandemic. These problems include the loss of moral leadership of the organisation, poor organisational structure, weak monitoring and enforcement protocols. In addition, ineffective regulations, a fundamentally flawed institutional approach to pandemics, the pandering to special interests, inability to effectively work with emerging global health institutions and poor funding also resulted in the spread of the virus. These lapses proved fatal, as many affected countries received limited international assistance until the pandemic had spread uncontrollably and had to rely on limited local resources to tackle the epidemic.

However, as recent outbreaks have proven, pandemics do not recognize geographical boundaries, and as such, there is need for international collaboration and cohesion in tackling the threat of pandemics. The need for a coordinated effort to prepare for pandemics is necessary now more than ever because many developing countries are still vulnerable to the next possible pandemic and are ill equipped to tackle them should they arise, due to weak health systems and limited monitoring capacity. While the players in the international health governance scene have increased, with several independent players with a lot of influence and funds, the WHO is by default the leader of the global health governance framework, historically and by virtue of its mandate for the fulfillment of the right to health, and as such it has a key role to play to in pandemic preparedness.

This paper addresses the need for a coordinated approach to pandemics globally. It focuses on the WHO as a strong global health leader to chart the course in health, especially as it concerns global pandemic preparedness. To this end, an examination of the key structures within the WHO will be made to determine how they can be improved to coordinate the efforts of both state parties and independent non state players in order to provide a unified approach in tackling pandemics. The paper will further address issues relating to enforcement to help ensure that all stakeholders are accountable.

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[5] Mr. Omowamiwa Kolawole, PhD Candidate, University of Cape Town.

6-AB38-4383

THIRD PARTY ARBITRATION UNDER ENGLISH

Mr. Ehab Qouteshat[6]

Arbitration agreements should be exclusively binding on parties who entered the arbitration agreement. But there are situations in which third-parties, such as the guarantor, successor, consignor or subsidiary company are usually beyond the genuine parties to the arbitration agreement, and which can invoke or be bound by the agreement owing to the common rights and liabilities between those parties as they have active role concerning the execution of the contract. These situations may raise several issues concerning when the third-party to an arbitration agreement would be entitled to intervene in the proceedings and when a party to the proceedings will be able to join non-parties to the proceedings.

This raises the question of what factors should be taken into consideration regarding the third party's participation in the arbitration proceedings. Although there are national laws to regulate the third party's intervention in international commercial arbitration, there is still much debate about unanswered questions in relation to interveners under English law, such as the required connection between the two different proceedings and how to avoid the risk of inconsistency in judgments. Furthermore, there are legitimate questions concerning whether the party's good faith should be taken into consideration when joining two separate proceedings, and whether there should be a connection between two proceedings in regard the facts and law in order to permit the joinder of these two proceedings.

The paper examines these matters under English law, arguing that the UK jurisdiction fail to provide legal certainty to third parties, as by referring to the case law under UK there is still a state of inconsistence of judgements concerning third party participation. A comparative approach is employed to investigate these issues theoretically and practically, with a wide range of case law from legislation and academic literature. The results show that the consistent principle relating to the justification of third party participation in arbitration proceedings should reflect to the extent of correlation between the genuine parties and third parties concerning their interests, rights and liabilities. The paper will conclude by a recommendation that there is a necessity for a proper regulation to adjust "third parties in arbitration" in national, regional or international levels owing to the disparity of case judgements in this area of law.

7-AB07-2895

CHILDREN PERPETRATOR OF SEXUAL VIOLENCE: THE PERPETRATOR OR VICTIM? (A REVIEW OF COURT DECISIONS ABOUT SEXUAL VIOLENCE COMMITTED BY CHILDREN IN INDONESIA)

Dr. Eva Achjani Zulfa[7]

Sexual violence in Indonesia actually becomes a dilemma due to increasing numbers of cases. It makes attention and response given was exceptional. Start of change provisions in the legislation, including changes and developments weighing type of sanctions. This development became a positive thing when applied to adult offenders, but what about the perpetrator is a child? The position of the child in many criminal acts actually becomes a dilemma in which his position if he is in fact the perpetrator or the child is a victim. This paper describes the various backgrounds of sexual offenses committed by children to prove the failure of parents and the State in protecting that child sexual abusers is basically a victim that must be protected. This paper is a review of court decisions about sexual violence committed by children. This study will illustrate a few examples that illustrate the response of the judge 's decision in Indonesia to cases that occur which is a form of protection against the child criminals

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8-AB24-3046

DATA PRIVACY PROTECTION AND MODEL OF REGULATION IN INDONESIA

Dr. Sinta Dewi Rosadi[8]

The issues of personal data protection as one of type of privacy have frequently been in the news in recent years, especially in the context of social networking, consumer profiling by online advertising companies and cloud computing. Personal data means any kind of information that can personally indentify an individual . In 21 century, as we are moving towards the era of connectivity with the use of internet and mobile communications personal data has been collected, stored, used and disseminated is increasing rapidly and it is indicative that 90 percent of data in the world today has been created just in the last two years and personal data becomes a significant source of innovation and value to business and has been perceived as new currency of digital words however citizen are increasingly aware that their personal data often used invisibly without their consent and damaging the confidence and trust of the subject data.

In Indonesia, personal data has not been highly protected nor specifically regulated due to cultural factors and lack of understanding of government, private companies and individuals. However, within the last five years it is noted that the people of Indonesia has become more aware of their personal data privacy since their personal data collected, distributed and disseminated without their prior consent by the government for the purpose of Electronic Identity Program likewise private companies especially in banking sector, i.e. banks and their co-ventures also tend to committed violations by using and disseminating customers' personal data without the consent of their respective customers. Until now, there is no specific law governs the use of personal data in Indonesia, while, from the international and regional practices, many countries have regulated personal data either sect oral or comprehensive. In the meantime, Indonesia still has to determine which model regulation most appropriate to implement in order to protect the interests of all parties concerned.

9-AB25-3076

ANALYSES: CANCELLATION OF WELLKNOWN MARK IN INDONESIA NUMBER 15 YEAR 2001 IN INDONESIA (CASE IKEA VS IKEMA)

Dr. Rika Ratna Permata[9]

Trademark law has been regarded as in principle a clearly defined subject protecting registered mark against registration of identical or confusingly similar mark for the same or similar product. In INdonesia , We can see In article6 trade mark Law Number 15 year 2001,provides that an application for trademark registration has to be rejected if the mark is deceptively similar or substantial by identical same kind with a wellknown mark owned by some one else for the goods and service. based on that legislation , wellknown mark should give the protection. but lack of legislation , Indonesian doesnt have a definition of wellknown mark also the criteria of wellknown mark.In Practise, most of Indonesian local businessman with bad faith try to use the foreign wellknown mark to get the advantages and to get the profit from the established reputation as we can see in indonesian cases, the furniture IKEA a Swiss company that has been registered in a lot of countries including In Indonesia,and local business from Surabaya used the same trademark IKEMA for tiles.

The dispute is submitted to the commercial court for the cancelation mark . In this level and appeal, IKEA won for it, but in reconsediration IKEMA won.

The reseach used analytical descriptive specification method and also to analyze case that have been decided and the consideration of judges in favor of IKEMA trademark which is almost similar with IKEA trademark and to studying the. norms and rules of law.

In conclusion, Indonesian should have amandement the trademark law and made an anlysis to the judgment how to protect a wellkown mark which is allready registered in all around the world and have a similar mark with other wellknown mark .

Key world : wellknown mark, registered, reputation, dispute, protection

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10-AB45-4432

GLOBALISATION AND RACISM: THE AUSTRALIAN EXPERIENCE

Dr. Jantharat Phan-Athiroj[10]

Changing demographics in the labour force is the result of globalisation. According to the United Nations (2015), Australia is one of the top twenty countries in the world hosting international migrants. While they can fill in the labour shortage and positively impact the economy of the destination countries, they are the most vulnerable members of society who are abused and discriminated against their race. This paper aims to report on racism in Australia and to propose strategies for racism prevention.

Although Australia is a multicultural and multiracial country, many migrants have been suffering with discrimination in some Australian workplaces. For instance, a job applicant was not contacted for an interview because of their Middle Eastern name (Marriner, 2014). An employee in Queensland was abused and threatened by a co-worker and felt that his employer did not respond to his complaint seriously. More interestingly, the co-worker was the subject of racial discrimination in the past. Another employee, a labourer in a manufacturing business, had been called by offensive names and treated less favourably than other workers because of his race and English language skills (Anti-Discrimination Commission Queensland, n.d.). Outside the workplace, other passengers humiliated an African-American woman during her flight from Melbourne to Brisbane because of her skin colour (Price, 2016). Furthermore, Muslims have faced racial discrimination since the Lindt Cafe siege in December 2014 (Australian Human Rights Commission, 2015).

In 2012, the Australia Government introduced the 'Racism. It stops with me' campaign and the National Anti-Racism Strategy to be implemented between July 2012 and June 2015 (Australian Human Rights Commission, n.d.), but it seems that racism still remains. A recent research funded by VicHealth and the Australian Human Rights Commission found that racism costs Australian society approximately $45.7 billion (Elias, 2015). Soutphommasane (2015) reveals that the Racial Discrimination Act 1975 does not punish racism; it instead protects people against prejudice and does not have the complete protection for Muslims and Aboriginal Torres Strait Islander (Australian Human Rights Commission, 2015).

To prevent racism, school curricula should contain balanced information on minority groups to induce more positive values and attitudes – the causes of racism, xenophobia, and other forms of discrimination – of young children (UN News Centre, 2013). Both profit and non-profit organisations should raise their employee awareness on racism and the 1965 International Convention on the Elimination of all forms of Racial Discrimination as it is not only the responsibility of the State government. For Australia, it is perhaps time to review the 40-year old Act – the Racial Discrimination Act 1975.

Keywords: racism, prevention strategies, Australia

11-AB32-3089

INTERNATIONAL CHILD RIGHTS LAW AND STATE SOVREIGNTY: THE CURIOUS CASE OF THE NIGERIAN CHILD RIGHTS ACT (CRA)

Mr. Oluwafifehan Ogunde[11]

One major method of determining whether a state has an effective child rights protection framework in place is the extent to which the standards of child rights protection as outlined in the Convention on the Rights of the Child (CRC) are guaranteed in its domestic legislation. To this end, the Committee on the Rights of the Child has concluded that an obligation on the part of states exists to ensure that Convention provisions are given domestic effect and has particularly 'welcomed the incorporation of the Convention into domestic law' . The Committee also notes the fact that states differ as to the particular method of incorporation of the CRC into domestic law. It nevertheless observes as fundamental the need to ensure that 'all domestic legislation is fully compatible with the Convention and that the Convention's principles and provisions can be directly applied and appropriately enforced'.

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[11] Mr. Oluwafifehan Ogunde, Doctoral Candidate, University of Nottingham.

On its part, Nigeria signed the Convention on the Rights of the Child (CRC) on 26th June 1990 and ratified same on 19th April, 1991. In 2003, the civilian government led by Chief Olusegun Obasanjo went a step further in the child rights protection agenda by passing the Child Rights bill into law. The Child Rights Act (CRA) essentially aimed at principally enacting into law in Nigeria the principles entrenched in the Convention on the Rights of the Child. As is the case with the CRC, it contains civil and political rights as well as economic and social rights which presumably stems from the recognition of the interdependence and indivisibility of these rights. The aim of this paper is to assess the implementation of the Child Rights Act in the context of the Nigerian legal system, with particular focus on the Constitution of the Federal Republic of Nigeria (1999) which is the supreme legal instrument in Nigeria. In doing so, the substantive rights provisions of the CRA would be considered vis-à-vis fundamental rights as guaranteed by the Constitution of the Federal Republic of Nigeria (1999). In the event of disparities between the two pieces of legislation being highlighted, one would also consider possible ways by which such disparities may be addressed in order to ensure effective harmonization of international child rights protection standards espoused by the CRA and domestic law.

12-AB16-4175

DIGITAL MEDIA, POLITICAL CROWDS, AND PARTICIPATORY DEMOCRACY

Mr. Frederick Tucker[12]

Digital media enables, for the first time in human history, global, egalitarian, participatory, democratic governance. Archaic forms of government, such as autocracies and republics, however, do not disband voluntarily. The realization of peaceful, global, participatory governance depends on popular resistance in its most potent, yet least militaristic form—urban, political crowds. This paper presents the power of digital media to lay the basis for new forms of government, and the power of social movements to realize new forms of government.

14-AB18-2840

MEASURING PARLIAMENTARIAN; TOWARDS ANALYSING MEMBERS OF PARLIAMENTS (MPS) IN MALAYSIA

Dr. Rosyidah Muhamad[13]

Democracies are premised on the idea that citizens can hold their leaders accountable for their actions by voting for or against them in regular elections. However, in order this ideal to be realized, citizens must possess a minimum amount of information about their leaders' performance. Citizens should be made aware of the performance of their elected representatives. This study seek to analyse this critical information with special reference to Malaysian Parliamentarians (MPs). We adopted several existence Parliamentary Performance model with special reference to their performance inside the parliament. Among indicators used by the scholastic for analysing this performance are the number of bills proposed by parliamentarian, the number of proposals that would benefit their constituency, the number of speeches made by the parliamentarian during plenary and the percentage of laws passed among the proposals made by certain parliamentary. The broad goals of the study include the analysis role and the capacity of a representative body to accommodate the diverse claims and demands that are made on it. We find that overall performance of MPs are average. This is due to not only the background characteristic of individuals MPs but also the limitation of the mechanism provides in the Parliament itself.

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[13] Dr. Rosyidah Muhamad, Lecturer, Universiti Malaysia Terengganu.

15-AB21-4195

THE DYNAMICS OF ELECTION IN THE BORDER CROSSING: A CASE STUDY OF TALAUD ISLANDS ELECTION, NORTH SULAWESI 2013-2014

Dr. Nur Hidayat Sardini[14]

Border crossing area has its own dynamics and complexity with relational dimensions of international relations, socio-cultural aspects, and socio-economic conditions, rule of law, and also defense and security. One of the complexities there can be seen by the perspective of local politics; one of them is about the dynamics of local executive elections or it called as Pemilukada. Pemilukada Talaud Islands in North Sulawesi Province, is full of turmoil which included conventional political participation due to the voiding of one of the candidates to be by KPU of North Sulawesi, which sparked protests, roadblocks, boycotts, even molotof bombings and most one is the Philippines' flag raising.

Using in-depth interview and documentary study as the data collection technique, formulatively, the author is creating a model of political dynamic in Pemilukada in the border crossing area. The first model constructed by the author is the model of radicalism in Talaud's local election which is consists of Asymmetrical Political participations, Reificative Political Deprivations, and Civil Disobedience. The second one is the model of causative factor of radicalism in Talaud's election which is consists of Relatively Autonomous Characteristic, the political atmosphere of democratization in post-authoritarianism era, and the spatialization of expression as the result of political decentralization in Indonesia which is undertaken since the beginning of the reform in 1998. The last but least, the author is constructing the model of radicalism reason in local executive election in Talaud in 2013 which is consists of the gap between the hope and the fact, primordial's loyalty, and the deadlock of society. While, conceptually, this research formulates two possible political interactions of intra-state and extra non-state actors, that is producing positive political allocation which will produce Political Collaboration and stimulate the changes, and negative political allocation which will raise Political Conflict, just like what happened Talaud's local executive election 2013.

16-AB22-4044

DELIBERATIVE PRACTICES IN THE MALAYSIAN PARLIAMENT: EMBRACING KAMPUNG-STYLE IN THE WESTMINSTER TRADITION

Dr. Nazli Aziz[15]

Using a case study analysis, this paper explores the parliament-citizen relationship of the Malaysian Parliament from the eight to the twelfth parliaments (1990-2013). The Malaysian Parliament represents a case of a Westminster-style parliament in an illiberal democracy. This paper explores the extent to which the Malaysian Parliament via the Members of Parliament (MPs), utilise deliberative forums in and outside parliament to engage citizens and respond to their concerns, and how this facilitates political participation and engagement in Malaysia. This paper makes a contribution to the literature by filling the apparent gap and contributing to an understanding of the extent to which the Malaysian Parliament incorporate deliberations as a means of involving citizens in the policy-making process. As such, this paper enriches the study of parliamentary democracy in Malaysia and the non-Western world.

There are two basic characteristics essential to understanding deliberative practices in the Malaysian Parliament. First, deliberation in the formal micro-level deliberative forum in the House of Representatives is simply a state product. The deliberative practices are within the circle of the elite amongst the ruling government of Barisan Nasional by accommodating each ethnic group based on the premise that the government knows best. Secondly, deliberation in the informal macro-level deliberative forums in the public sphere is based on geographical boundaries, cultural values and the local social structure in shaping engagement of citizens and parliamentarians. Adopting the kampung-style (village-style), often the informal macro-level deliberative forums have been transformed into political insights that would force the government to re-evaluate public policy from time to time.

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[15] Dr. Nazli Aziz, Lecturer, Universiti Malaysia Terengganu.

This paper points out that deliberative practices in Malaysia taking place at different sites and in different forms which are often unconventional and unstructured in light of conventional understandings of deliberation in the Westminster systems of the liberal democracies. On this basis, this paper argues that deliberative practices in the Malaysian Parliament have been established and progressed through the balancing, adaption and modification of existing cultures, rules, norms and routines of the Westminster model. The deliberative practices in and outside the Malaysian Parliament are not necessarily in line with the idea of deliberative in the liberal Westminster systems.

17-AB24A-3046

E-HEALTH PROGRAM AND DATA PRIVACY PROTECTION IN INDONESIA

Dr. Sinta Dewi Rosadi[16]

The Implementtaion of E-Health Program and Data Privacy Protection In Indonesia

Utilization of ICT for health (e-health) has become a global issue and is one of WHO's recommendations and is the Action Plan for WSIS (World Summit on the Information Society) Geneva 2003 to connect health centers and hospitals use information and communication technology. E-health is an ICT-based applications related to the health care industry and aims to improve access, efficiency, effectiveness, and quality of medical process. Because of the medical process, besides involving the organization of medical services in hospitals, clinics, health centers, medical practitioners both doctors and therapists, laboratories, pharmacies, insurers also involves the patient as a consumer.

In 2011 and 2012, Indonesia entered the era of the use of electronic ID cards by using a chip that can store data on it. In the future, the use of e-ID card can be expanded into a multi-functional, including for e-Health services. However, the program e-health will also cause problems the new law that is the extent of the health providers can protect the privacy of patients' health data that can be accessed, disseminated easier through advances in ICT for health data of patients can be classified in a very sensitive data that requires protection law and not misused by others for commercial purposes.

18-AB20-4301

PENALTIES FOR TAX EVASION CRIME IN TAX LAW AND ITS EFFECTIVENESS ON PREVENTING UNDERGROUND ECONOMY WITH SELECTED COUNTRY EXAMPLES

Dr. Burcin Bozdoganoglu[17]

Penalties for Tax Evasion Crime in Tax and Its Effectiveness on Preventing Underground Economy with Selected Country Examples

This study aims to show and compare penalties given to tax evasion and tax fraud crime in different countries. Tax evasion defines as; where income, consumption or production are not (or are under) declared for taxation despite the fact that they are taxable (linked to the shadow economy).Also includes pure tax evasion, not linked to any activity, with the sole purpose to conceal income or over reporting of deductible expenses (e.g. hiding money in shelters)

Tax fraud defines as; where the intention is deliberately escape taxation. Both tax evasion and tax fraud are illegal and connected with underground/shadow economy firmly. In the first part of study; the penalties given to the tax evasion in the tax system of four selected countries which are Germany, Italy, Turkey and United Kingdom will be made comparison. Turkey was chosen because it’s the author’s country. Germany and Italy was chosen for similarity in their tax law and criminal law system to author’s country. United Kingdom has its own Anglo-Saxon legal system which is totally different from author’s country. United Kingdom was chosen for showing differences in criminal tax law between author’s country and Anglo-Saxon system.

In the other part of the study; the effect of preventing tax evasion and deterrence of penalties is tried to be evaluated by connecting underground economy. This is because tax evasion is known to be one of the most important factors of

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underground economy. Basically underground (shadow) economy defines; legitimate productive activities in which a payment is taxable but the seller neglects to pay taxes (often in common understanding with the buyer). In this terminology "undeclared work" (part of the black sector or informal economy) constitutes the main share of the shadow economy. It is measured by the value on the black market of the production not reported to the tax authorities in other words not the amount of tax evaded. Tax evasion and tax fraud are only two important components of big picture which is known as underground economy. Because of this, the fight against tax evasion and tax fraud is a priority for tax administrations and penalties in tax law is a good weapon for it.

As a conclusion to explain preventive effect of penalties by examining the size of underground economy and tax evasion in consideration of selected country examples has been aimed.

19-AB43-4422

ECONOMICS IN CHINA'S GLOBALIZED ENGLISH LANGUAGE POLICY PLANNING: COSTS AND BENEFITS IN EFL FUNCTIONAL LITERACY - FROM CONCEPTS AND DATA ANALYSIS TO PROPOSED MODEL.

Dr. Luciana Lew[18]

On May 29, 2015, the Wall Street Journal reported that about 8,000 Chinese students were expelled from American campuses due to falsified eligibility documentation and/or poor academic results. This headline is a reflection of the well-documented serious functional illiteracy plaguing Chinese graduates. China's mandated English program from primary school through college is taught to the test via vocabulary memorization for comprehension, and the understanding of English grammatical rules, but without the language's ultimate practical communicative application of speaking or writing in English.

The significance of language in today's integrated globalized economy has promoted utilization of economic concepts and models to concretize claims as testable hypotheses in the growing field of "Language Economics". This research features second language and economic returns, language dynamics (diversity, bilingualism), and the rarer interaction of language economics and policy evaluation/LPP. Language economics facilitates the evaluation of language public polices as the analytics foster systematic identification and measurement of the advantages and drawbacks (expressed economically as "costs" and "benefits") in each policy alternative for comparison and rational choice.

The EFL program within China's educational system – including the number of years of EFL learning, curriculum, class hours, materials, pedagogical practices, teacher training, and program assessment – is under State control and its ministries. China's latest reform (first in 30 years) of its once-in-a-lifetime college entrance exam (gaokao) has been heavily criticized for eroding the dominant status of English.

The hypothesis proffered here is that, not only has the Ministry of Education's ex ante policy goals been misplaced and implementation misdirected, the ex post outcomes promise to be detrimental under the economic welfare theory.

This paper advocates a long-overdue policy goal of introducing/enhancing a functional literacy skill component into China's EFL program. Framed in a causal relationship, the proposed model adopts the policy-to-outcome formula with the policy measure (as independent/ "explained" variable) at one end and the policy outcome (as "dependent / "explained" variable) on the other. The value of the practical communicative competency (advocated policy goal and outcome) will be parsed conceptually and empirically, via triangulated data collection, to establish its societal benefits and costs.

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20-AB41-4436

HONG KONG LAND USE POLICIES: INTERNATIONAL COMPARISONS

Dr. Kwok C WONG[19]

Land Use Policies in Hong Kong are unique: they still remain similar to those during its colonial days. Despite a population of 7.7 million housed within 1,100 hectares, the government still owns 90% of the land while 75% are not developed. 6 million people are crowded onto only 4% of the land. The consequences of this is of course high property prices and rents. This paper compares Hong Kong land use policies to those of Singapore, New York, China, and three other countries. It aims to explain why Hong Kong could not change its unique policy, and hence the implications on housing and economic performances.

21-AB37-4413

RAWLS, MACINTYRE, WOLTERSTORFF: THREE RIGHT ORDER THEORIES, WITH A NOTE ON RELIGION IN POLITICS

Mr. Jason Gehrke[20]

The purpose of this investigation is to understand the consumer habits that human beings have as a result of the highest level of communication and information they are exposed to; to try to find the brand´s efficient mechanisms in the conquest of their consumers. However, despite all the technological advances, the consumers are the ones that have changed the most. The new consumers know it all, they are able to access information of all the products they are looking for, and to compare them with the competition; they are more demanding because they know what they can get. It is a world where the consumer is no longer the naïve consumer it was once before; the Marketing experts are face to face with the Superconsumer.

The process of investigation was done with personal interviews and by observing the person´s behavior, comparing different profiles (of age, gender and attitude) before, during and after the buying process. Comparisons were made regarding the buying methods used six years ago, and the current methods. While understanding the changes that have occurred thanks to technology and market knowledge.

The current Superconsumer feels more empowered in relation to the brands, because of the ongoing war that is constantly trying to conquer his business. One of the most interesting findings is that all generations have entered the digital shopping process. This process allows the consumer to be informed, to compare products and it´s benefits, which lead to better buying decisions; ultimately knowing that the companies must answer to any problems they may encounter. The Superconsumer is not age related, it is based on the buyer´s attitude when deciding what kind of product they want to buy, or what brand to choose. For this reason, the research was done to different profiles of consumers: students, professionals and homemakers; women and men; and young, adult and old people.

The implementation of the results of this investigation will be to create correct marketing strategies, in terms of the quality of the consumer that the brand has, comparing them to the competition and to the new digital environment.

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22-AB31-4315

ASSESSMENT OF QUEZON CITY AS A RAINBOW TOURISM DESTINATION AS PERCEIVED BY LGBT VISITORS

Mr. Shariff Eboy[21]

It is a well known fact that tourism is a huge and vast industry, which keeps on growing and is becoming one of many countries' bases of their economies. Many destinations have developed resorts, complexes, buildings, and so on, in order to fulfill the client's needs and expectations. Nevertheless, there is a whole new market niche which is relatively new and is rising amazingly in such a rapid way. We are living at a time where discrimination is no longer part of our culture, nonetheless, many countries are still blocked and not fully opening their doors to this new type of tourism, which is Rainbow Tourism, by far, one of the most profitable in the industry. In this context, the researcher was motivated to explore and describe LGBT tourism in the Philippines setting, particularly in Quezon City. Exploring whether the Philippines is ready to provide the tourism products and services or to accept the gay market. Moreover, this study will attempt to assess the potential of Quezon City as a rainbow tourism destination through the gathering of base-information from the LGBT tourists. As a research output, the researcher shall propose some action programs that can be formulated for Quezon City to earn a strong mark as a Rainbow Tourism destination in the Philippines.

23-AB35-4158

ASEAN LAW HARMONIZATION OF FREE MOVEMENT OF GOODS, PROBLEMATIC OR AN ADVANTAGE?

Dr. Syaravina Lubis[22] **Ms. Julia Agnetha Agnesta Br. Barus. MH and Berliana Nasution, SH. MH**

The idea of an ASEAN Economic Community is not just a plan. But certainly, the practice is not easy. As we know that, ASEAN has never implement legally binding regulations. But regarding reviewing the free movement of goods, which is one of the five top elements of the ASEAN Economic Community, would be difficult to think of these elements in the absence of legally binding policy which would apply uniformly in each ASEAN member country to achieve the objectives of the ASEAN Economic Community. As well as the implementation of competition policy, intellectual property rights, consumer protection, taxation and e-commerce. Which would remain us a question on why ASEAN still choose to continue applying a soft law than a hard law to enforce their free movement of goods policy. By all means, the idea of free movement of goods will lead to some new difficulties that would be experienced by the member countries of ASEAN.

Such as, first, how ASEAN ensure that free movement of goods policy have been applied in the respective member states if there is no legally binding therein? Given that soft law could result in unevenness in the application of the free movement of goods in each ASEAN country, which could end in failure to achieve the primary objectives of the policy as a whole. Second, what would be the potential impact if ASEAN used the hard law as an instrument to implement their free movement of goods policy? Ponder that ASEAN is not accustomed to the presence of legally binding law at the ASEAN level because it would be associated with partial loss of state sovereignty. That will cause the transfer of rights to make a set of legally binding policy at the international level rather than at national institution. Thus, in this research, will discuss on what makes ASEAN still determined using soft law in applying their free movement of goods policy. Likewise, what possible impact that would occur if the ASEAN using a hard law in implementing the free movement of goods in its member states? Whether is this possible? And while discussing the development of the free movement of goods policy of the ASEAN Economic Community, there will be comparison measures used in Single Market, which has long been owned by the European Union. The last but not least, the research will also elaborate the possible solutions for ASEAN while outlining the potential problematic impact of the harmonization of free movement of goods policy that would be legally binding in ASEAN member states. Keywords : ASEAN, Law Harmonization, Free Movement of Goods.

Keywords : ASEAN, Law Harmonization, Free Movement of Goods.

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26-AB05-4051

EMPIRICS OF THE DETERMINANTS OF CHINA`S OUTWARD DIRECT INVESTMENT

Mr. Li Shi[23]

Since 2014, China has emerged as the Third-largest Country for outward direct investment (ODI) in the world. ODI contributes to economic growth of the ODI recipient countries, as it brings in not only financial resources for investment but also technologies and managerial know-how, which are important factors for promoting economic growth. Recognizing these benefits of receiving ODI, policy makers in ODI recipient countries have formulated various strategies to attract ODI.

By using the Firm-Level data covering the period 2005-2015, and with the method of conditional logit model, this study examines the factors in the host country that would attract ODI by Chinese firm. The results show that the large local market, rich nature resource, and low-wage labor, is also important factors for Chinese firm`s ODI. In addition, high R&D revel and low corporate tax of the host country is an important factors making Chinese firm`s ODI decision.

In particular, RMB`s exchange-rate is a positive factor, but the volatility is negative factor for Chinese firm`s ODI.

27-AB39-4249

WHAT WERE THE GAINS AND LOSSES INCURRED BY THE ECONOMIC LIBERALISATION OF INDIA SINCE THE 1990S?

Mr. Brahma Mohanty[24]

Economic liberalisation encompasses decreasing state regulations and restrictions on the economy, facilitating the entry of private enterprises. This may lead to privatization of state institutions and assets, decreased tax rates for companies, lifts on restriction for foreign investment and a more open market.

The economic liberalization of India began in July 1991 following decades of Soviet-influenced socialist policy. Policies were characterised by economic protectionism with 'the placing of barriers to foreign trade [and] limiting imports and promoting exports,' with an imposition of high tariffs and quotas. Indian economic policy thus was illustrated by an emphasis on 'import-substitution industrialization' (ISI), advocating domestic production over foreign imports, and a stagnating growth rate of the economy through to the 1980s at around 3.5% with a per capita income growth average of 1.3%. Although economic liberalization had been attempted in the 1970s and 1980s, they were according Harris 'self-contradictory and self-reversing in parts' and by the end of 1990, India was confronted with a severe economic crisis with the climax of high inflation rates that had been climbing during the 1980s.

The crisis deepened in 1991 with the Indian government pledging 20 and 47 tonnes of gold to the Union Bank of Switzerland and Bank of England respectively under the terms of a bailout deal agreed with the International Monetary fund, which also required the country to undergo significant structural economic reforms. This forced to government of then Prime Minister P.V. Narasimha Rao through his finance minister Manmohan Singh to trigger a breakthrough of economic reforms to bring India out of the doldrums of the economic crisis. This included a devaluation of the rupee by 20%, through abolishment of 'export subsidies,' lowering of tariffs, reduction in the number of public-sector industries and the ending of licensing for most industries, in addition to establishing a stock exchange. Thus, India gradually integrated itself into the global economy which paid immediate dividends; the annual growth rate in GDP reached 7% during the first three years of the reforms. By 2007 with the GDP growth rate then at an all time high of 9% (reaching 10.1% in 2010), India had asserted itself as the second fastest growing major economy in the world and attributed this to the sweeping liberalization reforms of the 1990s.

This paper will examine to what extent did the economic liberalization of India during the 1990s provide gains and losses (or positives and negatives) for the country with regards to four distinct areas; the impact of foreign direct investment (FDI) and multi-national corporations (MNCs), the effects of liberalization on poverty and living standards, a close examination of urban-rural inequality, and finally the impact on the electricity and energy sector.

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It would be easy to simply be blinded by the increase in GDP growth rate figures post-liberalization and instantly assume that economic liberalization yielded unprecedented and unquestionable economic gains. But critical issues persist, whether concerning the growing divide between the rich and poor, or energy supply which at times is often unreliable and lacking in accountability.

28-AB40-4425

EFFECT OF SERVICE DIRECTIVE ON WHOLESALE AND RETAIL COMPANIES: DIFF IN DIFF IN DIFF EVIDENCE

Mr. Vojtech Olbrecht[25]

Service Directive puts into motion free movement of service initiative, one of the milestone of the Single Market of the European Union set up by the Treaty of Rome that was neglected for decades by secondary legislation of the EU. Though very ambitious at its draft, several adjustments have been made and it is argued whether the final Directive can make significant changes. Removal of the country-of-origin principle and several exceptions made Directive far less innovative, but on the other hand its general applicability and proactive approach made it more useful than current case law. This article aims to answer the question of Directive's significance by focusing on productivity of affected companies while comparing those with two distinct control groups (companies from unaffected industries but within EU and companies from the same industry outside of the EU) and employing Difference-in-difference-in-difference research design on firm-level data from European countries within years 2004 and 2013 that account for over 5 million observations nested within 1.3 million companies. The results suggest that the Service Directive significantly increased productivity of companies in the year of transposition by Member States and following and the results seem to be robust to other specifications and other dependant variables (both total factor productivity and labor/capital productivity). Even though article includes several measures in order to remove other effects that might bias the results, they cannot be labelled as profoundly causal because of the nature of the data and an issue of interest as is further discussed in the article. The research can be further developed by including careful consideration of cofounding effects which can further eliminate their impact on the results and, also by considering other qualitative data that may complement the results and by considering treating large amounts of missing data differently, possibly with the use of multiple imputation

29-AB47-4317

THE PACIFIC ALLIANCE IN THE CONTEXT OF REGIONAL POLITICS OF LATIN AMERICA AND ITS INFLUENCE ON GEORGIA-LATIN AMERICAN RELATIONS

Mr. Besik Goginava[26]

In April 2011 Peru, Chile, Colombia and Mexico signed the Lima Declaration and launched the Pacific Alliance. As a new integration initiative the creation of the Pacific Alliance was a significant step in the process of Latin American integration, because it represents 37% of the region's population and 35% of its total GDP and its main aim is for members to form a regional trading bloc and to promote the free movement of goods, services, capital and people, as well as to strengthen international ties globally, in particular with the Asia-Pacific region.

At the 7th Pacific Alliance summit in Cali, Colombia the organization admitted observer countries. In July 2015 Georgia became an observer state in the alliance, which was an important step towards further deepening relations with Latin American region.

As an observer country Georgia may play an important role within the Pacific Alliance. At the same time being an observer country might be beneficial in terms of better comprehension of negotiated problems. It also gives opportunities to participate in summits, forums and seminars.

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Focusing on considerations of geo-political, international relations and regional politics aspects this paper analyzes what role does the Pacific Alliance play on regional and international politics of Latin America and how does it affect being an observer member in the alliance on Georgian-Latin American bilateral relations?

Key words: the Pacific Alliance, Georgia, Latin America

30-AB42-4289

THE IMPACT OF INFORMATION ASYMMETRY ON THE SOVEREIGN BONDS MARKET AND THE BHAVIORAL FINANCE ON THE MICROSTRUCTURE OF THE BANKING INDUSTRY OVER THE TIME

Mrs. Amira Hakim[27]

This paper investigates the impact of behavioral Finance on the asymmetry of information on sovereign bonds market and the Market structure of banking and sector in economy over time. This paper reports an empirical assessment among GCC countries during the years of 2009-2014. we evaluate the empirical relevance of information asymmetry in GCC sovereign bonds market. We estimate the level of asymmetric information in GCC bond markets and then we study the variations in information asymmetry across bond maturities and across countries. The estimation of permanant prices response to trades show the relevance of asymmetry of information in explaining the cross sectional variation of bonds yields across a wide range of bond maturities and countries. The study of cross section of bond yields find that investors demand higher yields for bonds with larger permanant trading impact. The impact of information asymmetry on bond yields is stronger during periods of increased market volatility. Our findings indicate that when facing increased uncertainty, investors require higher compensation for information asymmetry. The second part of the paper investigates the impact of the behavioral finance on the market structure of the banking industry over the time. In order the market power of the behavioral finance over the time. We opt for a methodology as proposed by Lerner Index based on a nonstructural estimation of the market power of the banking industry. We adopt two approach to study the impact of Behavioral finance penetration on banking competition. In the first step we investigates the market structure of Islamic banking industry. In the second step we estimate an equation linking Islamic bank penetration to general banking market competition. The empirical results confirm that the banking industry in GCC countries become more competitive during the last decades. Furthermore, an increase in Behavioral finance penetration enhances competition in these banking sectors.

31-AB11-3006

MANAGEMENT TRAINING AND DEVELOPMENT IN NIGERIAN ORGANIZATION

Mrs. Ajagu Eyuche Helen[28]

This article aims on management training and development which plays an important role in the effectiveness of organizations and to the experiences of people in work. Training has implications for productivity, health and safety at work and personal development. All organizations employing people need to train and develop their staff. Most organizations are cognizant of this requirement and invest effort and other resources in training and development. Such investment can take the form of employing specialist training and development staff and paying salaries to staff undergoing training and development. Investment in training and development entails obtaining and maintaining space and equipment. It also means that operational personnel, employed in the organization's main business functions, such as production, maintenance, sales, marketing and management support, must also direct their attention and effort from time to time towards supporting training development and delivery. A critical overview required to give less attention to activities that are obviously more productive in terms of the organization's main business. The article concludes with a critical overview of the current state of the art with regard to the body of theory in, investment in training and development is generally regarded as good management practice to maintain appropriate expertise now and in the future.

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Keywords: development; development training; psychology of training, leaning and training research, project cycle management.

32-AB36-4405

THE LEGAL STATUS OF TRANSNATIONAL CORPORATIONS: ARE THEY SUBJECTS OF INTERNATIONAL LAW?

Dr. Erika Louise Bastos Calazans[29]

In the past, the state-centric approach only allowed states as subjects of International Law (IL). More recently, the contemporary legal literature widened the 'subjectivity' notion to include other entities: international organizations (recognized as subjects of international law in the case of Reparation for Injuries Suffered in the Service of the United Nations); individuals; insurgents; national liberation movements; and certain sui generis or state-like entities. The increasing involvement of transnational corporations on international affairs, especially in armed conflicts and human rights abuses, highlighted the question of how they should be treated by IL. The status of transnational corporations as subjects of International Law is strongly contested, and in principle they have no international legal personality. This paper focus on the discussion of three interconnected issues. First, the different links made between international legal subjectivity and international legal personality. Second, the controversial status of transnational corporations in the international law doctrine. Some authors consider that transnational corporations have no international legal personality, while others count them among the subjects of international law. Third, reflect upon the usefulness or necessity of putting transnational companies' in a "subjectivity box". This paper concludes that different subjects may have different sets of rights and obligations under international law. The whole notion of subjects and objects has no functional purpose and its more useful and helpful to focus on the fact that transnational corporations are participants rather than subjects of the international society. As participants, it is important to establish what kind of right and obligations do they have under IL and how accountability and responsibilities are drawn to them.

Key-words: transnational corporations, subjects of international law, participant, international legal personality, rights and obligations.

33-AB44-4278

FASHION FAUX PAS: LAW AND ECONOMICS BEHIND THE COPYRIGHT-FREE INDUSTRY

Ms. Drishti Shah[30]

Fashion is one of the largest and constantly evolving industries of the world. It is an industry that is most in sight yet most overlooked. As an evident extension of a personality while also

acting as a connective link between individuals and society, fashion manifests identities through its self-expressive nature in a coherent manner. With over three trillion dollars at stake,it becomes imperative to ruminate over the underlying patterns of its legal and economic integrants, a vital one being Intellectual Property. Europe, the fountainhead of innovative fashion, protects it's fashion designs by allowing copyright protection while the U.S., a major market, doesn't do the same. Japan, a reviving fashion economy, decided to follow EU's footsteps while China, the cradle for counterfeit clothing, has ineffectual protection due to trademark squatting. Nascent markets like India claim design protection but have no legal documentation to support it. In the heavily globalised industry of fashion where a piece of cloth that originated in India, manufactured by the English and popularised by U.S. Navy is now recognised universally as a Dungaree, it is significant to study the economics and culture that the design and copyright laws instigate in key fashion markets. Fashion has been an industry that has thrived

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without copyright protection, so much so that it's success is credited to the very lack of the aforementioned security. Fashion exists on the very idea of

trend setting. For the trend to set, the design needs to trickle down the glamour hierarchy from luxury brands to mass-market stores; which is possible only through liberal legality. If the trend doesn't set, the market that contributes over 2 percent to the world GDP saturates. This paper examines the Design and Intellectual Protection laws of key fashion markets and how they govern the economics and culture of the regional industry, it explores the highly debated position of IPR in fashion as an incentive to innovate versus monopolisation of utility and conclusively indicates a legal framework that harmonises the

fragmented laws to collectively benefit the global fashion scene.

34-AB46-4336

SHAREHOLDER PRIMACY AND CORPORATE GOVERNANCE: A UK PERSPECTIVE

Mr. Anurag Vijay[31]

Corporate Governance is the system by which companies are directed and controlled. Broadly corporate governance can be categorized under two major systems: (a) the Anglo-American 'outsider' system represented by the United Kingdom and America, and the Continental 'insider' system exemplified by Germany and Japan. The recent decade has seen advancement in technology, production and growth in trade. With the increase in international trade, need has also been felt for better corporate governance. In the 1990's, Europe witnessed a greater rhetoric of Anglo-American shareholder primacy given the superiority of the Anglo-American regime. This in turn also affirmed the belief of many scholars that the Anglo-American corporate governance system featuring shareholder primacy was going to become the formulation of best corporate governance practices. But this belief was challenged after a serious of scandals in the new millennium revived the 'stakeholder' argument.

The stakeholderism perspective is palpable through the growing shareholding concentration and stakeholder related information disclosure under the Anglo-American corporate governance practice. However, in the UK there has been a persistent debate as to whether shareholder primacy should continue to take precedence. Apparently what has been seen recently is that UK has taken a third way that merges elements of the shareholder and stakeholder approaches. For example: many stakeholder proponents have considered the Enlightened Shareholder Value (ESV) principle under the UK legislation as a sign of the UK departing from the shareholder-oriented pattern.

Interestingly, many also believe that the financial crisis is attributable to the overriding shareholder primacy paradigm. A topic that this paper shall explore. In light of the recent developments in the field of corporate governance practices across the world, the paper seeks to contribute to the recurring theme of the objective of the corporation by exploring the origins, recent changes and future development of the corporate objective-more specifically shareholder primacy in the UK context. In doing so, a study of the characteristics of UK-shareholder-oriented rules, recent changes in the field that has impacted the governance structure of companies will be done. The paper aims to give a critical account of the practices reflecting shareholder primacy in the UK in wake of the financial crisis. The paper also aims to explore the following questions:

• What are the factors that has motivated to move towards the stakeholder direction in the UK corporate governance regime?

• How will the financial turmoil impact the future perspective of UK corporate governance?

• How will the regulatory changes in the UK impact the overriding status of shareholder primacy?

The reason why the case of UK corporate governance is unique is because it has been regarded as being on the boundaries of the two models. A drift from the Anglo-American shareholder-oriented regime calls for an examination of UK corporate governance, which is one of the underlying objectives of this paper.

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35-AB06-2855

CONTROLLING THE SOCIETY THROUGH CRIMINALIZATION: THE CASE OF INDONESIA

Mr. Anugerah Rizki Akbari[32]

This study explores the practices of criminalization in Indonesia during the period of 1998-2014 by investigating the tendency of the Indonesian government to criminalize behaviours in new legislations over the years. By using several online databases on the Indonesian legislations, a further analysis was performed on the preference on criminal law to govern society, the trend of criminalization, the types of criminalized conduct, the level of punitiveness and the seriousness of the offence. The results unveil that the Indonesian government has a strong dependence on criminal law to control behaviours. Furthermore, there is a consistent upward trend of criminalization from time to time along with more punitive arrangements of criminal sanctions. In addition, the criminalization was deployed primarily to establish regulatory offences rather than crimes which indicates a descending shift of the seriousness of the newly criminalized behaviours. Lastly, the practices of criminalization in Indonesia did not fully conform to the logical order with regards to the seriousness of the offence and the severity of criminal sanctions. As a result, reclassification of criminal offences needs to be done if Indonesia has the inclination for a better criminal law.

Keywords: Criminalization, Indonesia, level of punitiveness, classification of offence, social control

36-AB50-1313

MONEY LAUNDERING AND COMMERCIAL LETTERS OF CREDIT: HOW WOULD COURTS APPROACH AN ACTION FOR NON-PAYMENT?- A COMPARATIVE ANALYSIS

Dr. Ramandeep Chhina[33]

The paper analyses the bank's ability to decline payment under a commercial letter of credit tainted by money laundering and the approach to be taken by courts in granting an injunction under these circumstances. The question is: whether the fraud exception or illegality is the ground for rejecting payment. Arguably, illegality forms a strong basis to reject payment under the English law, as evidenced by the United City Merchants case in which breach of exchange control regulations was held to justify pro tanto non-payment. However, there is still uncertainty as to the application of this exception to restrain payment in other jurisdictions, for instance, in Canada and United States, where the illegality exception has not been expressly recognised. How banks in these jurisdictions will restrain payment under credits used for to facilitate money laundering? Whether the bank's ability to restrain payment in these circumstances will be then covered under the fraud exception in these jurisdictions? The paper will undertakes a comparative approach to analyse how the same question of restraining payment under a commercial letter of credit tainted by money laundering will be approached by different jurisdictions.

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