

Searching for the welfare state

As a fundamental constitutional principle, the welfare state (Sozialstaat) principle pursues the ideal of social justice, which implies the fulfillment of substantive equality in society. In contrast to formal equality, the idea of substantive equality does not limit itself to prohibiting de jure discrimination; substantive equality further requests states to intervene in society and undertake obligations to promote de facto equality. Therefore, in the face of existing structural and systemic social inequality, states need to take positive measures to redistribute resources, conditions, and chances and adjust unjust social relations so that all persons can equally and fully enjoy their rights and freedoms. This principle highlights the fact that the differences among people should be respected and appreciated, rather than ignored or eliminated, and should not be used to rationalize the subordinate status of specific social groups. Social justice is one of the most profound commitments and visions of our political community.

However, returning to “the desert of the real”, examples such as unfair tax systems, gender discrimination, the oppression of indigenous peoples, the exclusion of persons with disabilities and class inequality indicate that many problems and injustices remain unsolved in our imperfect world. Therefore, theoretically and practically, how can we achieve social justice and realize the ideal of the welfare state? In *Searching for The Welfare State*, which is edited by Professor Hsu, scholars working in different disciplines try to answer this

intricate question from several perspectives. In the first part of the book, from the perspective of constitutional law, the idea of social justice in Taiwan’s Constitution and the practices of the Constitutional Court of Taiwan are introduced to provide a normative framework for the following analyses. In the second part, “Protection of the Disadvantaged and Social Justice”, five authors select different vulnerable groups as research topics and focus on theoretical arguments to justify and facilitate substantive equality. The final part of the book includes four inspiring works that criticize current public policies that fail to ease social inequality and provides practical suggestions for those policy domains.

The chapter “Interpretations of the Justices of the Constitutional Court and Implementation of Social Justice”, which is composed by Professor Hsu, aims to clarify the role of the Constitutional Court with regard to promoting social justice. Because the realization of social justice to a large extent relies on the redistribution of resources, this mission is considered to fall within the competence of the political branches, and the Constitutional Court should show deference to the democratic legitimacy of those branches. However, the author attempts to dispel this myth and illuminate the substantial influence of the Constitutional Court on social justice. This chapter reveals that interpretations dealing with social inequality generally conform to the demands of social justice. Furthermore, the Constitutional Court is inclined to behave like judicial activists in cases in which the reviewed leg-



islation does not favor the vulnerable; this approach subverts the untested intuition that the judicial system tends to act passively in the face of the existence of social inequality. In sum, together with the political sectors, the Constitutional Court also devotes itself to searching for social justice.

Reference

Hsu, Tzong-li (Ed.) (2017), *Searching for the Welfare State: Social Justice Theory and its Institutional Implementation*. 追尋社會國—社會正義之理論與制度實踐 Taipei: National Taiwan University Press.

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