

行政院國家科學委員會

個人資料表

以下各項資料均將納入國科會「研究人員資料庫」內，以供業務使用。必要時，亦得提供政府機關及學術團體作為學術研究或掄才之用。為尊重個人意願，請圈選（同意、不同意）對外提供您個人資料。（如以往已經表示過意見者，可不必再勾選）。

一、基本資料

簽 名：_____

身份證號碼	B 1 0 0 6 1 8 6 6 6				填表日期：2002/07/15
中文姓名	熊 秉 元		英文姓名	Bingyuan Hsiung	
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二、主要學歷 請填學士級以上之學歷或其他最高學歷均可，若仍在學者，請在學位欄填「肄業」。

畢/肄業學校	國別	主修學門系所	學位	起訖年月
布朗大學	美	經濟學	博士	1982/09 至 1987/06

三、現職及與專長相關之經歷 指與研究相關之專任職務，請依任職之時間先後順序由最近者往前追溯。

服務機關	服務部門/系所	職稱	起訖年月
現職： 國立台灣大學	經濟學系	教授	1993/08
經歷： 國立台灣大學	經濟學系	客座副教授	1987/08 至 1989/07
國立台灣大學	經濟學系	副教授	1989/08 至 1993/07

四、專長 請自行填寫與研究方向有關之學門及次領域名稱。

1. 個體經濟學	2. 公共經濟學	3. 財政學	4.
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一、中文摘要

(1) 十問---向法律學者請益

這篇論文先提出十個問題，然後自問自答；希望能延續法律學者和經濟學者之間的對話。這些問題包括：因果關係的性質，法學和經濟學裡所運用的參考座標，道德的意義，法理式分析的長處和弱點，法學理論的適用範圍等等。文章最後，是總結經濟分析的精髓，希望有助於法律學者的研究。

關鍵詞：法律經濟學, 道德哲學, 成本。

JEL 分類: D10, A10, A20.

(2) 寇斯定理和台海兩岸衝突

在文獻裡，往往以「單一主人」的思維方式，來想像寇斯定理成立的情況：一個主人，同時擁有權益彼此衝突的資產；就容易找出運用資源的適當方式，使產值極大。本文指出，過去在運用單一主人的思維方式時，都隱含有更高層次的權威；當這個條件不成立時，必須依恃其他的思維，以解決紛爭。本文在理論上闡明相關的論點，並且具體的用來處理台海兩岸的衝突。

關鍵詞：寇斯定理, 單一主人, 台海衝突。

JEL 分類: B41, D80, K10, L14.

Abstract

(1) Ten Questions for Legal Scholars

By raising and discussing ten questions, this paper attempts to continue the dialogue between economists and legal scholars. The questions include examining the nature of the causal relationship, the benchmarks used in economics and legal studies, the meanings of morality, the strengths and weaknesses of doctrinal analysis, and the generality of legal theories. The paper concludes with a summary of what the legal scholars might learn from the economic approach.

Keywords: law and economics, moral theory, cost.

(2) Coase Theorem and the Taiwan Strait Conflict

The idea of a single-owner who owns the opposing interests of a dispute has been suggested in the literature to make the Coase Theorem operational in resolving the dispute. This paper points out that the idea implicitly assumes the existence of an overriding authority, e.g., the Courts, to apply the idea. When such an overriding authority does not exist, other reasonings must be employed to make the single-owner apparatus work. This insight is explored and then applied to help resolve the Taiwan Strait conflict.

Keywords: Coase Theorem, Single-owner, Taiwan Strait Conflict.

二、緣由與目的

生化科技的進展，對人類社會一般人的正常生活，也許還沒有直接的影響；不過，隨著日新月異的變化，生化科技正逼使人類社會，必須逐漸面對一些極其複雜而艱難的問題。

以基因科學的發展為例，人類 DNA 圖譜的辨識，是科技進展上的里程碑。而隨著 DNA 的研究，相關的問題也漸次出現。「基因資訊」(GI, genetic information) 的特徵，主要有四點：

第一，在地球上幾十億人口之間，每個人的 DNA 都是獨一無二的（除了極其罕見

的同卵雙胞胎或多胞胎)；因此，每個人的 DNA，就有了和人格有關的象徵性意義。
(可是，一個人的 DNA 是不是他的財產?)

第二，一旦解讀了一個人的 DNA，就可以在某個範圍和某種程度上預測，這個人在生理健康的展望如何。對於(潛在的)僱主或保險公司而言，這種資訊無疑的非常重要，有商業上的價值。(可不可以根據 DNA 的資訊，而拒絕承保?)

第三，一個人基因結構的資訊，不僅對他自己很重要，對於自己的血親(特別是兄弟姊妹)，也有相當的參考價值。因此，因為生物(基因)上的關聯，一個人對其他人，有某種程度的責任。可是，到底有多少的責任呢?(在結婚和生育前，可不可以要求手足提供基因資訊，作為參考判斷的依據?)

第四，基因資訊容易讀取，由一個人的唾液、毛髮、頭皮屑，都可以萃取出完整的 DNA 資訊；而且，當事人可能完全不知情。既然對醫療、醫藥、保險、健康器材等行業而言，DNA 的資訊有潛在的商業價值，誰擁有研究和運用 DNA 資訊的權利?(科學家研究和發表一個人的 DNA 時，需不需要取得他的同意?)

由這些特質裡，可以輕易的感受出，基因資訊帶來許多前所未有的問題。這些「新生事物」，不能用簡單的黑白善惡來劃分；而且，處理這些新生事物，也未必可以由公平正義的角度，作明確直接的推斷。

三、結果與討論

由研究計劃裡，我已經完成兩篇相關的論文。第一篇論文的中文稿，已經發表；英文稿，已經投稿到國際學術期刊。這篇論文，是由經濟學的角度，對法學的分析方法，提出探討。就內容而言，有助於溝通法學和經濟學。

第二篇論文，是以法律經濟學發展出的概念，探討台海兩岸的衝突。以「單一主人」的思維方式，提出化解紛爭的方式。在學理和應用上，希望都能有所增值。

四、計畫成果自評

兩篇文章，雖然並沒有直接處理「生化科技」；但是都是延續法律經濟學方面的研究，也都各有價值。至於生化科技的問題，我還保持接觸，繼續思索。

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