

Realizing a Just World from Institutional Economics of J. R. Commons

Through a Consideration of
Authoritative Transactions in *Legal Foundations of Capitalism*
and Rationing Transactions in *Institutional Economics*

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1. Introduction

➤ Purpose of this study

- How to **realize a just world** in capitalism from Commons' (John R. Commons; 1862-1945) institutional economics
 - What interventions (what transactions) should be made in the market?
 - ⇒ **Think in terms of “authoritative transactions” (LFC, 1924) and “rationing transactions” (IE, 1934)**

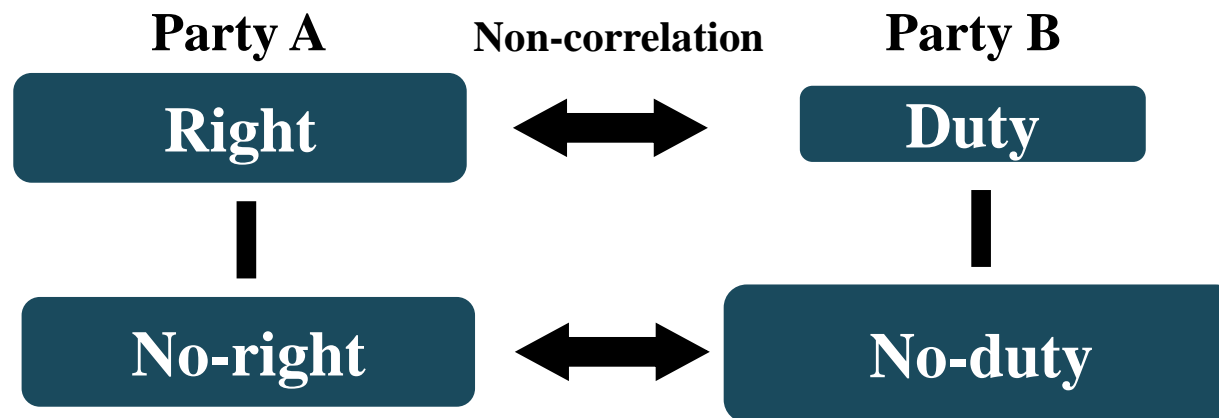
2. Authoritative Transactions in *Legal Foundations of Capitalism* (LFC)

2-1 Unauthorized transactions and authorized transactions

➤ Unauthorized transaction

If the transaction is immature and not authorized by a third party

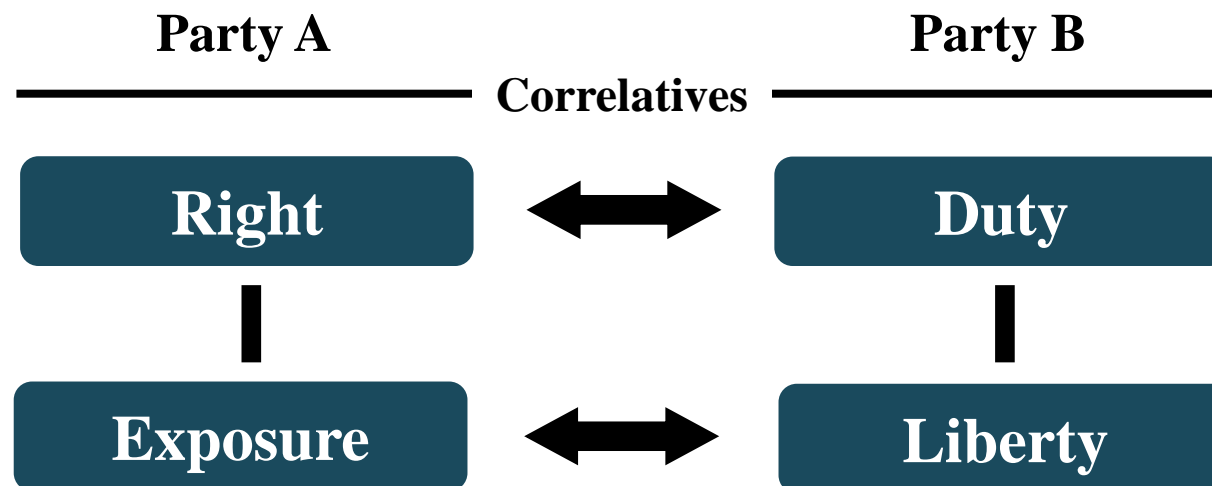
→ An unjust world due to “**lack of correlation**” and “**insecurity of expectations**”



➤ Authorized transactions

“(T)he correlation of rights and duties is not a conclusion of logic, as is often inferred, but is a command of **government**. ”

(LFC, pp. 86-87)



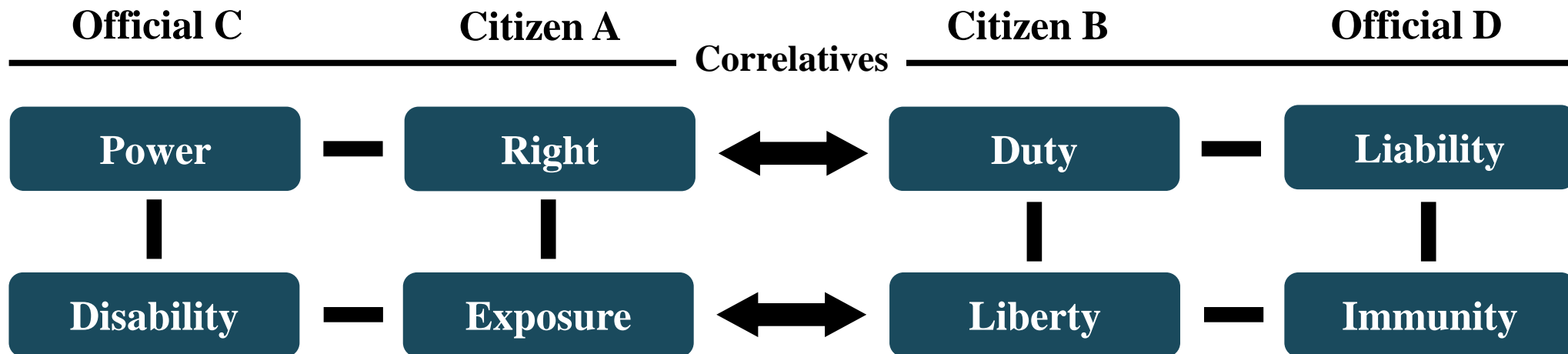
2-2 Characteristics of authoritative transactions

“We have seen that unauthorized transactions are likely to fail in the two respects of lack of correlation and insecurity of expectations. For this reason a government or judiciary, with its rules regarding transactions, is needed to intervene with the double purpose of correlating rights, exposures, liberties, duties, and of maintaining the correlation even if the parties prove false or change their minds”
(LFC, p.100).

→ **“authoritative transaction”**

➤ Legal relationships and two powers of authoritative transactions

- **Remedial power**: enforce **duties** and protect legal relationships created in the **past**.
 - **Liberty**: negative, absence of restraint
- **Substantive power**: guarantees **rights** and creates legal relationships for the **future**.
 - **Freedom**: positive, participation in citizenship



3. Rationing Transactions in *Institutional Economics* (IE)

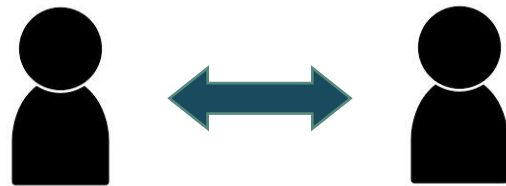
3-1 Concept of transactions in IE

(1) Bargaining transactions

“*transfer ownership* of wealth by voluntary agreement between legal equals”

⇒ Trading activities in the market (IE, p. 68)

⇒ The universal principle is “**scarcity**” and the unit of measurement is the “dollar” (money).



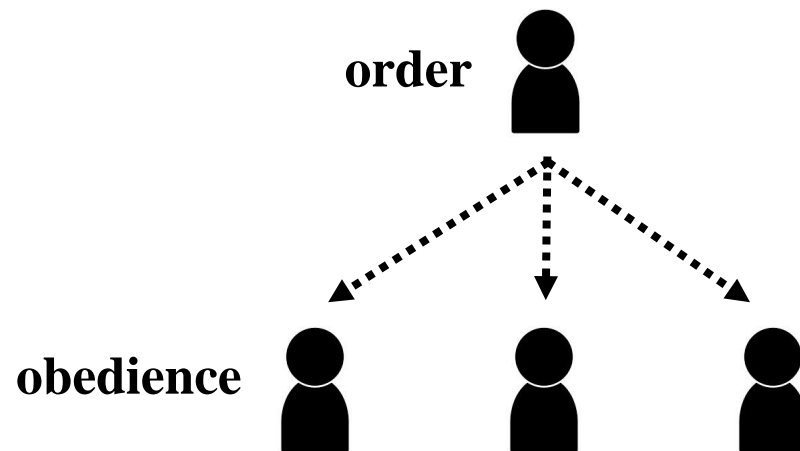
(2) Managerial transactions

“*create wealth* by commands of legal superiors” (IE, p. 68)

⇒ Between two parties, such as a manager and a managed employee, etc.

⇒ The universal principle is “**efficiency**” and the unit of measurement is the “man-hour”

⇒ Relationship between command and obedience in intra-company transactions



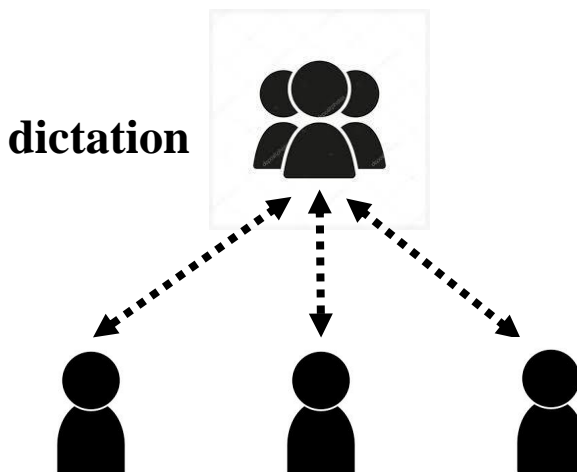
(3) Rationing transactions

“apportion the burdens and benefits of wealth creation by the *dictation* of a legal superior” (*IE*, p. 68).

⇒ Negotiations among participants to reach an agreements

⇒ The tax quotas in a country, etc.

⇒ Policy formation (allocation of wealth or purchasing power)



3-2 Classification of rationing transactions

- Classification of Rationing transactions in IE (Classification by process) (IE, pp.754-760)
 1. **Log-rolling** (trading votes) ⇒ **democratic process**
⇒ The process is universal, but the objectives vary, and it is time consuming and inefficient
 2. **Dictatorship** (fascism/dictatorship) ⇒ **despotic process** ✕
⇒ Efficient in consensus-building, but the consensus is coerced from higher authority
 3. **Cooperation** (→ anarchism [voluntary cooperation] and communism [forced cooperation]) △
⇒ From competition to cooperation ⇒ Decision-making by labor dictatorship or mutual help
 4. **Collective Bargaining (Joint Agreement by Representatives)** ◎
⇒ The parties are equally organized, individual contracts are managed by joint agreement.
 5. **Arbitration** (judicial decision/judicial rationing of wealth) ○ (but not compulsory arbitration ✕)
⇒ Not a dictatorship, as it is bound by law, custom, and precedent.

3-3 Reclassification of rationing transactions

➤ Three types of rationing transactions

(1) **“Despotic” rationing transactions** ··· Dictatorships, Forced cooperation

→ Duties-centered collective action ⇒ Potential for power struggle ··· ✕

(2) **“Democratic” rationing transactions** ··· Log-rolling, Voluntary cooperation

→ Rights-centered individual action ⇒ Inefficient decision making, wrong choice of boss leads to (1)

(3) **Rationing transactions “creating reasonable value”**

··· Collective bargaining, Judicial decisions (Arbitration)

→ Policymaking through the administrative committee system (e.g., industrial accident compensation)

→ Create **“reasonable value”** (formed in the practices of courts, juries, commissions, arbitration arrangements, and a concept of collective action reached through the consensus of opinion of those who follow the customs of the time)

4. Realizing a Just World from the Perspective of Authoritative and Rationing Transactions

4-1 Commonalities and problems between authoritative transactions (LFC) and rationing transactions (IE)

- **Command-Obedience Relationship**
- **Respect for the active will**

✓ **Problem:**

Both transactions **involve the opposite** and are difficult to understand

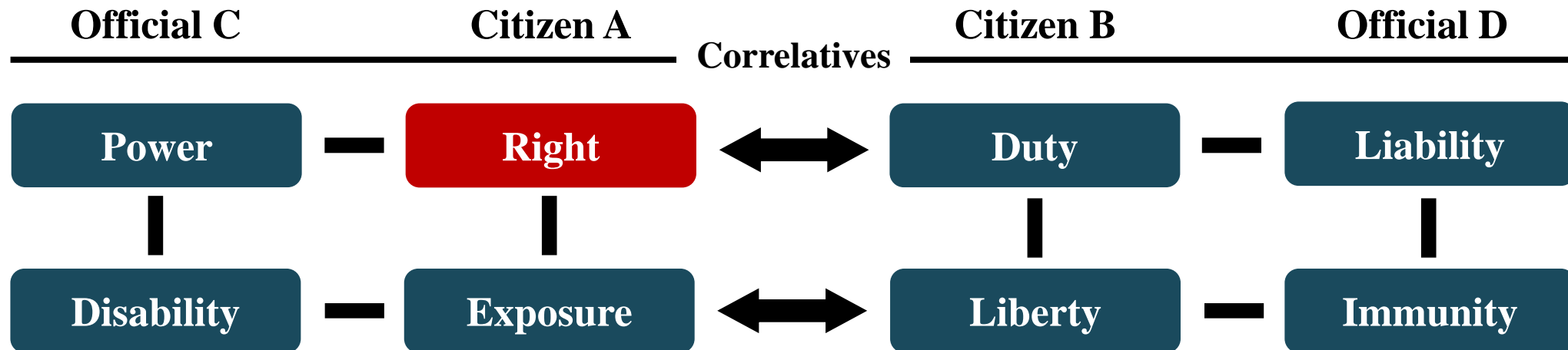
4-2 Two kinds of transactions and a realizing a just world

➤ Legal Relationship between Private Economic Agents and Officials

(1) The case of emphasizing the *right* of A

A's exposure decreases, stabilizing A's expectation of securing profit.

⇒ **Unfair competition and unequal income distribution** in favor of the entitled A



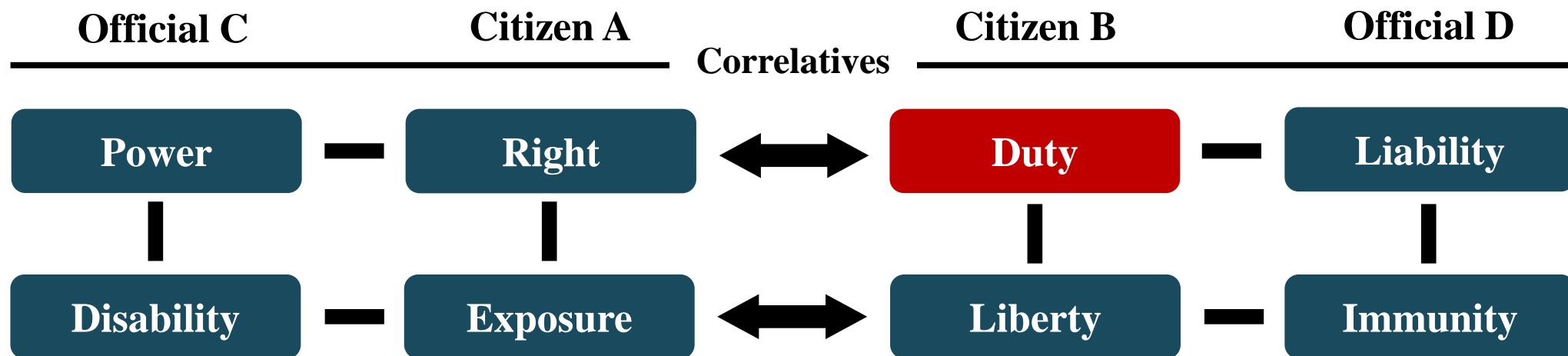
➤ Legal Relationship between Private Economic Agents and Officials

(2) The case of emphasizing the *duty* of B

A's right is also expanded but limited to the right under the legal system established by the state

⇒ The legal system is likely to change depending on the power struggle within the dictatorship.

⇒ **An unjust world** where expectations are hardly stabilizing

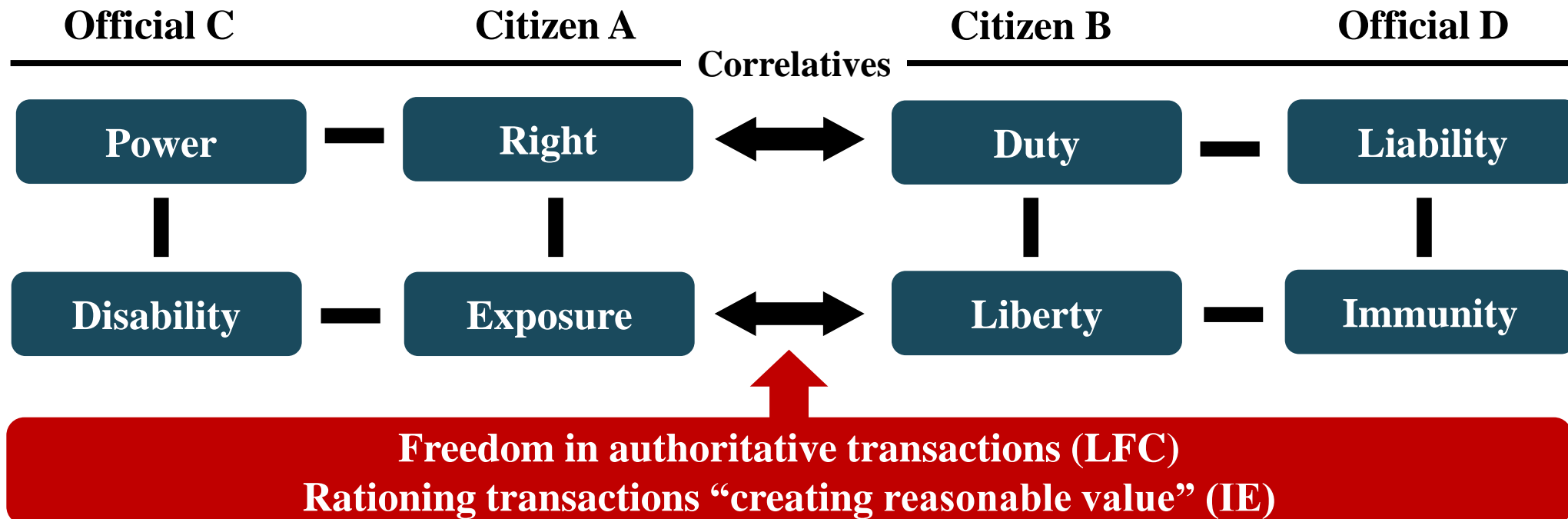


➤ Legal Relationship between Private Economic Agents and Officials

(3) The case of emphasizing the process of creating a legal system

Making rules from neither “right” nor “duty”

⇒ **Toward a Just World**



5. Conclusion

➤ Attempt of this study

What is the transaction to realize a just world?

LFC → Authoritative transactions to **secure correlation** and
stabilize expectations

IE → Rationing transactions **creating reasonable value**

⇒ **Making rules from the standpoint of neither rights nor duties**

References

Commons, John R. 1919. *Industrial Goodwill*. New York: McGraw-Hill Book.

Commons, John R. (1924) 1995. *Legal Foundations of Capitalism*. New Brunswick and London: Transaction Publishers.

Commons, John R. 1925a. “Law and Economics,” *Yale Law Journal* 34 (February): 371-382.

Commons, John R. 1925b. Reasonable Value, Manuscript.

Commons, John R. 1927-29. Reasonable Value: A Theory of Volitional Economics. Manuscript (Collection of the National Agricultural Library. NAL call number: HB501 C66 1927, Identifier: CAT10844889001 and CAT10844889002).

Commons, John R. 1934a. *Institutional Economics: Its Place in Political Economy*, New York: Macmillan.

Commons, John R. 1934b. *Myself*, New York: Macmillan.

Commons, John R. 1950. *The Economics of Collective Action*, New York: Macmillan.

- Hohfeld, Wesley N. 1913. “Some Fundamental Legal Conceptions as Applied in Judicial Reasoning.” *Yale Law Journal* 23 (November): 15-59.
- Hohfeld, Wesley N. 1917. “Fundamental Legal Conceptions as Applied in Judicial Reasoning.” *Yale Law Journal* 26 (June): 710-770.
- Horwitz, Morton J. 1992. *The Transformation of American Law, 1870-1960: the crisis of legal orthodoxy*, New York: Oxford University Press.
- Kitagawa, Kota. 2017. “Two Methods of Institutional Reform in the Institutional Economics of John R. Commons.” In *Contemporary Meanings of John R. Commons’s Institutional Economics: An Analysis Using a Newly Discovered Manuscript*, Edited by Hiroyuki Uni, 73-98. Singapore: Springer.
- Takahashi, Shingo. 2006. “J. R. Commons’s ‘Transaction Economics’: Institutional Economic Theory by Legal Concepts” (written in Japanese). *The History of Economic Thought* 48 (1): 16–31.
- Takahashi, Shingo. 2014. “J. R. Commons on ‘Law and Economics’” (written in Japanese). *Tokyo-Kotsu-Tankidaigaku-Kenkyu-Kiyo* 19: 63–72.

- Takahashi, Shingo. 2023. “John R. Commons’ Rationing Transactions and Creating Reasonable Value” (written in Japanese). Proceedings in The 27th Annual Conference of Japan Association for Evolutionary Economics, Tokyo, Japan, March 18-19, 2023.
- Uni, Hiroyuki. 2017. *Contemporary Meanings of John R. Commons’s Institutional Economics: An Analysis Using a Newly Discovered Manuscript*. Singapore: Springer.
- Uni, Hiroyuki. 2014. “J. R. Commons’ Theory of Cumulative Causation: A Comparative Analysis of Institutional Economics and Its Manuscript in 1927” (written in Japanese). *Kikan-Keizai-Riron (Political Economy Quarterly)* 51 (2): 77–88.
- Uni, Hiroyuki. 2022. “John. R. Commons’s Reasonable Price and Reasonable Value” (written in Japanese). *Kikan-Keizai-Riron (Political Economy Quarterly)* 59 (3): 77–88.