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Tuesday, October 17, 2017

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The Law of Good People: Challenging States' Ability to Regulate Human Behavior

(FORTHCOMING, CAMBRIDGE UNIVERSITY PRESS, 2018)

Currently, the dominant enforcement paradigm is based on the idea that states deal with “bad people”—or those pursuing their own self-interests—with laws that exact a price for misbehavior through sanctions and punishment. Behavioral law and economics approach challenge these concepts, by focusing mainly on peoples’ cognitive limitations in recognizing what their self-interest is. On the contrary, behavioral ethics posits that “good people” are guided by cognitive processes and biases that enable them to bend the laws within the confines of their conscience. This book argues that existing enforcement strategies are not suitable for addressing misconduct stemming from non-deliberative reasoning processes and biases. The insights of behavioral ethics into the cognitive and motivational factors guiding the behavior of good people, require the development of innovative approaches to the normative treatment of a diverse population consisting of both good and bad people. This book connects the important but neglected theoretical puzzles raised by behavioral ethics to the vast normative and jurisprudential literature on instrument choice and the various tools that policy makers can adopt to modify behavior. In this book, I analyze these paradigms and provide a broad theoretical and empirical comparison of traditional and non-traditional enforcement mechanisms to advance our understanding of how states can better deal with misdeeds committed by normative citizens blinded by cognitive biases regarding their own ethicality. By bridging the gap between new findings of behavioral ethics and traditional methods used to modify behavior, this book proposes a “law of good people”. The meaning of the change in this new regulatory and enforcement paradigm is demonstrated in areas such as contracts, IP law, conflict of interest and corruption, environmental law and employment discrimination.

Chapter 1 of Professor Feldman’s book is available online on our website and in hard copy at the Center.

PLACE
TIME
INFO
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BERKELEY LAW, ROOM 132

12:45 – 2:00pm. Lunch provided. Register at: <http://conta.cc/2fqTC6d>

<https://www.law.berkeley.edu/centers/center-for-the-study-of-law-society/>

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