



A Comparison of Two Legal Models of Social Governance in China:
Public Law and Private Law
----Appeal for Reforming Chinese Legal System
of Civil Liability and Administrative Penalty

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Abstract

Under the perspective of law, there are two social governance methods: public law model and private law model. This article, through case study approach, comparatively analyses the two social governance methods: their forming cause in law, their expectable social effectiveness, and their relationship with “strong government” model in China. In order to promote the reform of social governance of the “strong government” model where public law prevails, this article further appeal for Chinese legislator, under the spirit of scientific legislation and the thought of returning rights to individuals, restructure Chinese legal system of civil liability and administrative penalty by systematically emending existing laws, regulations and rules concerning civil/commercial affairs and administrative activities, and establishing reasonable legal mechanism of compensation.

Keywords: Social governance method, Public law model, Private law model, Strong government, Chinese legal system reform

1. Introduction

In the process of deepening reform in China, the function and role of government at all level have been being one of the focuses. The goal of the administration reform in China is to establish limited and responsible government in which rule of law prevails (We Jianbo 2006). After the case concerning social security funds was discovered in Shanghai in October 2006, to reflect on the shortcomings of “strong government” model, has become the most outstanding element of the Shanghai Municipal Government Work Report (the news came from “21st Century Economic Report” on 30 January). The reflection was made by Shanghai local government from the angles of politics and administration (Han Zheng 2007). In China, few articles discuss that the “strong government” model under the perspective of law, as a social governance method, how it has been formed? What shortcomings it does have? How the shortcomings can be corrected?

From legal point of view, there are two social governance methods: public law model and private law model. This article, taking the approaches of case study and comparative study, discusses the three issues mentioned above. The case was a famous administrative penalty case, concerning the commercial fraud of Shanghai Xianhe Hospital (note 1) in private medical service that has been investigated and dealt with by the relevant competent departments of Shanghai Municipal Government. Through the case study, the article comparatively analyzes the two legal models of social governance: their forming cause in law and their expectable social effectiveness, as well as their connection with “strong government” in China. In order to correct the shortcomings of the “strong government” model, the article appeals for reforming the legal system of civil liability and administrative penalty in China,

2. Facts

It was reported by “Nanfang Zhoumo”, a famous weekly-newspaper in China, that “Shanghai Xianhe Hospital is imposed the most severe administrative penalty” on 10 February 2007. According to the report, Shanghai Xianhe Hospital (hereinafter referred to as “the hospital”) in the process of providing private medical services (note 2), swindled numerous patients by various medical fraud. A typical case was that, on 31 October 2006, unmarried woman, Hong-Yan Wang was diagnosed as the disease of “infertility” by the hospital, and then, she was implemented a

“specific treatment”, which was called as “womb and abdomen laparoscope united operation” (note 3). In sequence, her younger sister was also diagnosed the same “disease”, performed the same “operation”. For “accepting” the “specific treatment”, the two sisters totally spent around 80,000 Yuan.

Another medical fraud in the hospital’s medical service was that in order to take in very high medical service fee, the hospital fraudulently told the patients there was “Dong Chong Xia Cao”, a very expensive Chinese plant medicine (Actually, there was not), or the medicine had enough amount (actually, the amount was far less than that of prescribed) in the mixed Chinese medicine waters that were prescribed and cooked by the hospital for these cheated patients.

It was through these medical frauds, these cheated patients’ funds were taken away. (“Each of them was swindled out of more than 30,000 Yuan”).

How many patients’ rights and interests have been fraudulently infringed by the hospital during its practice? The exact number was unknown. However, there were two facts have been confirmed: (1) within two years after the hospital was set up, because of advertising and other marketing means, the patients came to the hospital were so many that the “womb and abdomen laparoscope united operation”, which was advertised as the characteristics of the hospital’s service, had to be carried out from morning to midnight every day. (2) Shanghai Municipal Health Bureau (SHMHB) received several patients’ complaints against the hospital every day after the case was exposed by Xinhua News Agency, CCTV (China Centre Television) and other media in China.

On 31 January 2007, CCTV deeply reported the case with the title of “Operational knife? Slaughtered knife?” in which the truth of a number of patients were carried out the illegal treatment----“womb and abdomen laparoscope united operation” by the hospital, was exposed.

3. Handling of the Case

On 6 February 2007, SHMHB ascertained that the hospital illegally provided the medical service in the diagnosis and treatment of “infertility” during its practice and the conduct seriously violated the Regulation on Medical Institution Control, an administrative regulation enacted by State Council in 1994. Based on the facts, SHMHB decided cancelling the hospital’s Medical Practice Licence, which is one of the most severe administrative penalties under Chinese administrative law.

On 9 February, given that the hospital was discovered serious commercial fraud because of replacing extremely expensive Chinese traditional medicine “Dong Chong Xia Cao” with another very cheap material(s), the Shanghai Municipal Food and Drug Administration (SHMFDA) decided formally transfer the case to the Shanghai Municipal Public Security Bureau (SHMPSB) for criminal investigation.

Meanwhile, a large number of medias, including the CCTV international, widely and deeply reported the handling of the case on both home and abroad, in order to illustrate the Chinese Government’s efforts in the protection of citizen’s basic civil rights and the improvement of people’s livelihood in 2007, which was called as “people’s livelihood” year by Chinese government.

4. Jurisprudence Analysis on the Administrative Penalty Decision -----Under the Perspective of Social Governance Method in Law

The case belongs to a commercial fraud in the process of providing private medical service in which the patient(s)’ personal rights and property rights (private right) suffered seriously from illegal damage. If the court finds that the hospital’s medical fraud violated China’s Criminal Law, the hospital and relevant responsible persons should be subject to criminal prosecution. Given the issue of the criminal sanctions falls outside scope of the paper, which is not be discussed more in this article.

The main question discussed in this article is, should the case and other similar cases where private rights have been suffered from actual infringement, be handled by administrative penalties (public law model of social governance), or remedied by civil liability (private law model of social governance), which of the two social governance methods is more reasonable? It is self-evident that the judging standards regarding the reasonableness, of course, should be decided by following factors: namely, which one is more conducive to: (1) the remedy for the victims (reasonable compensations), (2) the warning to illegal wrongdoer, (3) the encouragement for law-abiding people, (4) the contribution to public finance, (5) the respect for the citizens’ rights, and (6) the constraint to administration power. Speaking essentially, to consider which one is in more beneficial for the formation of socialist market-oriented economic order and the establishment of a harmonious society that is filled with fairness and justice in China.

4.1 Legal Cause and Its Defects of Public Law Handling Model of the Case

The case was factually handled by the competent administrative authorities in accordance with the administrative laws and regulations; its result was to be imposed an administrative penalty against the hospital. Hence, the social governance method is called as public law model.

It should firstly be confirmed that the revocation of the hospital's Medical Practice License in this case, totally complied with the existing administrative laws and regulations in China, in both substantive and procedure law, particularly, the relevant provisions regarding the administrative penalties provided by chapter 6 of "the Regulation on Medical Institutions Control". There was not any wrong in the administrative penalty imposed by SHMHB under the current Chinese administrative law. Therefore, this article does not have any implication of blame against the relevant government authorities.

However, when we thinking over the public law handling model of the case under the perspectives of jurisprudence and social governance method, by a comparison with the private law handling model (using private law to remedy private rights infringed), for example, reasonable compensatory damages together with the necessary punitive damages, it can be found that there are many drawbacks in the public law model to deal with these cases in which the private rights have suffered from commercial fraud and other intentional infringement. These defects can be attributed to "strong government" model, which is not conducive to the formation of Chinese socialist market-oriented economic order and the establishment of the ideal community where the rule of law prevails.

First, the investor(s) and main responsible person(s) of the hospital have taken in huge ill-gotten gains by fraudulent medical services and illegal means. After revoking the hospital's Medical Practice License (even investigating the criminal liability of the main responsible person(s) under China's Criminal Law, and putting them into a prison for years), they can still enjoy the rich life with the ill-gotten wealth. Obviously, this is particularly not conducive to dissuade publics to follow the laws and regulations.

Second, the method of the administrative penalty is not helpful to solve the victim's problems in livelihood. In this case, the social problem of victims' livelihood has not been solved under existing unsound legal system of civil liability in China. To solve well the victims' livelihood requires adequate compensation. The private law remedy method flickering humanitarianism thought, may play the roles and functions in encouraging law-abiding persons, compensating and comforting the victims, and depriving the persons who deprive other! In any commercial community where the currency is regarded as a general equivalent, the authority of rule of law can be established only by depriving the illegal predators. However, China's existing legal system of civil liability, which based on the "General Principles of Civil Law" and other civil law, adopt the principle of limited compensation to remedy victims' actual loss, and lacks scientific legal system concerning punitive damages. These defects in the legal system of civil liability, forced Hong-Yan Wang and other victims, complained to the media or competent administrative authorities, but did not bring a claim to the courts! As a result, the credibility of justice in China has gravely been challenged.

Third, under the views of legal economics and public finance, the cost using the public law model to protect private right is far higher than that of the remedy of private law. In this case, SHMHB, SHMFDA, and SHMPSB have intervened for the investigation one by one. The social governance method of public law model significantly increased public expenditure. Taking SHMHB as an example, SHMHB began the investigation on 9 January 2007; the cancellation of Medical Practicing Licences was decided on 6 February. During the period of nearly one month, supposing three servants participated in the enforcement of the administrative regulation, per capita fee (wage, welfare and official expenses) provided by public finances amounted to a monthly rate of 15,000 Yuan, then, the public finances would has spend about 45,000 Yuan on the case for the enforcement of the administration law on medical institution. It can be estimated that, therefore, the public finances must be paid about 150,000 Yuan for handling the case if considering the participation of SHMFDA and SHMPSB. This means that the lawless and unscrupulous merchants while possess ill-gotten wealth, live a rich life, makes all law-abiding taxpayers in our community to pay for their illegal acts! On the contrary, through the direction and guidance of a sound legal system of civil liability, the victims are willing to claim for damages to the court. Under the circumstance, the illegal infringement persons must pay for their violations of law. Therefore, this case also, from another perspective, reveals why the public finance is always in deficit, why Chinese government failed to invest more funds to public enterprises like education and public healthcare service.

Fourth, the revocation of the hospital's Medical Practice Licence under the relevant provisions of the "Regulation on Medical Institutions Control", means that medical institutions right to "life and death" are controlled by healthcare administration authority. Reflecting on these provisions under the perspective of rule of law, the essence of this practice is still the follow with the tradition of planned economy era, in which using administrative power to directly allocate productive elements. The practice does not comply with the principle of resource allocation decided by market demand. In the market of private medical services, medical institutions would truly respect their patients' rights and interests when these patients may decide the medical institutions' fate only by the remedy of private law through the direction of sound legal system of civil liability. If using the of administrative law method to decide the medical institutions' "life and death", under existing legal environment where the rule of law is still a dream sought in China, what we can only see is that the generally existence of the rent of seeking power, and the ignorance to the patients' rights and interests by the profit-oriented medical institutions.

In addition, China's existing administrative law empowers healthcare competent department to decide the both "life and

death” of the medical institutions. This is a legislation that state powers are concentrated on certain government departments, which is the root causes that the state powers are taken up by government’s departments, and fostered the formation of the sector monopoly interests and the shortcomings of “strong government” model. In the UK, Under *Att-Gen v. Lindi St Clair (Personal Services) Ltd (1981)* (2.Co. Law 69), the registration of companies is responsible by the registration office, and the cancellation of the registration of the companies, should make a prosecution by legal supervisory authority, and decided by the court in accordance with the law. It is worthy of our attention to the separation of powers at micro-level under English law.

Finally, the cancellation of the hospital’s Medical Practice Licence, may also leave over other negatively effects on our community: (1) to whom the victims may claim for compensation once the hospital was legally terminated (the subject of civil liability for the medical fraud); (2) the hospital, as a taxpayer, was abolished; (3) hundred(s) of medical staffs in the hospital were facing unemployment and re-employment; (4) the hospital’s medical equipment facilities were idled. (See table 1, the causes and its defects of public law handling model of the case under existing law.)

Insert Table 1 here.

The above analyses suggest that the legal cause in forming the “strong government” model and its shortcomings in China is that the government, in the process of governing economic and social affairs, neglects the fundamental role and function of private Law (civil and commercial Law), and is habitual to, sometimes even eager to expand, confirm and “defend” its administrative power by (administrative) legislation; in sequence, by virtue of the expanded administrative power to deal with the economic and social affairs that, under its very nature, should fall within the scope of autonomy of citizen community, and therefore, adjusted by private law.

4.2 Benefits of Private Law Handling Model of the Case and Its Requirements for China's Legal System Reform

How about the predictable outcome of the case and its social effects if China possesses a better legal system of civil liability? The sound legal system of civil liability includes at least two elements: (1) a reasonably compensatory damages for tort and/or for breach of contract under the principle of fully compensation; (2) a necessary punitive damages, namely civil penalties, for punishing and warning civil wrongdoer. The sound legal system of civil liability may effectively prevent illegal conduct or intentional breaking contract, may reasonably provide remedy for the victims of torts and broken contract, and may effectively punish the illegal tortfeasor. The sound civil liability legal system is the embodiment of scientific spirit in civil legislation, which reflects the general rules to build a harmonious society under the conditions of market economy.

According to Anglo-American private law, the remedy to illegal infringement should be the compensation for the victims in accordance with the market value of all actual losses, including direct and indirect, material and spiritual, physical and mental damage. In addition, as far as the intentional infringement in economic and commercial fields, the American law (for example, *TXO Produc. Corp. v. Alliance Resource Corp.* (S. Ct 1993), and *BMW of North American Inc. v. Gore* (S.Ct.1996)), in order to appease the victim, under the specific circumstance of every case, imposes punitive damages that are equivalent to the amount of several decades to several hundred times of the victims’ actual loss(note 5). And then, different state may levy the income tax of the proceeds of punitive damages ranging from 33% to 75% on the victims by the law (Jerry J. Phillips, 1999). In the aspect of administrative law, Angle-American law while mainly governs the public interest and public affairs, restrict administrative power in accordance with the principles of due procedure, seldom involves the case of private rights “protection”(Michelle M. Mello, 2003).

Imaging China’s legislature is willing to reconstruct Chinese legal system of civil liability and administrative penalties under the spirit of scientific legislation and the ideology of returning the rights to individuals, namely: (1) in the side of improving current civil liability legal system, except for the compensation to the victims’ actual losses in accordance with its market value, in order to punish the intentional violations, such as intentional infringement in the economic and commercial fields, impose the illegal tortfeasor to pay the victims punitive damages that are 20-50 times of the amount of the actual loss; then, levy the income tax that is 20% of the proceeds on the victims (note 6). (2) in the side of reforming the legal system of administrative penalties, for those cases in which private rights are actually infringed, should apply civil fines (namely the punitive damages) to replace administrative penalties, such as administrative fines, the closure for rectification and the revocation of licence (business license), and etc.. The administrative penalties apply only to those cases in which while private rights have not yet suffered actual damage, a potential hazard to public safety or other public interests has been imposed upon. Under this legal framework, the expectable outcome of the case and its social effects would be quite different from the factual situation of the case:

First of all, the victim like Hong-Yan Wang in this case will be able to obtain 1.0 million Yuan after-tax income due to the remedy of private law. Its social effectiveness, not only may reasonably provide relief for the victims, deprive of the depredator---- the illegal tortfeasor, maintain fairness and justice for our community, but also may encourage public’s supervision to commercial fraud and other breach to good faith in business operations.

Moreover, the income of public finances will be increased, and the expenditure of public finances will be reduced.

Under the ideally legal framework, firstly, there will be a direct reduction of various official expenses by administrative agencies in handling the cases of private rights infringed. Secondly, there will be a significant increase in the punitive damages income tax. The taxation is considerable public revenue, which is a necessary measure that deprives the illegal income of dishonest merchant. All types of bad faith business practices not only directly infringe the legitimate rights and interests of the parties (consumers, customers, employees, etc.), also undermines public interests in our community, such as destructing the market economic order, increasing the transaction costs of business on the level of whole society. Thus, it is reasonable and feasible to set up the taxes, so that countries and individual victims are entitled to deprive the property of unlawful merchant.

Furthermore, the exhausted burden of administrative agents in handling individual case in which private rights were infringed would be significantly reduced. As an important result of the reduction, civil servants are able really to think about and deal with public affairs that individuals and enterprises in our community can not handle by their autonomy. For example, in the field of healthcare, the public affairs include: (1) the guarantee in providing public healthcare services; (2) the organization in constituting technical specifications; (3) the publication of healthcare information; (4) the guidance for patients properly receiving medical services; (5) the guidance for investment layout of medical institutions; (6) the investigation and handling of potential patient safety problems; and (7) the protection of public safety for medical treatment; and etc.

In addition, government's intervention to economic and social affairs may be restricted to a reasonable limit. Where the things fall within the scope of individual autonomy in our community, public power, in principle, should not take an interventionist stance. In the side of investment and operation, business operator's "life and death" should be truly determined by market forces (the choice of consumers and users). Under the circumstance, the basic role of market mechanism in allocating resources would be played in real.

Last but not least, the credibility of justice can be enhanced and the supervision to justice can be strengthened. It is self-evident that the credibility of justice in China would be naturally enhanced when the justice may bring actual and legitimate interests to individuals in our community, especially to those persons who are in disadvantages in status, education, wealth and position, and etc. Additionally, the essence of the reconstruction of China's legal system in civil liability and administrative penalties is a re-allocation of state power between the people's court and (20-30) government departments. It is conducive for the National People's Congress in strengthening the supervision to justice. The reconstruction of the legal liability system, together with clear and workable civil liability legislation, can also restrict the judges' discretion. Thus, it is also positive in controlling judicial corruption in China.

In summary, the legal reform in the liability system, which stresses fully civil remedy and limited administrative penalties, with the characteristic of minimum administrative intervention to economic and social life, will allow tortious victims receive adequate compensation, enforce civil wrongdoer who is in the breach of integrity in business to pay drastically the compensation, and let the government obtain better governance with less intervention. Under the legal system framework, citizen's legal consciousness and feelings would be naturally developed, the authority of rule of law would be naturally established, the market economic order in China would be naturally formed, and the government's prestige would be naturally set up! (See table II, private law handling model of the case and its expectable social effects under the ideal law).

Insert Table 2 here.

5. Conclusions

The core of private law is the remedy to private rights. Sound legal system of civil liability constitutes the legal basis for reasonable remedy. The protection to private rights that is rooted in the sound legal system of civil liability is the most reasonable and effective, its function and value can not be replaced by any "strictly" means of administrative protection. Over-expansion of administrative power will be restricted due to the existence of the sound legal system of civil liability, and the society governance method in which private law prevails will be gradually formed in China.

Under the perspectives of law and social governance, the disadvantages of "strong government" model are also obvious, even if our every government department and every civil servant of the government department wholeheartedly serve their people. The legal cause in forming the "strong government" model is that there is a "weak" civil liability and "strong" administrative penalties in current legal liability system in China. The approach to remove these disadvantages needs a transformation in social governance method from current public law model to ideal private law model in China. To achieve the transformation, legal reform is required, which should be undertaken under the spirit of scientific legislation and the thought of returning rights to individuals. The goal of the legal liability system reform is to restructure Chinese legal system of civil liability and administrative penalty by systematically emending existing laws, regulations and rules concerning civil/commercial affairs and administrative activities in China, and establishing reasonably legal mechanism of compensation. Only by doing these, the socialist market economic order with good faith and fair dealing can be established, the authority of rule of law can be set up, a great citizen community with a limited

and responsible government can be built, and the ideal harmonious society filled with equality, justice and humanism will become true.

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Notes

1. The hospital is private medical institution invested by Lin, a Fujian's Putian villager. There is NOT any connection with Peking Union Medical College Hospital.

2. Private medical service is also called as profit-making oriented medical service. This is distinct from public medical services in which the main purpose is for providing nonprofit health care services for publics. Therefore, the fraud in private medical services, by their very nature, is a commercial fraud.

There are three criteria to distinguish private medical services from public medical services in China:

The first, who is the investor of the medical institution. Generally speaking, the state-owned and collectively owned medical institutions' healthcare service belongs to public medical services; private or foreign-capital medical institutions belong to profit-making medical institutions. The nature of medical service provided by mixed-ownership medical institutions should be treated in accordance with their specific conditions.

The second, who decides on the price of the medical services. Public medical services implement government-decided price or government-guided price. The price of private medical services is decided by the market pricing.

The third is tax situation. While nonprofit medical institutions are non-taxable bodies, profit-making medical institutions, as taxpayers, are required to be registered by Chinese tax agency.

It is necessary to take all the above three criteria into account when confirming whether a medical institution is profit-making or nonprofit in China.

Under the legislative practice in many countries and/or regions, such as the United Kingdom, Taiwan province of China, the law applicable to nonprofit medical institutions and profit-making medical institutions is different. Therefore, the legal reform programme advocated in this article does not apply to nonprofit medical institutions.

3. The medical fraud in this case, was determined by following two factors: for one thing, there is not at all the "womb and abdomen laparoscope united operation" in clinical medicine. There is only two separate "the operation under womb laparoscope" or "the operation under laparoscope". For another, the applicable scope of the diagnosis of "infertility" must be the woman who has married for at least two years without a successful pregnancy.

4. The author of the article advocates that as a commercial fraud, the case should also be applied to the provision 49 of China's "Consumer Protection Law". According to the provision, the Hong-Yan Wang should be awarded another 40,000 Yuan as punitive damages. However, whether the law is necessarily applied to private medical services, the point of view in China's courts and academic sector is not unanimous.

5. In the case of *TXO Produc. Corp. v. Alliance Resource Corp.*(S. Ct 1993), the plaintiff was awarded \$ 10 million punitive damages, which was 526 times of \$ 19,000 compensatory damages awarded to the plaintiff. In *BMW of North American, Inc. v. Gore* (S.Ct.1996), the plaintiff was awarded \$ 4,000 for direct loss plus \$ 2 million punitive damages because the defendant sold a "new" car to the plaintiff with a renewed old car.

6. The basic national conditions in China are the main considered factors for the design on Chinese punitive damages system: (1) the per capita income and per capita GDP in the United States is about 20-25 times than that of in China; and (2) China is and will be in the primary stage of socialism for long-term.

Table 1. Causes and Its Defects of Public law Handling Model of the Case Under Existing Legal System in China

	Public Law Sanctions: Administrative Penalty	Private Law Remedy: civil compensation
Legal Authorities	Chapter 6 Penalties, Regulation on Medical Institutions Control	The relevant provisions of Chinese civil law: General Principles on Civil Law, Contract Law and the related judicial interpretations.
The Result or Expectable Result	Cancellation of the hospital's Medical Practice Licence.	Every victim like Hong-Yan Wang is entitled to be awarded compensatory damages for direct economic losses (paid medical fees and its interest loss) about 40,000 Yuan, (note 4) but after deducting attorney fees and other litigation expenses, the factual gain of these victims are little.
Victims' Choice (Value Orientation)	Complained to competent administrative departments.	Did not bring the case to court (do not believe in the law).
The Social Problems Brought by the Public Law Handling Model	Illegal and unscrupulous merchants are still rich by the medical fraud, the victims' problem in livelihood remains unresolved, the shortcomings of the "strong government" model have been highlighted: (1) administrative power decide the allocation of resources; (2) high administrative expenses; (3) the power is liable to be leased and abused because of the concentration of the power and the lack of effective supervision to the power; (4) the reemployment and unemployed of the hospital's staff after it is closed; (5) patients' interests do not be truly valued and respected by the medical institutions, etc.	

Table 2. Private Law Handling Model of the Case and Its Expectable Social Effects
After Legal Reform in China

	Private law remedy: Civil Compensation	Public Law Sanctions: Administrative Penalty
Goal of Legal System Reform	To establish reasonably legal system of compensation and restitution, except compensating various factual loss, which should be calculated in accordance with its market value, in order to punish the intentional infringement in economic and commercial fields, to award punitive damages that is 20-50 times of the victim(s)' actual loss amount to the victims, then, levy the income tax of 20 percent on the proceeds.	To amend the existing administrative laws and regulations; administrative penalties are applied only to the cases in which private rights have not yet suffered actual damage, thus, the remedy of private law can not be applied. For example, in the case of using non-medical professionals to practise, a potential hazard has imposed upon the public health safety, but patients' personal and property rights have not yet suffered actual infringed.
Expectable Results	Assuming that the actual losses of every victim is 40,000 Yuan, and that punitive damages is calculated by 30 times, then, each victim can be awarded $4 + 4 \times 30 - 4 \times 30 \times 20\% = 1.0$ million. After paying lawyer's fee and other litigation expenses, every victim's factual income is still considerable. Public finance revenue can be: $4 \times 30 \times 20\% \times$ the total numbers of victims. If the hospital is insolvent, it may file for bankruptcy, the hospital is closed. However, it may conclude a settlement agreement with the victims for amortization; as a result, the hospital may continue to be operated. (market mechanism)	No the need of intervention by (health) administrative power. The executive power can only be applied within the scope of public affairs in which individuals are unable to be in autonomy.
Victims Value Tendency	To bring a claim to court for remedy (believe in the law)	Does not complain to administrative agencies for intervention
Expectable Social Effectiveness	may provide reasonably relief for the victims, may warn civil wrongdoer, may cultivate civic belief and consciousness of law, may enhance the credibility of justice, may achieve the legislative purposes of China's laws and regulations, may reduce the burdens of administrative authorities, may increase public revenue, may prevent the abuse of administrative powers, may overcome the shortcomings of "strong government" model, may foster citizen community, and achieve the goal of politic reform of a limited and responsible government.	