Current Scholarship

Analyzing the Constitutional Theory of Money: Governance, Power, and Instability

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At the heart of the constitutional theory of money is the argument that money is central to governance. This article explores the ways in which the core mechanism of the publicly undergirded monetary system, involving the incentivization and disciplining of private investors in the money creation process, creates its 'fiscal value' and generates both power struggles and possible instability in the unit of account. This twin dynamic of power and instability is intrinsic to a *longue durée* analysis of money. It is argued that since the current jural relations allocate money and power in particular ways, the basis is created for potential future political challenges to the status quo *ante*, thereby creating instability. Further, the article emphasizes the centrality of the indeterminacy criterion which is at the core of the critical legal studies (CLS) framework, and its intimate connection to Keynes's notion of uncertainty. The indeterminacy/uncertainty nexus is used to explore how currency stability is determined or undermined by expectations, power struggles, tax contestations, and broader policy frameworks. Finally, the article relates this monetary theory to the literature on state-led industrialization and shows how such a constitutional money theory of industrialization is an alternative to the New Institutionalist perspective which emphasizes the centrality of 'clear and well-defined' property and contracts in order to create an 'efficient' economy.

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