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"Legal Evil" and "Natural Justice": The Analysis of Legal Philosophy Dilemma in *And Then There Were None* Based on the Hart-Fuller Debate

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Abstract

The book *And Then There Were None* written by Agatha Christie is not merely a common detective novel. Instead, it is a profound thought experiment on the aspect of legal philosophy and serves as a literary prelude to the Hart-Fuller debate. This paper employs the Hart-Fuller debate as its theoretical framework, which is a legal philosophy on the twentieth century. The purpose of this paper is to show the fundamental dilemma between "legal evil" and "natural justice" presented in this novel. By constructing the isolated "Soldier Island" as a closed thought-experiment setting, the novel dramatizes the risks latent in both positions: a positivist order can tolerate and even produce "legal evil", while an unmediated appeal to "natural justice" that abandons procedural constraints can degenerate into a more destructive lynching. The dual-tragedy ending in this novel presents an irresolvable theoretical dilemma inherent in this debate, and make people pay attention to a truth, that is law must maintain a perpetual tension between the stability emphasized by positivist and the purposiveness pursued by natural law. The absolute triumph of either side would result in the obliteration of justice itself.

Keywords

And Then There Were None, The Hart-Fuller Debate, Legal Philosophy

1. Introduction

With its radical structure of "the absence of a detective and the death of all people", *And Then There Were None*, a novel written by Agatha Christie in 1939, subverts the classic "detective-puzzle-solution" paradigm of traditional detective fiction (Tong, 2021). Beyond deconstructing the genre, the novel employs the iso-

lated island setting as an experiment place, where it stages a profound legal philosophy experiment in the twentieth century, about the procedural legal justice against extra-legal moral vengeance.

The novel constructs "Soldier Island" as a laboratory, deliberately severed from the external legal order. This setting functions as an extreme experiment place about thought, probing the boundaries of law, morality, and justice (Warren, 2010). This novel started by ten strangers receiving mysterious invitations and reaching the island. The ten people were then murdered one by one according to the sequence of the nursery rhyme Ten Little Soldiers. Suspicion and despair escalate among the survivors until none remain. At the end of the novel, it reveals the truth through a confession discovered in a drifting bottle, that is Judge Wargrave orchestrated the entire scheme. He tricked nine criminals onto the island, each of whom escaped legal punishment. He executed them following the rhyme's pattern, and suicided finally.

The content of this novel is that Judge Wargrave imposed lynching according to the in the name of "natural justice" to the other nine criminals of "legal civil". It shows a classic debate during the history of legal philosophy, that is Hart-Fuller debate in the twentieth century. This debate focuses on a permanent argument that whether the law is a system of rules, which is separate from morality, designed for social order, or a public service inherently embodying moral values and justice. The dual-tragedy ending of the novel reveals a profound philosophy dilemma. It is that separating law from morality will flourish "legal evil", while an uncompromising pursuit of law's moral purpose can unleash subjective judgment and descend into greater faults, such as lynching.

As a landmark in detective fiction, *And Then There Were None* has sustained multifaceted academic interest. Scholars have extensively analyzed its innovative narrative structure and perspective. However, fewer have systematically explored the legal and moral quandaries at its core from a jurisprudential standpoint. Moreover, scholarship directly addressing the Hart-Fuller debate has largely developed independently of Christie studies, and existing readings of the novel, such as Warren's account of gender and moral immaturity and Pu et al.'s analysis of crime and punishment, do not examine the guests' impunity and Wargrave's punishment through the Hart-Fuller framework (Pu & Deng, 2021). Therefore, this paper will focus on this aspect.

This paper will analyze *And Then There Were None* from the aspect of legal philosophy. It will analyze the tragic consequences of the novel based on the framework of the Hart-Fuller debate, H. L. A. Hart's positivist jurisprudence and Lon L. Fuller's natural law jurisprudence. On the one hand, the novel shows how Hart's theory will tolerate "legal evil". For example, the nine guests on the Soldier Island except Wargrave were all criminals but escaping legal sanctions "legally". On the other hand, if someone wants to correct this kind of evil though Fuller's theory, as Wargrave did, they will descend into lynching and self-destruction in the name of "natural justice". Christie transforms the philosophical tension between

these two propositions into an end with no survivors. The ultimate conclusion is that a civilized rule of law cannot choose one pole over the other but must perpetually navigate the narrow ridge between them. The complete collapse of this tension threatens societal collapse, mirroring the fate of "Soldier Island".

2. The Framework of the Theory: The Hart-Fuller Debate

The Hart-Fuller debate systematically focused on the heated argument of legal philosophy, that is the relationship between law and morality. Happened in the late 1950s and early 1960s, this debate was catalyzed by the "Grudge Informer Case[1]" from the Nazi era. The judgement of this case showed the contradiction between neo-positivist and neo-natural law, that is whether the judge should apply a patently evil "Nazi law" or negate its validity in the name of a higher moral principle. H.L.A. Hart championed the neo-positivist position, while Lon L. Fuller advocated for the neo-natural law perspective. This debate not only laid the foundation of modern jurisprudence, but also offered the framework of the theory to "legal evil" and "natural justice" in the novel *And Then There Were None*. This section will outline the core arguments and key values of both theorists.

2.1. H.L.A. Hart: Positivist Jurisprudence

H.L.A. Hart is a foremost proponent of positivism jurisprudence. In his famous work The Concept of Law, he constructed a legal system centered on "rules" (Hart, 2018). He advocated "Separation Thesis", which insists on the separation of law and morality. That is to say, it insists on a conceptual distinction between "what the law is" and "what the law is ought to be" (Alexy, 2004). For Halt, the reason why a rule can become a law is not because of its conformity with justice or morality, but also because it can be accepted within a particular society, by satisfying the criteria for a rule to be recognize.

Therefore, about the Grudge Informer Case, Hart argued that the woman should be acquitted, because her action was "legal" in that particular society. However, Hart's position was more nuanced than a simple acquittal: he conditionally preferred that the legislature, rather than the courts, address the moral failure through explicit retrospective legislation, acknowledging that this was an exceptional remedy for an exceptional moral dilemma. Although this method was not perfect, it honestly confronted the law's moral failure, rather than retroactively denying the legal status of the Nazi decrees. For Hart, even a grossly immoral law remains law. Giving a simple example, a ruler with blurred markings should be still accepted that it is a ruler, even if it fails to measure accurately.

The value of Hart's proposition lies that, "separation thesis" secure for the legal system in the clarity, stability, and predictability. It demands that citizens should identify "what the law is" first, then criticize its independent morality. If blurring

[1]During the Nazi Germany era, a wife accused her husband of making "unpatriotic" remarks in order to frame him. The husband was sentenced. After the war, the wife defended herself in court: "At that time, I was merely following the laws of the time."

the concept of law and morality, such as viewing deeply immoral rules as "not law", it will make the conceptual confusion and lead to the anarchical lynching, which is worse than the evil it seeks to correct.

Importantly, Hart's account of legal validity is not a moral endorsement of the conduct it permits, nor does it establish that those who escape conviction are innocent. Escaping conviction means only that guilt was not established through the applicable legal procedures; it does not make the conduct lawful in any moral sense, and it does not by itself demonstrate that positivism produces injustice.

2.2. Lon L. Fuller: Natural Law Jurisprudence

Lon L. Fuller insisted on natural law jurisprudence. In his famous book The Morality of Law, he countered Hart's positivism with a "procedural" natural law (Fuller, 2005). He rejected "Separation Thesis", arguing for a necessary connection between law and morality. It should be noted that, this connection is not about the content of laws but the about the process by which law is made and administered. Fuller considered the law should include "internal morality". If the system of rules is not included common morality, it cannot be named as a "law". He detailed that a law should cover eight kinds of internal morality, including generality, promulgation, non-retroactivity, clarity, non-contradiction, possibility of compliance, constancy through time, and congruence between official action and declared rule.

Consequently, regarding the Grudge Informer Case, Fuller thought the "law" in the Nazi era could not be accepted and applied because of its violation of internal morality. Fuller's objection was not that judges should substitute an unspecified "higher moral standard" for positive law, but that the Nazi regime's secret and retrospective measures failed the internal morality of law and thus lacked legal validity as law. Extending the example as it stated previously, a "ruler" which cannot perform its essential function of measurement is not truly a ruler at all.

The core value of Fuller's theory lies that he considered the law as a sustainable and purposive public service. His aim was to subject all human conduct to the governance of rules. The eight principles of the internal morality of law serve to achieve this aim.

3. The Tragic Praxis of Hart and Fuller's Theories in *And Then There Were None*

And Then There Were None serves as a striking literary prefiguration of the Hart-Fuller debate, staging the inherent risks of both theories with ruthless clarity within the sealed thought experiment of Soldier Island. This section demonstrates catastrophic consequences because of the objective flaws in Hart's and Fuller's theories, through analysis of the nine criminals of "legal evil" and the single agent of "natural justice". The novel does not simply reject one theory in favor of the other. Instead, it intensifies the latent dangers within each, forcing them into collision within the closed system of the island until both collapses, thereby laying

bare a fundamental paradox at the heart of modern legality.

3.1. The Dark Side of Hart's Positivism: The Nine Faces of "Legal Evil" on Soldier Island

The other nine guests except Wargrave were not assembly randomly. They were typical samples for an experiment of legal philosophy selected by the judge Wargrave, metafictionally by Christie herself. The nine criminals illustrated a complete spectrum of "legal evil". It showed the practical dilemma of Hart's theory, that is to say, when the validity of a law only depended on formal pedigree and social situation and was divorced from morality, the system of a law would lead to results that were morally abhorrent yet perfectly "legal". This section does not claim that these outcomes are necessary consequences of Hart's theory; rather, it shows how the guests' impunity reflects failures to establish guilt under existing legal doctrine, failures that a positivist order leaves uncorrected. This part categorizes their cases into technical exclusion by procedure, structural bias of society, and institutional corruption of power, to detail how the fault lines in Hart's positivism give rise to "legal evil".

3.1.1. Technical Exclusion by Procedure

Hart insisted on the separation of law and morality. Therefore, when a law needs to be explained because of its inherent "open texture", and at the same time, the explanation is connected to professional barriers and strict rules of evidence, morality can be technically circumvented, then produce "legal evil". The cases of Dr. Edward George Armstrong, Miss Vera Elizabeth Claythorne, and the couple of Rogers (Thomas Rogers and Ethel Rogers) exemplify this.

Due to performing a surgery in a state of intoxication, Dr. Edward George Armstrong suffered a serious medical error, resulting in the patient's death during the surgery. The reason why he could be "legal evil" was that, the identification of medical error needed exact evidence of the fault of the doctor. However, according to "Bolam test" (1957), in the field of medicine with high barriers and exclusion, professional jargon, inherent surgical risk, and collegial silence will build high evidentiary barriers (Bolam v. Friern Hospital Management Committee, 1957). In this situation, due to its own limitation, the law tends to show a retreat from professional authority and hand over its discretionary power to the industry itself, which will lead that this power is exploited by unethical behavior and results in "legal evil". Therefore, in Hart's theory, common morality can be impracticable because of technical exclusion. The rationality of the law in procedure has here been transformed into a tool for protecting professional privileges and hindering substantive accountability.

To help her lover come into money, Miss Vera Elizabeth Claythorne lured Cyril, who was another person with right of inheritance, to swim in dangerous waters, resulting in his death. Under English criminal law, murder requires proof of the actus reus of causation and the mens rea of intention (or, where applicable, recklessness as to death or serious harm); the relevant question is whether Vera's

conduct caused Cyril's death and whether she possessed the requisite mental element. In the penal law, murder requires be confirmed direct intent and direct causation, while the action of Vera sits in a doctrinal ambiguity, relying on indirect intent and indirect causation. That is to say, Vera only lured Cyril to reach dangerous waters, instead of pushing him into waters. It could be considered that natural risks killed Cyril not Vera. On a properly stated doctrinal analysis, however, Vera's conduct may well satisfy the causation and mens rea requirements rather than fall into a "gap"; the appearance of a gap may reflect the difficulty of proof rather than a defect in the doctrine itself. Hart's system depends on clear constituent elements. Therefore, when "illegal" acts occur in the ambiguous areas of the element interpretation, the inherent rigidity and lag of the law in the face of complex human nature will be manifested.

The couple of Rogers deliberately did not give their employer medicine during a seizure, in order to get the employer's heritage as soon as possible. Under English criminal law, liability for omission arises only where a duty to act is recognized—for example, where a contractual or caretaking relationship imposes such a duty—and the Rogerses' position as live-in servants may plausibly ground such a duty. In the absence of surveillance at the time, whether the Rogerses had committed an omission was impossible to verify. Even, the Rogers deliberately portrayed themselves as the loyal servants who went out in the snow to look for a doctor when the employer was ill. Their purpose was to tilt the moral scale in their favor and cover up the fact of deliberately "omission" as a crime. The regulation of "acting" by the law is far stricter than that of "inaction", which itself reflects the limitations of law as a social control tool. Due to this kind of "gap" in Hart's theory, just as he himself acknowledged that "the law cannot be perfect", the gap becomes the hiding places for evils.

3.1.2. Structural Bias of Society

Hart grounds legal authority in a society's "rule of recognition". When there exist moral biases in society itself such as structural bias of society, the law often becomes complicit, codifying or condoning injustice. Emily Caroline Brent, Philip Lombard, and Anthony James Marston embody this dynamic.

Emily Caroline Brent expelled unmarried pregnant maid from her home in the name of "moral degradation", resulting in her suicide. She escaped judgement because law of her time viewed the master-servant relationship as a private domestic sphere, largely beyond legal scrutiny. At the same time, her middle-class respectability and religious piety afforded further social insulation. In this situation, the law respected, or could be considered to approve, when people with dominant moral values oppressed the vulnerable individuals. In Hart's theory, he insisted on the content and standard of the law at that particular time, just as he thought the Nazi law was still a "law". Therefore, when the law accepts oppressive social norms, such as class prejudice and religious constraints, as its own boundaries of jurisdiction, the law tends to be transformed from a protector of justice into a

silent partner.

Philip Lombard stole food from the aborigines and abandoned these 21 people in Africa, resulting in their death in the forest. His "legality" lied in the colonialist ideology. Colonial ideology constructed the colonies as spaces beyond the pale of "civilized" law, systematically devaluing indigenous life (Wu 2021). What Lombard himself mentioned, "The indigenous people also regarded life and death as relatively unimportant. You know, they are not like Europeans (Christie, 2018)" was a reflection of the mainstream values of that society at that time. It shows the limitation of Hart's positivism, that is, certain human groups are not recognized as subjects that should be equally protected by the law. The scope of the law's effectiveness and the scope of personality qualifications are defined by colonial power.

Anthony James Marston killed two children suddenly appearing when he was driving at excessive speed. The portrayal of his "legal evil" was relatively scarce because he was the first victim in the novel, unlike for other characters who have been explicitly mentioned. In the novel, it was briefly mentioned that the reason why Wargrave chose him was that Anthony showed no compassion for the deaths of the two children, and the punishment he received was the revocation of his driver's license for only one year. Therefore, I will make reasonable inferences according to these details. During that time, a young and wealthy gentleman, likely with skilled counsel, would benefit from judicial discretion and class sympathy within the 1930s British legal system. Therefore, in Hart's theory, the formal equality promised by legal rules is distorted in practice by disparities in wealth and social status. Hart's model of rules neutrally applied overlooks how social power can bend the application of those rules, creating systemic bias in outcomes.

3.1.3. Institutional Corruption of Power

Hart's model presupposes that officials generally adopt an "internal point of view", faithfully applying the rules. This system crumbles when those entrusted with upholding the law pervert it, or when institutional power itself becomes a tool for crime. The police William Henry Blore and the general John Gordon Macarthur demonstrate this internal rot.

To get promotion, the police William Henry Blore committed perjury and led to the conviction of the innocent person and his death in prison. His immunity lies in the fact that people always trust official testimony, which is a procedural rule meant to ensure order becomes a weapon for the corrupt insider (Xiao, 2010). As Wargrave mentioned in the confession, "others will always believe in the testimony of the police (Christie, 2018)." Such principles of giving priority to officer's evidence lead that evidence rules can be easily manipulated by insiders of the system, turning it into an accelerator for institutional evil. Hart's theory, focused on the validity of rules, does not fully account for the catastrophic failure that occurs when the guardians of the system systematically betray its premises, turning legal procedure into an engine of injustice.

Having known his trusted subordinate disgraced his wife, the general John Gor-

don Macarthur used his wartime command authority to murder him by assigning him a suicidal mission. The reason why the general Macarthur could escape punishment may stem from the rules of the military. The institution of the military, with its doctrine of "absolute obedience" and the exigencies of war, provided the perfect camouflage. Any inquiry would likely attribute the death to battlefield misfortune or command error, not private vengeance. In Hart's theory, he did not consider this situation, that is when legal rules grant certain positions nearly absolute and unchecked power, such as wartime command authority, this power could be abused to satisfy private desires. It means that the sovereign power that gives law its force can also commit legally unreachable crime through the very authority the law confers.

3.2. The Dark Side of Fuller's Natural Law Jurisprudence: Wargrave's Lynching

Judge Wargrave's lynching to other nine guests on Soldier Island, on the surface, was the embodiment of Fuller's natural law, pursuing procedural morality of the law, in order to correct "legal evil" produced by Hart's theory. However, deeper analysis reveals his project to be a complete perversion of Fuller's central tenet, which is "internal morality of law". Wargrave devolves into "an eye for an eye" brutality in the name of "natural justice", making him not a restorer of justice but a true murderer [Judge Wagrave was previously falsely accused of being a murderer who imprisoned innocent people. However, his crime of killing the nine on Soldier Island made him truly become a murderer]. This is also the extreme practice faced by Fuller's theory. This part will analyze the action of Wargrave, and find how his action constitutes a "pathological variant" of Fuller's theory, leading its practice toward a more destructive lynching.

3.2.1. The Total Collapse of Procedural Justice

Wargrave's action could not reveal a flaw in Fuller's logic but exploit a critical practical vulnerability within the theory, pushing it to a monstrous extreme. Although Wargrave judged other nine true criminals by lynching in the name of "natural justice", as he mentioned in the confession, "the innocent shouldn't die (Christie, 2018)", Wargrave is equally driven by a lifelong homicidal compulsion. Fuller's theory insists that law's "purposiveness" must be realized through its "internal morality", which includes the eight procedural principles as it is stated previously. Wargrave cunningly appropriates the goal of justice while utterly discarding the indispensable means.

The guests are not ignorant of the charges against them: the gramophone recording announces the accusations (Xin & Li, 2020). The procedural failure lies rather in their inability to examine the evidence, to contest the accusations before an impartial adjudicator, or to challenge the punishment. The system of judgement ruled by Wargrave, constitutes a systematic rebellion against Fuller's eight principle, including generality, openness, non-retroactivity, clarity, consistency, compliance, stability, and consistency between official actions and published rules.

First of all, the lynching was secret and non-public. True adjudication requires transparency. Wargrave's judgement is more like a murder game, where victims are ignorant of the charges, evidence, and judge's identity, violating the fundamental requirement of promulgation. Secondly, his judgement was retroactive and rule-ambiguous. He judged long-past, legally unprosecuted crimes based on the cryptic, metaphorical "law" of the rhyme "Ten Little Soldiers", whose interpretation he alone controls. This contravenes the demands for clarity, stability, and prospectivity. Finally, it lacked any congruence between rule and role. Wargrave monopolizes the functions of legislator, like setting the secret rules, judge, and executioner. This conflation annihilates any possibility of procedural justice or checks on power.

Therefore, Wargrave did not establish a superior "natural law" court but a "lynching system" designed for personal homicidal gratification, wholly devoid of procedural morality. The primary purpose of internal morality of Fuller's theory is to prevent justice absence, while Wargrave's perversion demonstrates that the pursuit of justice without morality can become its antithesis, that is vigilante tyranny. His violence should be understood as an abandonment of Fuller's procedural requirements, not as evidence that Fuller's theory necessarily produces lynching.

3.2.2. The "Justice" Mask of Homicidal Pathology

The aim of Fuller's theory is to make the law become public service, which can "subject human conduct to the governance of rules". However, Wargrave privatizes and pathologizes this public service.

For Wargrave, his true aim is not to restore social order but to satisfy a personal, theatrical lust for killing, which is a desire to stage death as a consummate "art" for which he craves recognition. In his confession, although he repeated emphasizing that he was a person full of justice and did not want to involve innocent people into this murder game, he spilled a lot of ink over his "strong sense of the dramatic" and "desire to see death executed" (Christie, 2018). At the same time, he did indeed carry out brutal "murders" against criminals who were beyond the reach of the legal system in society. For him, the "justice" he delivered was, in essence, a self-scripted, aesthetically refined performance of terror in the name of "natural justice".

Therefore, what Wargrave champions is not the classically conceived "higher law" grounded in universal reason and common good, but a pathological natural law. It drains the tradition of its substantive commitment to shared humanity and rational discourse, leaving only the absolute and solipsistic command of a self-deified individual. This "law" acknowledges no external reason or procedure, obeying solely the twisted logic of a single and disordered psyche.

4. Conclusions

The murder on Soldier Island is an extreme thought experiment on the Hart-Fuller debate. This experiment suggests that a positivist legal order can, in prac-

tice, tolerate and cultivate "legal evil", while an unmediated appeal to Fuller's natural law jurisprudence in the name of "natural justice" can degenerate into a more destructive lynching. This experiment proves that Hart's positivist jurisprudence, in practice, will cultivate "legal evil", while an unmediated appeal to Fuller's natural law jurisprudence in the name of "natural justice" will finally degenerate into a more destructive lynching.

"Legal evil" of the nine guests from Hart's theory is no contingent flaw but a systemic output of a positivist order functioning through technical exclusion, structural bias, and corrupted power. At the same time, their impunity reflects specific failures to establish guilt under the applicable legal doctrine rather than a demonstration that positivism necessarily produces injustice. The nine criminals from a microcosm of a society "innocent" legally yet "guilty" morally. Each of their escape routes maps onto a vulnerability in modern legal systems. When the law produces such results persistently, someone like Wargrave will appear, armed with the rhetoric of Fuller's theory. He tried to fill such gap with "natural justice". However, his lynching is, paradoxically, a direct product of the positivist failure he claims to rectify.

Fuller's theory, for its part, carries within it the seed of a more extreme tyranny, as Wargrave did. His attempt to correct "legal evil" with extra-legal "natural justice", while utterly abandonment procedural morality, did not bring justice but compounded the crime. He became a new criminal. It initiates a vicious cycle where crime punishes crime, merely increasing the total sum of evil. Wargrave serves as a dark mirror, reflecting the abyss toward which the pursuit of substantive "purposiveness" can fall when divorced from the discipline of Fuller's "internal morality". The craving for justice without procedure and reason tend to mutate into self-righteous and homicidal fanaticism. Wargrave's violence is thus an abandonment of Fuller's procedural requirements, not a demonstration that those requirements themselves generate lynching.

The legal philosophy dilemma in the novel *And Then There Were None* lies in that modern rule of law is suspended in a tragic tension between Hart's stability and Fuller's purposiveness. As Hart's theory said, separation of law and morality would potentially lead morality go bankrupt and become a machine for "legal evil". As Fuller's theory covered, pursing more morality of the law to achieve "justice" will produce destructive lynching like Wargrave because of the absence of procedure constraints. Through double failure caused by the ineffectiveness of Hart's theory and the madness of Fuller's theory, this novel reveals the unsolvable essence of this predicament. It is not as a puzzle to be solved, but as a permanent balance that the project of legal civilization must forever struggle to sustain. The collapse of this tension promises not justice, but a fall into the abyss.

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