Conclusions: findings, reflections and future directions

7.1 INTRODUCTION

Chapters 2 to 6 of this thesis closely examine five crucial questions concerning the progressive reforms of the Chinese healthcare system (Table 7.1).

Table 7.1 Five subquestions of this thesis

Health Reform Initiatives in China	**Addressing Personal Responsibility for Health**			
	Patient Empowerment and Engagement		*Q 1. To what extent should personal responsibility be addressed for the sake of advancing the reforms of the Chinese healthcare system?*	Ch. 2
			Q 2. Given that empowering and activating patients is at the top of Healthy China 2030, how do we place personal responsibility in healthcare in China to make this health reform initiative more effective?	Ch. 3
	Correcting Structural Injustice by Regulatory Interventions			
	Healthcare Delivery	Primary Healthcare	*Q 3. Will the implementation of general practitioner (GP) services strengthen China's primary healthcare delivery and how do we structure regulatory interventions to secure the successful nationwide implementation of GP services?*	Ch. 4
		Private Sector	*Q 4. Given the great influence of privatisation on the Chinese healthcare system, how does the Chinese government fulfil its role in measuring the rapid growth of private medical institutions (especially using legal/regulatory measures) from a human rights perspective?*	Ch. 5
	Supportive Legal Environment		*Q 5. To what extent is the performance of the Chinese healthcare system tied to China's health law and how can a coherent health law be formed that will best meet China's new health reform initiatives?*	Ch. 6

The two major perspectives designed (personal responsibility and structural injustice) and three specific themes (patient empowerment, healthcare delivery and supportive legal environment) enable this thesis to 'hang together' these five distinct but equally crucial questions and, thereby, to tell a more coherent and compelling story surrounding the central question:

> ***In the context of Chinese healthcare system reforms, how should the conflict between the protection of individual rights (e.g. satisfying patient needs) and the sustainability of healthcare resources from ethical and legal perspectives be mitigated?***

In this final chapter, the findings in Chapters 2 to 6 will be briefly summarised. Thereafter, some reflections on the central question and the subquestions addressed by each individual chapter will be offered. Derived from these findings and reflections, future directions for research and national health policy will also be proposed.

7.2 A SYNTHESIS OF FINDINGS

'A good analysis will attend both personal and structural factors' (Nussbaum, 2011, p. xii) According to Young's (2011, p. 4) argument about poverty, disadvantages are most likely to be rooted in both personal responsibility and structural injustice rather than merely one of these two. Thus, discussions in this thesis take both factors into account. As clearly presented in Table 7.1, Chapter 2 and Chapter 3 give special attention to addressing personal responsibility while Chapters 4 to 6 focus on correcting structural injustice.

In the general introduction (Chapter 1), discussions make it clear that addressing personal responsibility in healthcare generally means letting individual human beings be responsible for their own health, especially holding them accountable for their health-related choices. Raising the issue of personal responsibility in healthcare essentially aims at encouraging people to be more active in taking care of their own health and being more active in healthcare.

In Chapter 2, discussions reveal the reality and necessity of addressing personal responsibility in advancing the reform of the Chinese healthcare system:

> (1) The ageing population and the increasing burden of non-communicable diseases gradually change the goal of healthcare delivery from curing diseases to preventive care.

> (2) Advancing the Chinese healthcare system reform needs to escape from its back-and-forth feature by including driving forces other than the state and the market.

Given the reality and necessity of addressing personal responsibility, the question of concern is raised: *To what extent should personal responsibility be addressed in advancing the reform of the Chinese healthcare system*? To answer this question, discussions resort to three prominent philosophical theories – liberal egalitarianism, luck egalitarianism and communitarianism – and explore their policy implications for the Chinese healthcare system. Practical advice is summarised as follows:

> (1) Suggested by liberal egalitarianism, addressing personal responsibility in healthcare can be achieved through taxing unhealthy choices. Yet, taxing unhealthy choices needs more empirical evidence before implementing in China since it has generated controversial results in other nations.

> (2) Personal responsibility in healthcare should be addressed from an ex ante perspective. Meaningful lessons can be drawn from Germany's experience in empowering its citizens to be more active in their own health and healthcare (e.g. launching health incentive schemes and enacting special laws).

(3) Suggested by communitarianism, personal responsibility in healthcare should be addressed, compatible with the aim of fostering the shared value of the community such as China's long tradition of valuing family ties.

In Chapter 3, discussions further explore the policy implications revealed in Chapter 2 for addressing personal responsibility in advancing Chinese healthcare system reforms.

In 2016, the new health reform plan, Healthy China 2030 (WB et al., 2016), was launched with a special focus put on empowering and engaging patients in healthcare. Yet, this health reform initiative lacks detailed contextual elaboration which may limit its effectiveness. The question addressed by Chapter 3 therefore is raised: *Given that empowering and activating patients is at the top of Healthy China 2030, how do we place personal responsibility in healthcare in China to make this health reform initiative more effective?* Discussions in Chapter 3 argue that compared with the individual and community levels, empowering and activating patients at the household level is likely to be more compatible with the reality of national conditions of China (e.g. Chinese bioethics, household registration system, the integrated health insurance schemes and related domestic legislations).[82] The preliminary idea behind engaging patients at the household level is to emphasise the patient's personal responsibility in managing their own health, while adopting family support as a supplementary consideration to prevent the individual patient from being abandoned by the healthcare system. To answer the question concerned, personal responsibility should be addressed together with the involvement of family for the sake of achieving the effectiveness of the targeted health reform initiative. Thus, different from what is recommended in Healthy China 2030, we try to approach the recommended areas by laying more emphasis on the role of the family. Corresponding recommendations for future reform efforts are as follows:

(1) cultivating health literacy as a family asset;
(2) emphasising family support in promoting a patient's self-management skills;
(3) involving families in shared decision-making;
(4) developing healthy families as a parallel pathway for creating the supportive environment for patient engagement.

Discussions hitherto mainly focus on exploring the personal factor, especially through the lens of personal responsibility, in advancing the reform of the Chinese healthcare system. In the second part, discussions switch to the other essential factor that a good analysis should take into account – the structural factor – and explore how to adjust it for the sake of advancing the reform of the Chinese healthcare system. The rapid ageing population and the increasing burden of non-communicable diseases have driven the Chinese healthcare system to transform from a profit-driven public hospital-centred model to an integrated high-quality and value-based model (Yip & Hsiao, 2014, p. 805). Prominent reform initiatives

82 The detailed analysis on the practical evidence for proving the feasibility of engaging patients at the household level in China is included in Chapter 3 of this thesis.

include strengthening primary healthcare, improving the referral system and encouraging the development of the private sector in delivering healthcare. To assess and enhance their effectiveness, Chapter 4 and Chapter 5 are designed to explore these initiatives from the regulatory perspective.

In Chapter 4, discussions mainly focus on assessing the effectiveness of the newly launched general practitioner services with special attention given to the regulatory aspect. Different from other countries, the general practitioner services in China are introduced with a strong context-based characteristic: household-oriented. Initial achievements are made in the pilot areas (Shanghai, Chongqing and Guangzhou), which encourages central government to consider a nationwide implementation. The question concerned is thus raised: *Will the implementation of general practitioner (GP) services strengthen China's primary healthcare delivery and how do we structure regulatory interventions to secure the successful nationwide implementation of GP services?* To answer this question, discussions compare the old model of primary healthcare delivery and the household-oriented GP services, and thereby indicate the necessity of using household-oriented GP services to strengthen China's primary healthcare delivery. Yet, the selected pilot areas are largely well-developed cities where people enjoy a higher level of social welfare, including education and medical care,

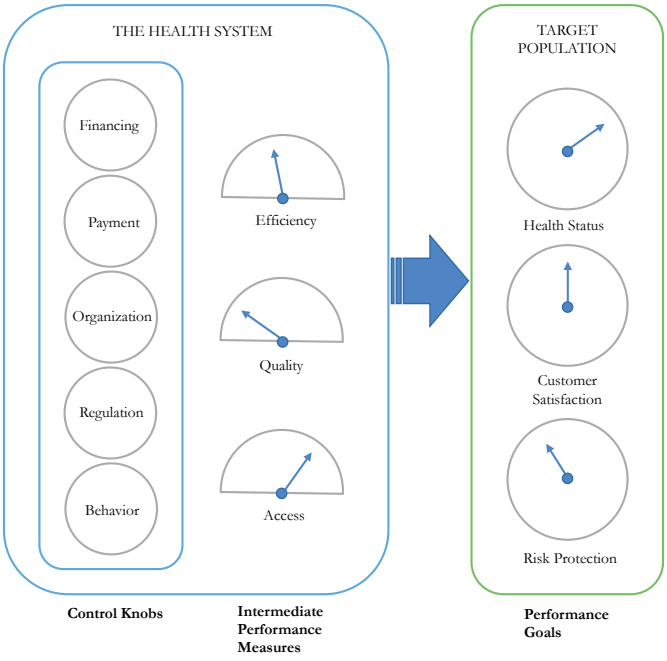

Figure 7.1 The control knob framework
Source: Adapted from Figure 2.2 in Roberts et al. (2004), p. 27.

than the average person in China. Situations will be more complicated when implementing GP services nationwide. Thus, key prerequisites such as appropriate regulatory strategies need to be fulfilled to secure and enhance the effectiveness of nationwide implementation of GP services. Based on the 'control knob framework' (Figure 7.1) developed by Roberts and colleagues, a comprehensive assessment of China's current regulatory interventions for GP services is performed; that is, a thorough analysis of the internal factors (i.e. a set of related regulations and the legislative method) and the external factors (i.e. cultural attitude, government capacity and interest groups) that may influence regulatory success.

Results indicate that currently, China's regulatory interventions for GP services are far from adequate. Major deficiencies revealed by the assessment include the problematic relationship between regulations and health policies, the lack of coherent laws, the low rate of social acceptance of GP services, and the lack of continuing support for GP services from both formal and informal interest groups. As a response, discussions recommend that, prior to the nationwide implementation of GP services, efforts should be devoted to, but not limited to, the following two directions: enacting a specific law, and creating an independent regulatory supervisory body.

Another prominent reform initiative, encouraging the development of the private sector in healthcare delivery, is the focus of Chapter 5. The motivation behind this reform initiative is to stimulate the efficiency of healthcare delivery by using private sector competition (Yip & Hsiao, 2014, p. 807). Nevertheless, without effective regulatory interventions, this reform initiative may not produce any enhancement for China's healthcare delivery. Thus, the focus of discussions in this chapter is still primarily on structuring regulatory interventions to secure and enhance the effectiveness of this reform initiative. Furthermore, in order to develop a better understanding of this reform initiative, private medical institutions (PMIs) is chosen as a study subject for analysis. The question addressed by this chapter is: *Given the great influence of privatisation on the Chinese healthcare system, how will the Chinese government fulfil its role in measuring the rapid growth of private medical institutions from a human rights perspective?* Slightly different from that of Chapter 4, the question is mainly approached from the perspective of human rights which means the perspective on human rights set out in international human rights law. Thus, a study of international human rights law is included in discussions. Findings indicate that the state is required to assume an active regulatory role rather than play a 'provider' role in controlling and supporting the development of the private sector in healthcare delivery. To identify what can be improved, a comprehensive assessment (the diagnostic process, see Figure 5.1) of China's current regulatory interventions for PMIs is performed.

Findings indicate that there are three major concerns regarding effective legal rules – weak coherence, inconsistency and legislative vacancy – and three difficult issues regarding government capacity – the negative effects of decentralised political structure, the low professionalism of bureaucrats and lack of reliability – that impede the effectiveness of China's

current regulatory interventions for PMIs. Corresponding recommendations for addressing the regulatory role of the Chinese government are made in the following two aspects: enacting an 'umbrella health law' in which a separate section should be assigned to regulating PMIs, and establishing an independent regulatory body to manage the issues of PMIs in China. Further details on these two recommendations are summarised as follows:

(1) Enacting an umbrella health law is of significant importance for strengthening the weak coherence of effective legal rules. The umbrella health law should include a separate section for regulating PMIs.
(2) The PMI section of the umbrella health law should include legal rules to clarify the attribute of PMIs, especially for-profit PMIs.
(3) The PMI section of the umbrella health law should include legal rules to ensure equal access to healthcare and other health-related services provided by PMIs.
(4) Responsibility for monitoring the enforcement of related legal rules should be assigned to an independent regulatory supervisory body.
(5) The PMI section of the umbrella health law and the independent regulatory body should aim at facilitating the transparency of the healthcare market.

Drawn from discussions in Chapter 4 and Chapter 5, there is a great need for enacting a basic law of healthcare to secure and enhance the effectiveness of China's new health reform initiatives. The question in concern is thus raised: *To what extent is the performance of the Chinese healthcare system tied to China's health law and how do we form a coherent health law that will best meet China's new health reform initiatives?* By studying all relevant laws and regulations that govern healthcare in China, discussions identify that 'health law'[83] in China has a characteristic of fragmentation and argue that the growing fragmentation is a serious problem that will limit the effectiveness of China's new health reform initiatives because it is unlikely to be compatible with the integration direction of health reform in China. Thus, how do we form a coherent health law that could best meet China's new health reform initiatives? To answer this question, we carefully examined six prominent proposals (i.e. the law and economic approach from Clark Havighurst, the trust-based paradigm from Mark Hall, the rescue-oriented framework from Maxwell Bloche, the international human rights framework from Wendy Mariner, and the social justice perspective proposed separately by Rand Rosenblatt and Lindsay Wiley) and their practical implications for cohering health law in China. In the end, three final remarks are made for lawmakers in China:

(1) Cohering health law in China is a complex process requiring careful attention not only to the intrinsic morality of law, but also to the special value in healthcare.
(2) It is of significant importance to first identify a clear theme of health law before embarking on any substantial lawmaking activities.

83 'Health law' here refers to a wide array of laws and regulations that govern health and healthcare in China.

(3) Be aware of the distinction between law and welfare policy; that is, considering the basic conditions of China, especially its large population, health law in China at the current stage should first fulfil its aim of deterring or reducing future harm rather than being a powerful tool enabling people to claim additional health benefits.

7.3 REFLECTIONS ON THE RESEARCH QUESTION AND SUBQUESTIONS

7.3.1 To mitigate rather than resolve the conflict

As Williams (2008, p. 650) has noted, 'conflicts do exist over issues including funding, treatment, duties, rights and preferences.' These conflicts cannot be simply resolved because patient need is limitless but healthcare resources are not, or even scarce in some cases. For most current healthcare systems, the scarcity of healthcare resources is likely to be permanent on account of the ageing population, the increasing burden of non-communicable diseases and the rapid development of advanced health technologies. These conflicts cannot be simply resolved also because not all of them generate bad consequences. Just as Tidwell (1998, p. 4) has argued, a given conflict may be good if it meets other desired outcomes. Thus, the general aim of this thesis is to mitigate rather than resolve the conflict between the protection of individual rights and the sustainability of healthcare resources.

7.3.2 The appropriateness of addressing personal responsibility is context-specific

Based on the historical review of Chinese healthcare system reforms, discussions in Chapter 2 reveal the reality and necessity of addressing personal responsibility in healthcare in China. Furthermore, in Chapter 3 where discussions focus on exploring policy implications, the feasibility of applying personal responsibility in healthcare in China is also justified by resorting to traditional Chinese ethics. As a consequence, addressing personal responsibility in healthcare is likely to be context specific which may limit its generalisation to other social settings. Yet, other nations can still draw useful lessons from the findings when similar problems occur.

7.4 LIMITATIONS AND FUTURE DIRECTIONS FOR RESEARCH DEVELOPMENT

I know and do admit that discussions in this thesis are not completely adequate in some aspects. From a positive perspective, however, potential limitations outlined below can also be viewed as defining areas for future study. First, discussions in both Chapter 2 and Chapter 3 may be challenged because they are largely rooted in the restoration argument. In both

Chapter 2 and Chapter 3, we intend to mitigate the conflict between the protection of individual rights and the sustainability of the Chinese healthcare system by raising the issue of personal responsibility. One key reason behind this intention is that people who live an unhealthy lifestyle may generate additional costs to their counterparts (i.e. people who maintain a healthy lifestyle) and it is unfair to let 'innocent' people pay for others' unhealthy lifestyle choices. So as Wilkinson (1999, p. 256) makes clear in his analysis of smokers' rights to healthcare:

> So, to sum up, what the *restoration argument* says is that we ought to reduce smokers' entitlements to healthcare because *not* to do so would mean unfairly making non-smokers 'pay the price' for smokers' unhealthy lifestyles.

The restoration argument is appealing to libertarians partially because it merely focuses on preventing harm to people who maintain a healthy lifestyle while not forcibly preventing people from engaging in an unhealthy lifestyle (Wilkinson, 1999, p. 257). However, the argument of 'additional costs' is challenged by empirical evidence showing that people who live an unhealthy lifestyle may actually save healthcare resources by dying earlier than people who maintain a healthy lifestyle.[84] This controversial issue may result in conflicting health policies. Thus, it deserves to be further analysed with more empirical evidence.

Second, discussions that raise the issue of personal responsibility may be challenged because social bias may play an essential role in judging whether a behaviour is healthy or not; that is, greatly influence the attribution of personal responsibility. This concern is raised by Ubel (1997; et al., 1999) in his analysis of alcoholics and transplant allocation, and was further addressed by Friesen (2016) recently. Ubel (1997, p. 345) argues that if a behaviour is socially desirable, then people are highly likely not to resort to personal responsibility but may even agree to give that person a priority in receiving organs. Thus, he warns that health policies should be careful to adopt the principle of personal responsibility since such policies may merely reflect social bias on certain behaviours. Suggested by Friesen (2016, p. 57), further study needs be conducted either including certain kinds of socially desirable behaviours associated with health disadvantages, or explaining why those behaviours those behaviours are excluded.

Third, the proper concept of social justice needs to be further defined. In Chapter 6, we have studied six prominent proposals for justifying the coherence of health law, among which the social justice framework is likely to be most compatible with the Chinese context. Yet, the meaning of social justice needs to be clarified in order to unite the interests of all involved parties in law-making for healthcare, which raises more interesting questions that need to be explored. For instance, who should decide and through what kind of procedure?

84 Related researches can be found in the following literature: Persaud (1995); Barendregt et al. (1997): Rezayatmand et al. (2017).

Can we rely on the justice of a procedure to determine the definition of social justice? So as Wilkinson (1999, p. 264) argues in his analysis about defining the 'social value criterion', we will encounter more questions where we either appeal to 'what people in fact *value* (prefer, desire etc.) or to what is (objectively) *valuable*.' Wilkinson explains his two concerns: if we attempt what we in fact value, we may easily fall into a 'majority tyranny' situation; that is, the chosen values and preferences are what the majority of us happen to have. If we attempt what is objectively valuable, then we need to figure out who should decide which behaviours are valuable and how to decide. Thus, we will potentially face similar questions when we attempt to define social justice. In this regard, further studies are needed.

Fourth, the 'Accountability for Reasonableness'[85] (A4R) framework. Rather than struggling with the substantive principles of allocating healthcare resources, research on how to build a fair and equitable decision-making process is an alternative perspective which is based on the conviction that procedural justice is of vital importance in achieving the legitimacy of any substantive outcome. We have done research discussing this topic.[86] In that study, we use the A4R framework to evaluate the decision-making process used in the Chinese healthcare system reform (2006–2009). Nevertheless, as many studies have indicated, the A4R framework merely offers ground rules, not practical guidelines (Friedman, 2008). In practice, its four conditions need to be adapted, or even revised, in order to be compatible with different social contexts which also indicates areas for further study.

Besides these four directions, which are pointed out by the potential limitations of this thesis, there are also some interesting evolving themes of healthcare in China that are relevant to mitigate the conflict between the protection of individual rights and the sustainability of healthcare systems, such as to 'nudge' people for better health.

Fifth, adapting 'nudge' in the Chinese healthcare system. Nudge is a policy design with an aim of pushing individuals softly to opt for choices that are better for them without limiting their liberty.[87] One typical example of Nudge is organising the display of foods in school cafeterias. The display can be arranged according to different aims: maximising profits, most healthy for customers, or just randomly without any aims. Given that item arrangement influences people's choices, Nudge will suggest to the person who is responsible for food display to arrange them with the aim of encouraging customers to make more healthy choices. In this regard, Nudge is likely to pave a third way besides coercive policies and laws to not only protect people's health but also save money and resources. Thus, it deserves more attention from both policymakers and researchers.

85 The 'Accountability for Reasonableness' framework is proposed by Norman Daniels and James Sabin with an attempt to ensure the fairness and legitimacy of decisions by setting ground rules for a just procedural. For more detailed explanation, please refer to Daniels & Sabin (2002).

86 Please refer to Wei & Liu (2018).

87 For more about 'Nudge', please refer to Thaler & Sustein (2003, 2008), and Sustein & Thaler (2003).

Last but not least, given that this thesis is largely a context-specific analysis, future research may be conducted to include more comparative studies.

As a final remark, I would not be surprised if people hold different opinions, even critical arguments, regarding the questions discussed in this thesis. All I wish is to provide different perspectives and, thereby, to help people to think about the questions raised more deeply and thoroughly. This is what I intend to revive.

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