

## **The Untold Story of the First Copyright Statute of China – Exploring the 1910 Copyright Code of the Great Qing Dynasty**

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The 1910 Copyright Code of the Great Qing Dynasty (“Qing Copyright Code”) was the first copyright statute in China but was short-lived because the Qing Dynasty was overthrown in the 1911 Revolution led by Dr Sun Yat-sen. Nevertheless, the Qing Copyright Code substantially influenced the 1915 and 1928 copyright laws in China in terms of their basic principles and language. In this paper, we use the Qing Copyright Code as a lens to understand China’s initial encounter with international intellectual property norms, examine the dynamic political economy in which the law was enacted and provide an overview of the structure and important provisions of the Qing Copyright Code.

## **Revisiting the History of India's Patent Laws in the Context of Current Debates about Universal Access to COVID-19 Vaccines and Treatments**

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Universal health coverage has emerged as a global challenge in the wake of COVID-19. India's patent model shows how a balance can be achieved between proprietary rights and public health. Achieving such a balance is key to alleviate some of the burden of COVID-19 on global health systems by improving access to health technologies. India made an optimal use of public health flexibilities provided under the World Trade Organization Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). India not only raised its patentability standards but also smartly linked its patentability threshold provisions, ss 3(d) and 2(ja), with its procedural safeguard of patent opposition. This article informs our understanding of the evolution of India's patent laws and offers a historical lens by which to explore the conflicts of interests and legal tools used by India to balance the conflicting interests. It discusses the different phases of the legislative history of India's patent model like Pre-Independence Period and Post-Independence Period. It evaluates the impact of international developments - like the inclusion of trade-related IP in the Uruguay Round of Negotiations and implementation of the World Trade Organization's TRIPS Agreement - on India's domestic patent laws. It encapsulates important debates in the Indian parliament about patent laws, access to medicines, and right to health which led to the enactment of a well-thought-out patent model in India. The article offers an informative and analytical look at how the Indian legislature tried to balance India's mandatory obligations under TRIPS with its national interests. The insights introduced by this article will help illuminate current debates about access to medicines and global public health in the wake of the COVID-19 pandemic.

# The Process of Transplanting Competition Law in Vietnam and Evaluating the Trends of Legal Transplant in the Digital Economy

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1. **Research topic:** The process of transplanting competition law in Vietnam and evaluating the trends of legal transplant in the digital economy

2. **Research question and sub-questions:**

Research questions: **What are trends of transplanting competition law that can be drawn from the history of the legal transplant process of competition law in Vietnam to address market failure in the era of the digital economy?**

From the question above, there are some several ideas of the sub-questions:

- a. *What is the theory of legal transplant and the general process of legal transplant in Vietnam?*
- b. *What is the background of transplanting competition law to Vietnam, especially in two periods: the establishment of 2004 Law, and the establishment of 2018 Law?*
- c. *What are the trends of current competition law in the world, especially in the digital economy? Is existing regulation of Vietnam capable of tackling market failure? Do we need another transplant process, if yes, what are some trends that can be drawn?*

3. **Introduction to the paper:**

Legal transplant is a common phenomenon in all legal systems. Although each scholar has a different opinion, in general, it is referred to as a movement of a legal rule (or a legal institution) from one jurisdiction to another.<sup>1</sup> In competition law, legal transplant is a necessary process, when the transplanted jurisdictions are developed countries (such as the US or the EU), which have built a market economy for hundreds of years with extensive experience in market regulation, and transplant jurisdiction are developing countries.

This is entirely the case of Vietnam when the legal provisions on competition come into being much slower. After Doi Moi in 1986, Vietnam proceeded to build a market economy with many economic sectors and enterprises. At this time, competition appeared in the market and required building a complete and united legal framework. This raised the need for competition law transplants, which are not merely at the legal norm and but at the institutional level. Vietnam had carried out this process and was reflected in the enactment and establishment of the 2004 Competition Law.<sup>2</sup>

Nevertheless, after a decade of being enforced, the 2004 Law still has many shortcomings in terms of content and implementation, which requires the legal system to

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<sup>1</sup> Đỗ Thị Mai Hạnh, *Thuật ngữ, khái niệm và lịch sử của hiện tượng tiếp thu pháp luật nước ngoài [Terminology, concepts and history of the phenomenon of legal transplant]*, TẠP CHÍ KHOA HỌC PHÁP LÝ VIỆT NAM 75–80 (2017). See, ALAN WATSON, *LEGAL TRANSPLANTS: AN APPROACH TO COMPARATIVE LAW* (2nd ed ed. 1993).

<sup>2</sup> LUẬT CỦA QUỐC HỘI NƯỚC CỘNG HOÀ XÃ HỘI CHỦ NGHĨA VIỆT NAM SỐ 27/2004/QH11 NGÀY 03 THÁNG 12 NĂM 2004 VỀ CẠNH TRANH [*LAW OF THE NATIONAL ASSEMBLY OF THE SOCIALIST REPUBLIC OF VIETNAM NO. 27/2004/QH11 DATED DECEMBER 3, 2004 ON COMPETITION*], 27/2004/QH11.

have many points that need reform.<sup>3</sup> Therefore, in 2018, the National Assembly enacted a new Competition Law<sup>4</sup>, which has many different provisions than the 2004 version, including many unique and essential points, reflecting the change in lawmakers' mindset. In the development of the Competition Law 2018, these new features were transplanted from not only the case law in the US and the EU but also the FTC and the EC's guidelines.

In the digital economy era, many economic activities happen on the net, and the more significant role and more potent of the 'tech giants'.<sup>5</sup> Some disruptive technologies are considered to alter how consumers, industries, or businesses operate. We can imagine the interactions between the digital economy and antitrust, which requires a strong but flexible competition policy. So now the current competition law framework is also changing, the question is, does Vietnam need a third transplant process or not, and if yes, what trends should be considered as the guidelines for that transplant?

This paper aims to discuss the topics mentioned earlier in three parts. The first part will examine the concept and theory of legal transplant by reviewing some scholars' literature and then discussing the legal transplant phenomenon in the Vietnam legal system. It will then evaluate the transplant process of competition law in two main periods: the establishing of the law in 2004 and the new law in 2018. In each period, I will illustrate the social-economic background and also the effectiveness of each law. In the last part, I will, firstly, mention some trends in development of competition policy in the world, then, assess the the capability of Vietnamese current framework in the digital economy, and lastly, some guidelines and trends that may drive the competition policy in Vietnam in the coming years.

#### **4. Sections and sub-sections:**

##### ***Introduction***

##### **I. The theory of legal transplant and the general process of legal transplant in Vietnam**

- 1.1. The concept and theory of legal transplant – A literature review
- 1.2. The general process of legal transplant in Vietnam

##### **II. The legal transplant process of competition law in Vietnam**

- 2.1. The establishment of Vietnam Competition Law 2004
  - 2.1.1. *The social-economic and political circumstances*
  - 2.1.2. *The transplanting process and evaluating the effectiveness*
- 2.2. The establishment of Vietnam Competition Law 2018
  - 2.2.1. *The social-economic and political circumstances*
  - 2.2.2. *The transplanting process and evaluating the effectiveness*

##### **III. Evaluating the trends of transplanting competition law in the digital economy**

- 3.1. Some emerging trends of competition law in the world
- 3.2. Evaluating the capability of Vietnamese current competition law framework in the digital economy
- 3.3. The trends of transplanting competition law in Vietnam in the future

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<sup>3</sup> OECD, ĐÁNH GIÁ CỦA OECD VỀ LUẬT VÀ CHÍNH SÁCH CẠNH TRANH VIỆT NAM 2018 [OECD ASSESSMENT OF COMPETITION LAW AND POLICY IN VIETNAM 2018] 41–68 (2018), <http://www.oecd.org/daf/competition/VietNam-OECD-Competition-Review-2018-VIET.pdf>.

<sup>4</sup> LUẬT CẠNH TRANH (LUẬT SỐ 23/2018/QH14) NGÀY 12 THÁNG 6 NĂM 2018 [COMPETITION LAW (LAW NO. 23/2018/QH14) DATED JUNE 12, 2018], 23/2018/QH14.

<sup>5</sup> OECD, *The Digital Economy, Innovation and Competition* (2020), <http://www.oecd.org/daf/competition/OECDwork-Digital-Economy-Innovation-Competition2017-web.pdf>.

- 3.3.1. *The call for law and economic inter-discipline research*
- 3.3.2. *Regulating competition law on disruptive technologies (blockchain and artificial intelligence)*
- 3.3.3. *The Interaction of Competition, Consumer, and Data Protection Law in the digital economy*
- 3.3.4. *The call for new enforcement tools*

**Conclusion**

## **Historical Law for Intellectual Property Protection and the Experiences of Asian Developing Countries**

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This paper was to study on the history of law application in intellectual property protection. Based on the international treaties of intellectual property to express the development history of law for the patent protection. The expansions of information technology has changed traditional production and business technique. Patent protection has been brought to many industries and economic development, in particular microelectronics, computers, telecommunications, new materials and biotechnology. Moreover, inventions partents have been competed in the technology for economic development among the countries. The research results could serve as the legal basic for patent protection in developing countries in Asia, particular for Vietnam.