



TABLE 2
Law needed in the Future
Pre-Discussion Essay

① The Needs for Preparation of Law About Food Safety

Nowadays, technologies progress rapidly. With the scientific development, we have the lack of law. Many scientists and jurists warn the new problem caused by high-technology. Although that problem is serious, there is another problem which have been pointed out many years ago. The problem about the danger of a food additive have been claimed long time. For example, artificial colorants, food color formers and food preservatives influenced badly for human health. I will talk about the need for preparation of law in a field of food safety.

The food additive has been used for half a million years ago. People used salts and sugars to preserve food then. These natural materials did not cause big problem. In late 1800's people began to make artificial food additives because of technology development. People have been made processed foods. In the Meiji era, the first law about food additives enacted because there was some poisoning incident. The government have been continued making law. In 1947, Food Sanitation Act was made. However, the regulation is not enough.

In Japan, many people use convenience stores. They buy a rice ball, a sandwich, a packed lunch and so on. Eating these foods is very easy, but we must notice about these food's poison. A rice ball has cod roes or a red salmon, and a ham is sanded in a sandwich. These foods contain food color formers and food preservatives. Sodium nitrites are used to keep pink color of meat, but it has a strong toxicity. In our body, it combines with amines which are contained in meat and fish, then it will turn into nitrosamines. Nitrosamines are kind of the carcinogenic substances. Their toxicity is same as potassium cyanide. Many chemists say using sodium nitrites do not affect human health because it contains only a small quantity in foods. However, I think there are no guarantees anywhere.

Many Japanese also eat confectioneries well. For instance, candies, snacks, gums, and cake are popular, so a lot of children eat these foods. Most of them contain artificial colorants, and especially contains tar dyes. Tar dyes are made from naphtha which can get by distilling crude oil. In Japan, Red 2, Blue 1, and Green 3 were used commonly to show it is good and delicious. These are cancer causing matter and they has also risk of teratogenicity. So, many developed country prohibit using them. For example, America forbids Red 2, Green 3 and EU forbids Blue 1 and Green 3. Besides, northern Europa countries prohibit all tar dye. Japanese regulation is too loose.

Therefore, food additives are bad for human health. Japanese government have to prohibit poison in food. Some experts say that it is a safety amount, but I want to say, "We can never say 'never'." These matter's dangerousness is specific. Safety of foods is the most important thing to be healthy and happy. We need preparation of law about artificial food additives. Concurrently, we have to consider about our diet to be fine in the future.

② How to Support Preparation of Foreign Laws

Japanese law is based on English, American, Deutsch and French law. So Japanese law has a special and rare style. During the Meiji era, Japan was received support by Boissonade. He drafted the Civil Code and Penal Code, but Japanese government did not only translate and enforce them untouched. Japanese jurists were researched Japanese cultures and custom. After that, they changed them to fit our climate. In our time, these laws are kept with some amendments. Also, The Constitution of Japan was made with GHQ's support. Sometimes, people say it was forced by America. However, the opinion is not true because Japanese politician joined drawing up. The then Prime Minister Shidehara set up the Constitutional Problems Investigation Committee, and the committee made an effort to correct it. For these supports, our society is peaceful now. Japan is one of the safest country. We could say that supporting preparation of laws for Japan was a great success.

These histories suggest us how to support preparation of foreign laws. We should not support under compulsion. We have to respect the cultures and customs in the countries. For instance, the food hygiene law should be made differently in the Southeast Asia because it is very hot all of the year there. Most of the undeveloped countries have many big family, so we need to change the Livelihood Protection Law. In addition, the chief industries of those countries are primary industries—agriculture, fishery, and forestry. We must consider to protect these industries while we promote manufacturing. This situation influence to the labor law and the city planning law. It is necessary to examine their living conditions and social circumstances.

If we force to introduce the legal system which is same as Japanese one without alteration, the country's people will use the system in spite of their lack of knowledge. We should give not only our legal system but also educational system. We have to bring up a lot of good lawyer. In undeveloped country, it is difficult to study law because few brilliant professor is in their university and someone cannot study in the university because of poverty. So, I think improving educational system causes a large success in the long term.

To do these things, we need much money. However, Japan cannot pay huge money for other countries to support in the view of Japanese national finance which has many debts. Consequently, the best solution is to make sound finance in these countries, and Japan only support by sending able persons. It is reasonable for both countries. Right from the beginning, the purpose of supports is to make an independent country. So we should effective assistance of nation building.

Therefore, we have to change construction of society to do good preparation of laws with considering cultures. These measures are similar to the support for Japan while the Meiji Restoration and after the World War 2. Approach to culture, education and finance are all important to enact and develop law. Supports of these field have a close relationship. Japanese government should support preparation of law with considering all the factors.

We're going to talk about the "frontiers" of laws in this table. I'd like you to discuss how to deal with the problems caused by some technologies in whole new fields. Before the day, please think and write down the essay about followings.

***In your country, what kinds of issues are happening because of there not being robust laws? Write down what is the problem citing one or two instances.**

Given the small population in Singapore, the government has deemed it necessary to introduce foreign workers to supplement the work force, particularly for menial jobs (like construction work or cleaning jobs). Unfortunately, the laws (Employment of Foreign Manpower Act) protecting foreign workers are inadequate, leaving these workers, especially those illiterate and uneducated of their rights, vulnerable to the abuses of their employers. As such, employers of these foreign workers successfully abuse the loopholes of the law, causing many such foreign workers to be unfairly treated. Examples of this unfair treatment are aplenty.

The most striking problem is that foreign workers complain that they do not receive the full salary they were promised, and their salary fluctuates across the months. When foreign workers do make such claims, the burden of proof is very much against them. This is because, most of the time, their employers hand them their salary in cash, with no payment slip to prove the exact amount they were given. Other times, when payment slips are used, the workers are merely forced to sign them - to acknowledge they received the money - but are not allowed to keep these payment slips. Sadly, no laws are present to criminalise these unscrupulous acts and they continue to be commonplace till today. It is noted that s 6 of the Employment of Foreign Manpower Act requires the employer to "maintain a record of monthly salary paid to the foreign worker". Yet, this enactment does not make the issue of salary equally transparent to the foreign worker. As such, payslips submitted to officials may actually be forged documents, or blank documents that foreign workers were forced to signed and were subsequently filled in by their employers.

A noteworthy suggestion made by non-profit organization Transient Workers Count Too (TWC2) is that laws should be mandated for employers to either pay their workers through bank transfer or issue payslips to their workers. This way, the workers can have some sense of accountability.

***What do you think of Legal Assistance – supporting some countries without sufficient legal system through making laws? - Is that really good for the countries?**

The Legal Assistance scheme is commendable because it is driven by good intentions — developed nations wanting to lend assistance to developing nations. Undeniably, these developing nations benefit by tapping on the expertise of experienced jurisdictions, learning the most efficient ways to build up their own legal systems. One aspect of Legal Assistance is the assistance rendered to train legal professionals in developing countries. Law makers and lawyers from these developing nations gain technical skills and valuable information from trainings received by their more developed counterparts. Another aspect is the assistance rendered in drafting laws. By following closely to laws in developed nations that have been tried and tested, developing nations can mandate robust laws for the betterment of society.

Yet, the extent of which the developed nations provide assistance should be limited to prevent over reliance. The Legal Assistance scheme runs the risk of providing excessive assistance, which might inevitably cripple the ability of developing countries to function independently.

This is particularly striking in the area of drafting laws, which the Legal Assistance scheme provides help on. It is submitted that this aspect of the Legal Assistance is not entirely beneficial for the developing country. Given that each country has different demographics and cultural traditions, the law in each country should be enacted to reflect the nuances of a country's social fabric. Thus, developing countries cannot rely too much on the experiences of another country, with a completely different social fabric, to enact laws. For example, laws relating to racial harmony might be more relevant to a highly multi-cultural society where racial tensions are more likely, such as Singapore, as compared to another country that is less culturally diverse. As such, the Legal Assistance scheme should not be a conduit for a developed country to make laws *on behalf of* a developing country.

Ultimately, the aim of a Legal Assistance should be to provide assistance insofar as the developing countries possess the requisite skills to establish their own robust legal system.

① 法整備支援で不十分な分野として、知的財産権が挙げられる。なぜなら、知的財産権とは、世界がグローバル化、情報化する中で重要性が認識されるようになった新しい法分野であるからだ。近年、世界貿易機関を設立するマラケシュ協定の一部である TRIPs 協定において、知的財産権の保護の水準が定められた。これにより、WTO に加盟するためには国内の知的財産権保護法を整備することが求められ、世界中の発展途上国が整備に乗り出した。

私は知的財産権と聞くと、「コピー大国」と名高い中国を連想するので、中国の法整備支援を具体例として詳述する。中国は知的財産保護関連の法整備支援をドイツとアメリカに要請した。そして今では殆どの知的財産関連の国際条約を批准し、今年5月には商標法の大改正が行われるなど、知的財産の保護に積極的な姿勢を示している。しかしながら、未熟な面もあるのが実情だ。その一因として、アメリカ等のチームの支援方式に関係があると思う。アメリカは、ドラフトを自ら作成して持ち込み、短期間で去っていくという押し付け方式だ。これでは、その国の文化や慣行など合った法律はできあがらず、現地の人実際に運営する際に問題が生じるだろう。実際、中国には山寨文化と呼ばれるコピー文化が根付いており、創意工夫としてある種の正当性が認められ、企業では模倣が推奨されることもあるという。それだけでなく、中国国内には地方保護主義による腐敗の問題、中央と地方の法意識の格差、裁判官や裁判制度の成熟度の問題などの解決困難なリーガルリスクが山積している。

これらの問題点を解決するには、日本が過去に行ってきたベトナムやカンボジアに対しての「押し付けでない対話型」方式を採用することが有効だと思う。

②法整備支援の目標として、経済的目的と政治的目的がある。特に前者に関しては、日本企業にとって中国は最大の模倣品被害地域となっており、被害全体の約 68%が中国に関係している。模倣品による日本企業の売り上げ損失額は国内外で年 1000 億円を超え、被害内容も年々多様化している。一方で日本企業が年々中国に進出していることを考えると、ビジネスを行う上で、知的財産権をめぐる齟齬は今後も増え続けると考えられる。故に、中国と経済上でも密接な関係にある日本が率先して対話型の法整備を行い、市場化の推進を行うことは日本にとっても利益になると考える。中国における信頼できる司法制度の確立のために ODA としての法整備支援が今後も重要になるだろう。

Discussion on Frontiers and Legal Assistance

Hu Bing (Andre)

In the recent years, the industry of electronic commerce in China is advancing rapidly. From taobao.com, online shopping became one new lifestyle of more and more Chinese people. However, this kind of transformation also brings about some unprecedented legal problems. The laws and regulations must lag behind the development of our society, so the legislation must be hysteric itself. The emergence of these legal problems makes the hysteresis more conspicuous. Therefore, these problems of frontiers are worth our attention.

Take Uber for example. Depend on the most popular O2O (Offline to Online) Mode currently, Uber joints the operational cars from offline with the cellphone app from online, maybe makes the revolutionary change to our transportation ways in the future. Nevertheless, the strike from Uber to the traditional taxi industry, and the blank of laws and regulations, would increase uncertainty and hidden danger to the development of Uber prospectively. Is Uber Corp. legally registered in China's administration for industry and commerce? Should Uber cars have the legally operating qualification? Could Uber cars provide the customers with the qualified invoice? How to balance the relation between Uber and the traditional taxi industry? Above questions should be what we called Frontiers. Without the appropriate laws and regulations, how can the authorities concerned ensure stabilized developing of these industries? How to protect the traditional industry and encourage the rising one at the same time? We should also think about these questions.

Discussion on Legal Assistance, I think this is similar with Legal Reception. This is a very significant area in the Fundamental Law Study, especially the study of Legal History. After Meiji Restoration, Japan transplants the legal system from Germany. At the end of Qing Dynasty in China, during the movement of Law Reformation, China transplants the legal system from Japan and European continental countries. These are examples about legal reception. According to different social conditions and historical background, the legal reception has different types. The key point of legal reception is the transplanted law should be really suitable for the local land, rather than an advanced country under the rule of law as the target for legal reception.

The deep discussion of Frontiers must come to the field of legal reception, which two have inseparable relationship.

A. Issues that are happening because of there no being robust laws

1. Online Movies

Chinese film fans now have a "cheaper option" to watch online movies that are screened almost simultaneously as at cinemas. The online versions each cost about one eighth of a cinema ticket price.

Instances:

- (a) 360kan.com, a video portal affiliated with Qihoo 360 Technology Co, initiated a "zero window period" program for movie viewing this month, Beijing Business Today reported.
- (b) In the pilot project, the video portal provided the film Triumph in the Skies, an adaptation of Hong Kong's hit TV series of the same name, only 15 days after it started showing in Chinese cinemas. The website charged each viewer 10 yuan (\$1.60) to watch the film.

The window period expression is often used as a medical term, but here it refers to the time between movies being shown at cinemas and being available to watch online. Usually, movie producers need the period to guarantee their box office income.

With the development of technology, it's cheaper and more convenient for us to watch movies online. However, the contradictions between online players and movie producers are increasingly intensified. And digital access to films poses new challenges in copyright protection.

In my perspective, the building of the law that protect copyright should be strengthened. And Protections in law should be protections in fact.

2. Machinery Exports

China currently has no uniform export standards for its enormous construction machinery industry. Low-quality products have often caused work suspension, compensation and legal issues in overseas markets over the past decade. They have also damaged Chinese companies' reputation on the international stage.

Instance:

China's construction machinery exports totaled 8.62 billion yuan (\$1.38 billion) in the first four months of this year, down 22.45 percent from a year earlier.

The CCMA and the Ministry of Commerce also plan to jointly establish logistics and part supply centers in key locations such as Dubai, Jakarta and Nairobi to help Chinese companies expand overseas, which would be a

practical solution for medium-sized companies to save costs while supplying parts in foreign markets.

"Chinese companies won't be successful if they can't build logistics and after-sales service centers in emerging markets, especially in Africa and Latin America," said Qi Jun, president of the Beijing-based CCMA. "There is so much going on in terms of urbanization, industrialization and energy development. Every country needs construction products to complete these projects."

3. Drone Delivery

Flying robots have been invented, they navigate by themselves, they see things, they have intelligence, and, most importantly, they carry things - make that deliver things. They begin to influence people's life.

Instances:

- (a) Earlier this month China's online retail giant Alibaba got into the game with a three-day drone delivery trial that had remote-controlled quadcopters - emblazoned with the Taobao logo - ferrying 12-ounce packages of ginger tea to 450 customers who lived within a one-hour flight of its distribution centers in Beijing, Shanghai and Guangzhou.
- (b) In 2013, InCake, a small bakery in Shanghai began delivering cakes to customers there using remote-controlled drones. That was halted by local authorities for operating without a license.

While flying drones as weapons continue to redefine the rules of military engagement, the private and commercial use of small unmanned aerial vehicles - UAVs - is creating a backwash of concern, speculation and wonder.

Will snoops be leering (and filming) from above? Will high-tech contraptions come crashing down on people? Will pizzas and textbooks really be delivered to doorsteps within minutes by whirling bots?

Therefore, the legislation should be improved to prevent the flying drones from hurting people.

B. My perspective of legal assistance

The last decade has seen a significant growth in legal assistance – supporting some countries without sufficient legal system through making laws.

The content of legal assistance can be complex. In countries with lesser developed legal systems, legal technical assistance may range from policy advice to assistance in drafting legislation, introducing, implementing, and enforcing new laws and regulations, devising procedures and institutions that carry out new laws, designing public information campaigns, and training.

Legal assistance can be beneficial to countries without sufficient legal system, because developed countries have a great deal of experience to take initiatives in legal technical assistance in other developing countries.

However, there are some obstacles in legal assistance. Different countries have their own situations and problems, changes in the original laws are frequently required to make them more suitable for the respective countries. Legal assistance should fit the country's needs. Countries usually benefit from diagnostic studies or sector analyses. In addition, legal reform is complex and long-term, training activities adjusted to local conditions are essential if legal technical assistance is to have a lasting impact. Instead of imitating developed countries' laws completely, each country must make a choice about the direction of its legal reform and must assign its own priorities to reform needs. Some countries may benefit from establishing legal reform units to coordinate economic and legal reform and to prevent duplication of legal reform activities. If we attach importance to these things, legal assistance is good for the countries.

Laws needed in the Future

Vico Ling Lee Tze

Technology is changing the practice of law. According to Dr Michio Kaku, an American theoretical physicist, science will revolutionise the 21st century. We live in a world of innovation, where new technologies are being developed and released everyday. 'Moore's Law' is an innovation paradigm, an observation by Gordon Moore, co-founder of Intel that over the history of computing hardware, the number of transistors per square inch on integrated circuits doubled every year since the invention of the integrated circuit. He predicted this trend would continue for the foreseeable future. Moore's law is almost accurate to a certain extent, until the law comes in. Most Innovators around the world are usually small scaled corporations however are financially restricted and with limited resources leading their innovations into dead ends.

Therefore, multimillion companies buying smaller developers in order to get hold of their innovations, also known as 'intellectual property'. Intellectual property is based on the notion that copying is bad for creativity, it is usually cheaper to copy something than to create something new. In the real world however, imitation is a the centre of an enormous amount of innovation. Rules against copying is necessary however, in many cases serve to slow down innovation.

This intellectual property 'owned' by corporations legally hinders further advancement and kills adoption for innovation. Legal rights to innovations forces future developments of this specific innovation's expertise to be dumped than harnessed. An ability to tweak and refine it, is critical to the creation of new and better things. It would be costly and inconvenient for persons of educational and research purposes to go into deep legal documents to harness innovations. In this digital era, copyright protection is inadequate to protect outdated laws with respect to copyright in digital products.

The Apple Samsung Patent war is a solid example. The Patent law is broken, and abused to stifle innovation. In 2012, Apple successfully sued Samsung for creating a screen that can distinguish between 1 or 2 fingers touching it. They also sued Samsung for copying the iPhone shapes, white and black colours, and rounded icons, among other things.

The absurdity of these patents is evidently apparent as the shameless efforts to exploit the broken system. Tech Giants such as Apple, Samsung, Sony, Microsoft, Google, Nokia, and HTC spend billions in the "smartphone wars" trying to strangle each other in the courts, rather than spending hard-earned cash on

Research and Development. Patent Assertion Entities (PAEs), also known as “patent trolls,” acquire patents with no intention to ever develop the products or processes: they simply aim to collect licensing fees or blackmail companies into settlements.

In 1895, George Selden patented the “improved road engine” powered by a “liquid- hydrocarbon engine of the compression type.” In other words, he patented the car. Nonetheless, Henry Ford successfully challenged Selden’s patent in 1911. If Selden could not maintain such an absurd patent in 1911, why can software companies today secure even more preposterous patents today? Why can companies exploit erroneous patents to bleed out competitors, stifle innovation, and squash upstarts? Why can “patent trolls” so easily exploit the world’s innovators?

The Patent system is not only broken, flagrantly abused to stifle innovators, penalise inventors, and lock great companies into pointless litigation which leaves only lawyers the better. In line with the ‘Electronic Frontier Foundation’s Defend Innovation Project’, simple changes to patent law would stem the uncultivated growth of exploitive litigation. Current Patent last for 20 years, should last no longer than 5 years however must reflect the speed of innovation timeframe within individual industries.

Predatory tech companies frequently use threat of a protracted legal battle to blackmail alleged infringers into an out of court settlement, although the defendant would probably win in court. If a patent is not infringed or invalid, the plaintiff must be responsible for the legal fees. By making the plaintiffs responsible would discourage this abuse.

If a Patent troll lacks the ability to implement a software concept, they do not deserve the patent. One does not deserve a patent for something that they cannot create. Patent applicants must be required to provide an example of running software code for each claim in the patent. This requirement would prevent trolls from patenting concepts and processes they intend to exploit rather than produce. This will enable the bona fide great thinkers and inventors bring their ideas to their market.

Software code is mathematics, and thus should come as no surprise if multiple people reach the similar code. Making independent innovators liable is like accusing a student of plagiarism because one solved a math problem but submitted at the exam after another student. Therefore, infringers should not be liable for independently arriving at a patented invention. Common sense processes and single answer solutions shouldn't be patented. Similarly licences and patents should be public right away. Enterprising coders invest

time, money and passion into a product only to fall into a patent troll's booby trap is wrong. Public records of Patent owners must be kept up to date.

The major purpose of patent trolls against the tech industry was the lucrative damage of infringing on a patent that represents only a tiny fraction of a defendant's product. If an alleged infringer is not making millions on a patent, they should not be liable for millions. Patent law should limit damages for infringing on a patent that is a minuscule component of their product.

More importantly, whether software patents actually benefit the economy, congress should commission a study and hold hearings to examine them. Researchers from the University of Lisbon showed that 91% of all technologies that have received an 'R&D' award from the academic journals R&D between 1977 and 2004 were not patented. However studies showed that patents stifle more innovations than they protect.

Only countries with sophisticated legal institutions can sustain long term economic growth, facilitate innovations and benefit from the genius of resourceful innovators. As long as Opportunistic Patent Assertion Entities (PAEs) can cannibalise the productivity and ingenuity of the global tech community, will stall advancements. Great ideas will crash before they ever take off, and the global community will miss out on opportunities to greater heights.

The best way to carry this out is to deal issues in a comprehensive manner with all principle legal issues involved in the complex reality is by an establishment of a Charter, the legal and institutional framework for the asian region, taking the European Union of the United Nations as a model.

What do you think of legal assistance – supporting some countries without sufficient legal system through making laws? Is it really good for the countries?

According to the Oxford English Dictionary, to ‘transplant’ is to ‘remove or reposition’, to ‘convey or remove elsewhere’, to ‘transport to another country or place of residence’. Transplant, then, implies displacement. For the purposes of ‘legal assistance’, the transfer is one that occurs across jurisdictions: there are legal rules in a given jurisdiction that is not native to it and that has been brought there from another.

Theoretically, the concept of ‘legal assistance’ in the form of importing a more well-developed legal system into countries without sufficient legal system appears to be the perfect antidote to countries with insufficient legal systems. Comparative lawyers expend substantial efforts in classifying families of legal systems, believing that characteristics shared by varying legal orders can transcend the differences between systems belonging to a particular family (Mattei 1997).

Logically, ‘legal assistance’ in the form of legal transplantation appears possible. Insofar as change in the law is independent from the workings of any social, historical, or cultural substratum, but is rather a function of rules being imported from another legal system, “the transplanting of legal rules is socially easy” (Watson) and ‘legal assistance’ could well be the solution that ensures the improvement of these countries with insufficiently developed legal systems. Such a view assumes that the law is rules and solely that, rules being bare propositional statement which travel across jurisdictions, are displaced and can be transplanted. Since rules are not socially connected in any meaningful way within this understanding, differences in ‘historical factors and habits of thought’ will not limit or qualify their transplantability. A given rule can potentially be equally at home anywhere, whether in the Western or Asian world. In this sense, ‘legal assistance’ appears to be the perfect solution which allows for easier transfer of knowledge and aids legal transplantation by providing an already well-developed but nevertheless compatible legal framework.

Anyone who takes the above view that ‘legal assistance’ through transplantation can be successful must necessarily have in mind that law is an autonomous entity unencumbered by historical, epistemological, or cultural baggage. However, such an understanding of rules is extremely parochial. No form of words purporting to be a legal rule can be completely devoid of semantic content, for no rule can be without meaning. Indeed, the meaning of a rule is an essential component of the rule; it partakes in the ruleness of the rule. Nonetheless,

the meaning of a rule cannot be entirely supplied by the rule itself; a rule is never completely self-explanatory. Instead, the meaning of a rule is a function of the interpreter's epistemological assumptions which are themselves historically and culturally conditioned. Certainly, the interpretation that finally transcends does not wholly turn on the interpreter's idiosyncratic construction. Rather, it depends in part upon a framework of intangibles internalised by the interpreter which colours the interpreter's subjectivities. It is therefore more accurate to think of interpretation as a product of the interpreter's subjectivity as it interacts with the network of all subjectivities within an interpretive community which, over time, is fundamentally constitutive of that community's articulated values and sustains that community's cultural identity.

As such, problems may well arise in reality, where very different conceptions clash with one another. Hence, it is my opinion that the unique nature in each country is such that there are too many exceptions and qualifications to effectively assert that 'legal assistance' in the form of legal transplant can, in practice, be truly successful across the countries. This is especially so in light of the disconcerting multitude of legal traditions that exist independently of formal state law and the confusing relationship between countries. Likewise, academics such as Legrand believe that true legal assistance in the form of legal transplantation may well be a practical impossibility, even if it is logically possible. In light of these, attempts to transplant law in the form of legal assistance, though intended to benefit, may not be truly good for these countries, creating more problems than it solves.