

## BOOK REVIEW

**Jingyuan Ma and Mel Marquis. *Confucian Culture and Competition Law in East Asia*. Cambridge, UK: Cambridge University Press, 2022.**

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In the thought-provoking book, *Confucian Culture and Competition Law in East Asia*, the author expertly navigates the delicate interplay between Western competition law principles and the rich tapestry of East Asian Confucian culture. This investigation provides readers with a fresh perspective on the numerous issues and ramifications that occur when Western legal systems are transplanted into culturally different environments. The book starts with a solid historical foundation, chronicling the beginnings of modern antitrust legislation in North America. This historical view provides a crucial context for readers to understand the global growth of competition law and its impact on East Asia. It deftly emphasises the global effect of United States and European Union competition policies, acknowledging differences while explaining their common roots in classical and neoclassical economic theories.

A fundamental contribution of this work is the awareness that adopting and executing competition law in East Asia is a complex process of cultural adaptation. The author correctly emphasises the daunting issue of cultivating a “competition culture” in these countries, where such a culture may not be as deeply embedded as in Western jurisdictions. Simultaneously, the book underlines that the process of legal transplantation is highly influenced by local culture, resulting in various methods of law enforcement that depart from Western norms.

The book walks readers through a detailed investigation through eight painstakingly constructed chapters. It begins with an informative survey of Confucianism and its essential principles, establishing the framework for an in-depth investigation of how these ideas have significantly affected many aspects of East Asian competition law and its application. Each chapter

examines the numerous cultural adaptations and obstacles inherent in the localisation of competition law within the region, from evaluating business and corporate culture to dissecting bureaucratic characteristics and private enforcement mechanisms.

The author introduces readers to the fundamental notions of Confucianism and Confucian culture in the opening chapter of the book, laying the groundwork for a thorough examination of how these cultural elements impact competition law and policy in East Asian countries. The author emphasises the need to acknowledge the diversity of the Confucian tradition among nations, highlighting the need for adaptive and strategic approaches in creating and implementing competition legislation. One significant argument advanced by the author is that to govern competition in East Asian contexts successfully, it is necessary to take into account the distinctive characteristics of East Asian enterprises. This goes beyond simple monitoring and needs intentional attempts to change cultural attitudes that may be in conflict with existing legal systems.

The author emphasises that attitudes and mental frames prevalent in these societies can often stymie the establishment of cultural conditions necessary for supporting desired legislative and behavioural reforms in the context of competition law. This chapter also provides an overview of the numerous facets of Confucian cultural influences, which will be studied further in the book's later chapters. It serves as a road map for readers, explaining the book's structure and hinting at the in-depth examination that will follow in the subsequent chapters. The first chapter moreover establishes a good platform for the investigation of how Confucianism and Confucian culture interface with East Asian competition law and policy. It emphasises the importance of nuanced and culturally sensitive techniques and sets the foundation for a more in-depth discussion of these complicated issues in the next chapters.

The author goes deeper into the main ideas of Confucian philosophy and their enormous influence on individuals, societies, and current economic activity in East Asia in the second chapter. The notion of benevolence, which is regarded as a fundamental virtue and a prerequisite for constructing a harmonious, hierarchically structured society, is central to Confucian principles. The author contends that Confucian ideas considerably impact commercial activity in East Asian countries. This effect is visible in several critical areas. The first is in the field of internal moral development, where business ethics are heavily influenced by Confucian ethics. Second, in interpersonal relationships within enterprises, where company management

systems are frequently shaped by Confucian ideas. Finally, Confucianism has imprinted on these countries' broader economic culture.

The chapter emphasises the variance in the impact of Confucianism among East Asian countries and areas. The author investigates the many manifestations of Confucian values in mainland China, Hong Kong, Taiwan, Japan, and Korea, revealing that while essential concepts are common, their interpretation and application can vary greatly. The chapter methodically investigates how Confucianism shapes East Asian business culture, providing a nuanced perspective on how these ideals are interwoven into everyday routines, decision-making, and interactions within the corporate sector. Based on this study, the author begins to make linkages between Confucian corporate culture and its potential consequences for East Asian competition law and policy. Almost the whole second chapter of the book is devoted to providing a comprehensive overview of Confucian philosophy and its diverse impact on East Asian commercial activity. It lays the groundwork for a more in-depth examination of how these cultural roots meet with competition law and policy in the next chapters, providing readers with useful insights into the complex dynamics at work in this region.

Chapter 3 delves deeply into the complicated interactions between East Asian Confucian business culture and its far-reaching implications for the development and implementation of competition law and policy. This chapter thoroughly examines the cultural foundations, historical roots, and specific characteristics inherent in East Asian business cultures. It claims unequivocally that certain cultural components, such as authoritarianism, paternalism, and collectivism, are critical in establishing a workplace where individuals regularly rely on and are subject to corporate authority. The chapter also highlights the critical role that business associations have had in East Asian countries' economic transformation. These powerful corporations, such as China's State-owned Enterprises (SOEs), Japan's *zaibatsu* and *keiretsu*, and Korea's *chaebol*, have traditionally played a vital role in supporting industrialisation and fostering economic growth in the area. A major problem addressed in this chapter is the intrinsic relationship between general societal culture and the specific business cultures that predominate inside organisations and communities. The chapter emphasises how cultural norms and economic practices can have far-reaching influences on market competitive dynamics. Given the complicated linkages between culture and organisational dynamics, the chapter strongly advocates for the inclusion of cultural concerns in the development and implementation of policies.

To provide practical guidance for putting this integration into effect, the chapter provides a structured framework comprising six critical qualities that must be considered when establishing competition law. Understanding East Asian competition goals, dealing with the difficulties of enforcing the law against government-linked companies, tailoring considerations for family-owned businesses, navigating the complexities of competition law where business conglomerates dominate, designing effective compliance programmes that align with cultural norms, and actively promoting an East Asian culture that fosters economic growth are some of these cultures. Chapter 3 serves as a poignant reminder of the critical importance of understanding and incorporating cultural dimensions into the formulation and enforcement of East Asian competition law and policy, with the ultimate goal of ensuring that these laws are not only effective but also culturally sensitive to the region's distinct business environment.

Chapter 4 delves into the nuances of East Asian Confucian business culture and its substantial implications for promoting adherence to competition law. This chapter thoroughly analyses the area's business culture intending to show how Confucian cultural norms may affect and shape techniques for ensuring adherence to competition regulations. According to the report, these cultural traits should be considered in customised methods to assure compliance among commercial companies. This statement emphasises the need to consider the long-lasting legacy of Confucian principles, which has significantly influenced the organisational psychology and behaviour of East Asian organisations.

The chapter emphasises that organisational compliance cannot rely solely on external legal frameworks comprised of deterrence-oriented factors such as punishments and the danger of being detected. Instead, it suggests that more emphasis be placed on improving the moral and social atmosphere within these organisations. This method shapes an organisation's internal logic of appropriateness. As a result, the chapter encourages establishing a compliance culture, which includes elements such as moral commitment, Eastern-style education, virtue cultivation, and the alignment of the enterprise and its employees' interests. The authors underline the significance of East Asian Confucian business culture and its critical contribution to understanding compliance with competition law in this chapter. It challenges typical compliance techniques by emphasising the importance of including cultural components in the compliance process. Effective corporate governance, business ethics, and the promotion of a compliance culture all rely on this shift

toward a more holistic approach that considers not only legal considerations but also the moral and social context of firms.

Chapter 5 delves further into the interesting world of Confucian political-bureaucratic culture and its intricate relationships with the administrative execution of competition legislation. This chapter delves into the bureaucratic aspects of Confucianism and how they have formed administrative competition enforcement methods. It investigates the challenges raised by the coexistence of competition legislation and deeply rooted traditions, delving into the historical continuum that connects old bureaucratic practices with modern administrative systems. While noting the tremendous advances made in competition legislation in the relevant nations, the chapter also emphasises how long-standing traditions have, at times, prevented complete trust in open and competitive markets. It analyses the bureaucratic aspects derived from this legacy and emphasises the Confucian heritage's lasting influence. These details offer important context for comprehending the East Asian administration model. The chapter argues specifically for the modernisation of bureaucratic systems to strengthen the independence of competition authorities from governmental intervention, increase accountability through checks and balances, and foster predictability and certainty by advocating transparency in rules, policies, and decision-making processes. The author explores the ways in which East Asian competition law enforcement has been profoundly influenced by Confucian political-bureaucratic culture. It provides insights into the ongoing difficulties caused by conventional bureaucratic structures and makes practical reform recommendations that could open the door to more efficient and open competition enforcement in the area. Anyone interested in the relationship between cultural heritage, governance, and competition law should read this chapter carefully.

The book's fascinating Chapter 6 explores the topic of "private enforcement" in the context of East Asia, where it is found to be inconsistent and insufficient. The chapter examines this subject in greater detail through the prism of "litigation culture", or more specifically, the societal propensity toward non-litigiousness. It accepts that scholarly controversy has been spurred by suggestions that East Asia, particularly Japan, is not a litigious region. The chapter contends that the issue is complex and that the effects of this non-adversarial strategy should not be completely discounted. Instead, it seeks to present a thorough analysis of the variables that have restricted the growth of consumer antitrust cases in the area. In East Asia, cultural values such as the emphasis on social harmony and the historical legacy of authoritarianism, which prioritises social stability, have played a pivotal role in shaping dispute

resolution mechanisms. These cultural factors have often favoured methods of mediation and conciliation over adversarial court conflicts. Consequently, private parties have been encouraged to seek amicable settlements rather than engage in litigation. While acknowledging the prevalence of non-adversarialism; the chapter also highlights the case of Korea, where recent legislative changes have, at least on paper, introduced stronger incentives for litigation in the realm of antitrust enforcement. This chapter presents the perspective that cultural factors significantly contribute to the preference for non-adversarial approaches in East Asia, leading to a deficit in the assertion of private claims. However, it suggests that cultural messaging and a shift in norms can potentially unlock the potential of legal and procedural reforms. These reforms could reduce institutional barriers and activate economic incentives, ultimately enhancing private antitrust enforcement.

Chapter 6 offers a thought-provoking analysis of the complex relationship between cultural norms, litigation practices, and private antitrust enforcement in East Asia. It challenges the notion of non-litigiousness as a universal truth and explores how cultural messaging and reforms can shape the future landscape of private enforcement within the region. This chapter is essential for those interested in the intersection of culture, legal systems, and antitrust enforcement. Chapter 7 of the book delves into the intricate relationship between Confucian legal culture and the regional response to the criminalisation of cartel conduct in East Asia. This chapter comprehensively explores how legal cultures in the region are intertwined with the approach to criminal sanctions against cartels. To establish the historical context, the chapter traces the integration of Confucian ethics into the criminal codes of ancient China. This historical examination illuminates the possibility of condemning cartels on moral grounds, asserting that they represent improper profit-seeking behaviour that contradicts the fundamental Confucian principle of righteousness. The chapter argues that debates surrounding the morality and prohibition of cartels in East Asia should be viewed through the lens of Confucian norms. These norms encompass not only those that guide an individual's pursuit of virtue internally but also those related to one's societal role and the external preservation of harmonious social order. It contends that, to effectively denounce cartel conduct and characterise it as morally wrong, it is imperative to adopt a conception that transcends individualistic assumptions and calculations. In East Asia, the efficacy of criminal sanctions aimed at curbing cartel behaviour can be greatly enhanced if the moral wrongfulness of such behaviour is clearly defined and widely recognised and internalised as an immoral act. This approach aligns with the overarching cultural values and

principles of Confucianism, emphasising the importance of societal harmony and ethical conduct.

Moreover, the author presents the regional response to the criminalisation of cartel conduct in East Asia. It underscores the significance of aligning legal measures with deeply ingrained cultural values to effectively combat cartels and promote ethical behaviour within the region. This chapter is essential for those interested in understanding the interplay between cultural traditions, legal systems, and the enforcement of antitrust laws, particularly concerning criminal sanctions against cartel behaviour in East Asia.

The final chapter serves as a comprehensive recapitulation of the key points and insights presented throughout the book. It takes stock of the explored themes and provides a reflective perspective on the co-evolution of culture and institutions, particularly in the context of developed and developing states. The chapter underscores the importance of avoiding a deterministic approach when assessing the impact of culture on legal and regulatory systems. One central argument in the concluding chapter is the distinctiveness of competition laws in China, Japan, and Korea. While these legal frameworks may have been influenced by Western models and are often referred to as legal transplants, the chapter contends that they exhibit unique characteristics and approaches that set them apart from their Western counterparts. The chapter further advocates for a culture-based investigation to comprehensively understand the factors underlying enforcement patterns, institutions, and legal and regulatory features in East Asian countries. This approach allows for a deeper appreciation of the nuances and distinctiveness of competition law and practice in the region, a reflective perspective on the interplay between culture, institutions, and competition law in East Asia. It encourages readers to embrace a holistic understanding of how cultural factors have influenced the development and implementation of competition laws in the region, ultimately contributing to a more nuanced and insightful assessment of the field. The concluding part explores the relationship between culture, law, and competition in East Asia. It highlights the influence of Confucian ethical doctrines on competition law and institutions in China, Japan, and Korea, providing valuable insights for scholars and practitioners.

This book explores Confucian cultural influence on East Asian competition policies and practices. It provides insights into business, corporate, political-bureaucratic, litigation, and legal cultures. It is a valuable resource for those interested in competition law, economics, comparative law, East Asian studies, and political science.

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