

# Neo-Confucian vs. Communist influences on Chinese views of intellectual property

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# Original Problem

- Failure of levels of development IPR model for China and Taiwan
- Consistent failure of modern researchers to find support for intellectual property rights in traditional Chinese law
- Widespread disregard for intellectual property rights in China/Taiwan
- Ineffectiveness of modern intellectual property laws in China/Taiwan
- Evidence that in Taiwan, even when IP laws are followed, they are not intellectually respected.

# Roots in Chinese intellectual history

- Law codes as criminal law only
- Civil law replaced by Confucian ethics
- Need for control of education
  - limits on publication
  - via civil service examinations
- Knowledge cannot be owned
- Copying is a virtue in artistic production
- Profiting from knowledge and artistic production is immoral

# Neo-Confucian tradition 1

- Traditional Chinese views on intellectual property are not to be found in legal codes
- In traditional Chinese thought, there is no such thing as intellectual property
- In traditional Chinese thought, to profit from artistic production is both morally questionable and low-class

# Neo-Confucian tradition 2

- Given the traditional Chinese view that ethics trump law, it is not surprising that importing Western views of IP into Chinese law has had little effect
- The basic problem with enforcing intellectual property rights in China is not legal or based on stages in economic development, but arises from intellectual and cultural dissonance

# Question: did communism influence modern Chinese views of intellectual property?

- Pro:
  - dim view of private property
  - view of intellectuals as workers producing a product for the public good
- Con
  - Existing neo-Confucian view already negative
  - “Socialism with Chinese characteristics” selected from European communist thought those ideas which were most consistent with Chinese tradition.
  - Existing theory views level of economic development as key determinate

# Is it possible to disentangle Communist from Neo-Confucian influence?

- Accident of history has created a natural experiment: multiple Chinese polities outside of mainland China
  - Hong Kong and Singapore
    - size
    - British colonial history
- Taiwan
  - legal and educational traditions of Republican China
  - rigidly anti-communist

# Hypothesis:

- Controlling for level of economic development, respect for intellectual property rights should be higher on Taiwan than in mainland China

# Difficulty with “controlling for level of economic development”

- Uneven levels of economic development in China
  - Coastal provinces vs. interior
  - Autonomous areas
- Non-market-based exchange rates
  - Mainland China today
  - Taiwan until 1980's
- Inflation
- Purchase power parity

# Optimistic assumptions

- Mainland China's 2004 per capita GDP
  - counting only the highly developed coastal regions
  - corrected for purchase power parity
- Real GDP of Taiwan
  - uncorrected for purchase power parity
  - assuming urban/rural homogeneity
- Result: Mainland today equivalent to Taiwan in the 1960's

# Conclusion

- The evidence that communism on the mainland produced less popular respect for intellectual property rights than did modern Neo-Confucianism on Taiwan is not compelling
- The difference between them can be explained by level of economic development
- The difference between them and the West can be explained in terms of Neo-Confucian heritage.