

**Abstract**

**A Study on the Protection Idea of Copyright in East Asian  
Traditional Legal System**

- Using 〈To Steal a Book Is an Elegant Offense〉 by William P. Alford  
as a Material -

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Professor William Alford is asking the Confucian idea why the intellectual property rights protection in the countries belonging to East Asia such as China and Taiwan is not thorough in his famous book 〈To Steal a Book Is an Elegant Offense: Intellectual Property Law in Chinese Civilization〉. It is a fact that Confucian thought, which emphasizes social order rather than individual freedom and rights, emphasizes sharing rather than private ownership of knowledge, and these countries have taught the thought of the state over the past few centuries. As a principle, it is said that such analysis is reasonable in that it has been regarded as an ethical norm for individuals and society.

According to William Alford's study, the absence of copyright law in China, despite the fact that printing had begun there centuries before it began in the West, has been attributed in part to the emphasis the Chinese culture placed on continuity with the past, and to its suspicion of novelty. He argues that Chinese tolerance towards 'copying' is a product of thousands of years of cultural history. Alford's analysis of copyright law in the Chinese context suggests that the connotations of copying in China are totally different from what they are in the West. The Chinese attitude towards copying has much to do with the importance of the past as a source of knowledge, moral guidance and creative expression in Chinese culture. China is an example of a society that achieved spectacular outcomes in science and innovation, but there was no legal or customary equivalent to intellectual property in China. This raises the question of how China was able to achieve such an impressive track records

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in innovation in the absence of intellectual property rights, Aford mentions limited literacy and absence of corporate bodies capable of large-scale commercial innovation as factors discouraging the creation of intellectual property law. These factors would have reduced the demand for copying and increased the cost, making copyright law less needful. Property rules, more than most rules, are rooted in the fundamental morality of a given society. Western copyright laws, for instance, reflect a view of art that promotes the importance of individual creativity and individual rights, a view which has no real East Asian parallels. History may teach us that the connection between intellectual property, science and economic development is contingent and local rather than necessary and universal.

### Keywords

East Asian Traditional Legal System, Legal History, History of Laws, Intangible/Incorporeal Property, Protection Idea of Copyright, Copyright

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