

THE ADOPTION OF COMPETITION LAW IN THE PHILIPPINES: A CRITICAL REFLECTION UPON THE LITERATURE OF COMPETITION LAW IN DEVELOPING COUNTRIES

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論 文 名	THE ADOPTION OF COMPETITION LAW IN THE PHILIPPINES: A CRITICAL REFLECTION UPON THE LITERATURE OF COMPETITION LAW IN DEVELOPING COUNTRIES (フィリピンにおける競争法の導入: 発展途上国における競争法に関する文献の批判的考察)			
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論 文 審 査 の 結 果 の 要 旨

This thesis investigates the introduction of competition law in developing economies, with the Philippines Competition Act of 2015 serving as a central case study. Competition law in such jurisdictions presents unique challenges. Beyond market efficiency and consumer protection, governments often expect the law to contribute to broader goals such as poverty reduction and social development. These expectations stretch the traditional scope of competition law and raise difficult questions about how such frameworks should be designed and implemented in countries with limited institutional capacity.

The study contributes to this debate by examining how competition law is conceptualized, adopted, and adapted in practice. The thesis begins with a discussion of the global spread of competition law and the emergence of research on regulatory design. Scholars largely agree that developing countries should adopt a “context-sensitive” approach that tailors rules to local realities. However, much of the literature still falls back on generalized prescriptions, promoting simplified “ideal models” that often fail to reflect economic complexity on the ground. Chapter 2 distinguishes between two typical strategies: the “cut-and-paste” model, where a country replicates an established foreign regime, and the “contextualized” model, where rules are tailored to national conditions. In reality, legal transplants often involve a mixture of these approaches, with countries blending rules from multiple foreign systems. The Philippines illustrates this dynamic vividly. Legislative drafts from the Senate drew heavily on U.S. antitrust law, while the House of Representatives leaned toward the European Union model promoted in ASEAN. The final law combined both, creating a “fusion” of legal traditions. This hybrid approach is evident in the provisions on anticompetitive agreements and unilateral conduct. For example, the law merged the U.S. per se rule on price-fixing with the EU’s “object or effect” test, while also adopting U.S.-style exemptions. Similarly, the abuse of dominance provision fused the EU prohibition with the U.S. requirement of “substantial lessening of competition.”

The heart of the thesis argues that the adoption of competition law should not be seen as a one-off legislative act. Instead, it requires a process of **post-enactment contextualization**—an ongoing adaptation that makes transplanted frameworks workable in practice. This involves two key principles: **administrability** and **flexibility**.

Administrability depends on having an independent, transparent, and well-resourced enforcement agency. The Philippine Competition Commission (PCC), established under the Act, is formally independent from direct political control and possesses quasi-legislative and quasi-judicial powers. It issues guidelines to clarify the law, conducts investigations, and enforces decisions without interference. Transparency is promoted through the publication of guidelines and decisions, while adequate resourcing ensures the Commission can effectively implement its mandate.

Flexibility operates on two levels. First, through enforcement discretion, the PCC can prioritize actions—such as targeting price-fixing cartels—to build early credibility without overextending resources. Discretion also allows the Commission to engage in advocacy and outreach, fostering voluntary compliance and public awareness. Second, flexibility arises from interpretative guidance. Open-ended provisions in the law can be clarified through guidelines and policy statements, which reduce uncertainty and provide consistent enforcement standards. The thesis suggests, for instance, that Article 14 of the Act could be interpreted in a way that aligns different provisions and creates workable presumptions, thereby improving enforcement efficiency.

The thesis makes three key contributions.

1. It demonstrates that lawmaking in developing countries often produces complex “fused” regimes that borrow from multiple foreign models, rather than simple transplants or purely contextualized laws.
2. It introduces the concept of **post-enactment contextualization**, highlighting how enforcement agencies can adapt transplanted laws through discretion, guidance, and institutional design.
3. It reframes competition law adoption as an **ongoing, adaptive process** rather than a one-time event. This perspective offers both scholars and policymakers a new way of thinking about legal transplants, emphasizing the role of enforcement in aligning law with local socio-economic realities.

Based on the above considerations and the deliberation of all members of the dissertation review committee, we have concluded that the submitted dissertation has sufficient academic merit to warrant the conferral of the degree of Doctor of Laws.

最終試験の結果の要旨及びその担当者

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最終試験の結果の要旨

令和 7 年 8 月 25 日 13:00 時から 15:00 時まで、オンライン・ミーティングにおいて最終試験を実施し、主論文を中心に、これらと関連のある授業科目等について各調査委員から口頭による質問が行われたが、これに対する受験者の回答はいずれも満足すべきものであった。

よって、調査委員合議の上、大学院法学府博士後期課程の最終試験に合格と決定した。