Saudi Arabia and Intellectual Property: Learning from China’s Approach

Noura Humoud Abdulaziz AlZaid
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Abstract:

Saudi Arabia’s economic future is at a turning-point. As the country increases investment in innovation to stimulate growth in non-oil sectors, cultivating an effective innovation ecosystem is key. Intellectual property (IP) is a powerful tool for spurring innovation. The dominant narrative in mainstream IP discourse is that higher IP standards lead to greater innovation outputs. However, this study argues that weaker IP standards are appropriate at this stage of the country’s economic development because they allow for smoother technology transfer that is needed to build innovation capacity and bridge existing gaps. To demonstrate the non-exceptional character of an initially relaxed approach to IP, the study follows the experience of China which, like other nations before it, adapted its IP policy to match the maturity of its national innovation system.
Introduction

In March of 2020, King Fahd University of Petroleum and Minerals (KFUPM) hosted a forum on “The Role of Intellectual Property in Economic Development” under the patronage of HRH Prince Saud bin Nayef, the Governor of the Eastern Province. The event was advertised as the first of its kind in the Kingdom and signaled the beginning of genuine Saudi credence in intellectual property (IP) and its economic value. At it, local and international researchers, decision makers, and business leaders shared their experiences on innovation and IP commercialization. Among the speakers was Peter Mehravari, the United States (US) IP attaché for the Middle East and North Africa, who stressed the importance of strengthened IP standards in Saudi Arabia to attract investment from American businesses into the country. Mehravari’s comments struck an especially sensitive chord as foreign direct investment (FDI) has been assigned a pivotal role in the Kingdom’s efforts to diversify its economy and build up its industrial sector. During the conference, consensus seemed to favor the adoption of stronger IP standards in Saudi Arabia. Yet, the question of whether stricter protection of intellectual property rights (IPRs) will actually stimulate Saudi innovation remains open.

To answer it, consideration of the current condition of the Saudi innovation ecosystem as well as the experiences of other countries in the midst of moving to innovation-driven economies may prove worthwhile. One such country is China, an emerging technological power. Interestingly, amazement at China’s economic and technological success is often accompanied by fierce criticism of the country’s IP practices. China consistently places on the annual “Special

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301 Report” of the United States Trade Representative (USTR) Priority Watch List that evaluates US trading partners’ IPR protection and enforcement.(2) Other countries such as Japan and the European Union (EU) echo similar concerns.(3) A 2020 *Financial Times* article stated that China, once again, ranked as “Europe’s ‘priority 1’ worst offender, thanks to the scale and persistence of its policies, practices and negligence, which all thwart EU trademark and patent owners’ goals.”(4) China’s success in innovation paired with the persistent complaints over its IP practices constitute a curious paradox in which strong IP standards are presented as a prerequisite for the promotion of innovation despite China’s experience demonstrating otherwise. Notwithstanding the long-standing criticisms, China’s experience might serve as a valuable case study for Saudi Arabia with useful lessons on employing IP policy to further national innovation ambitions.

The study that follows suggests Saudi Arabia’s IP policy be tied to an overarching innovation strategy, one in which the strength of IP protection matches the maturity of the national innovation system. At this stage of the country’s economic development, policies that facilitate the dissemination of knowledge should be encouraged, and high standards of IP protection that might restrict such dissemination should be avoided. The study is organized into four sections. The first section presents some background on IP and its impact on innovation. The second section summarizes recent developments in Saudi IP and provides a brief overview of the current state of the domestic innovation

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ecosystem as well as the challenges it faces. The third section surveys the shifts in China’s IP policy at different stages of its economic development to support the needs of its domestic innovation system and serve its economic goals, and the fourth section presents the conclusions. The analysis in this study is informed by a range of primary and secondary sources. Additionally, interviews with professionals from the Saudi Authority for Intellectual Property (SAIP), KFUPM, and the Saudi Industrial Development Fund, offer a more nuanced and current understanding of the academic and policy elements of the Saudi innovation strategy.

1. Overview of IP: Concept, Organizational Bodies, and Economic Value

This section offers basic information on IP, particularly its institutionalization in national and international systems, and its economic purpose. The World Intellectual Property Organization (hereinafter WIPO) defines IP as “creations of the mind, such as inventions; literary and artistic works; designs; and symbols, names and images used in commerce.” In legal terms, such products of human creation and intelligence are protected by different types of rights. Patents, copyrights, and trademarks are the three primary instruments typically covered in national IP systems. Patents are exclusive rights awarded for inventions. Copyrights govern literary and artistic works that include textual or musical compositions, photographs, sculptures, maps, advertisements, and even computer coding and programs. For their part, trademarks are signs that allow enterprises to distinguish their products from those of their competitors. One example of a registered trademark is the Nike logo, which is a combination of the company name and a “swoosh.”

Everyday consumer goods, such as Apple’s iPhone, can incorporate several different types of IP. Transmitters, sensors, and other components in an iPhone are protected by patents. The phone’s software and application codes are protected by copyrights and the logo of a freshly bitten apple on the back is protected by a trademark. These are just a few examples of the different types of IP present in one single consumer good. Much of the iPhone’s value lies in its IP. Applications must be made to obtain these IP rights in advance, with the exception of copyrights, and they typically expire after a set period of time. It is important, however, to note that IPRs are territorial. They have been established and enforced on a national basis since 1474 (CE) when the first patent law was instituted in Venice. This means that if a country grants an IPR, whether a patent, trademark, industrial design, or other, that right is only guaranteed within that country’s jurisdiction.(6)

1.1 The Evolution of International IP Coordination

In an increasingly globalized world, the territorial nature of IPRs poses challenges for international trade. Will the IPRs of business owners be safeguarded if they move operations or sales abroad? Will they need to register their rights on a country-by-country basis? What are the costs of doing so? How do the laws and enforcement standards vary from one country to the next? Repeated attempts to standardize and protect IPRs through international law have been made to address such questions and concerns. The Paris Convention for the Protection of Industrial Property in 1883 and the Bern Convention for the Protection of Literary and Artistic Works in 1886 represent watersheds for the contemporary era. These conventions led to the creation of international secretariats under the supervision of the Swiss Federal Government. In 1893, these two secretariats merged to form the United International Bureaux for

the Protection of Intellectual Property. The Bureaux was eventually replaced by WIPO, through a treaty, as a specialized agency of the United Nations in 1967.

WIPO’s function has expanded and matured over the years. In its infancy, its primary function was coordinating intergovernmental cooperation around IP and providing a secretariat for treaties. It currently administers over 25 IP treaties. Its role has grown, however, to include registration activities and facilitating a single international procedure for patent application and trademarks and industrial design registration. Today, WIPO itself recognizes that IP is no more than a “means to achieving an end.” It clarifies this purpose by asserting that its primary mission is “to contribute to a balance between the stimulation of creativity worldwide, by sufficiently protecting the moral and material interests of creators on the one hand, and providing access to the socio-economic and cultural benefits of such creativity worldwide on the other.”

1.2 The Economic Value of IP

WIPO’s mission statement suggests a tradeoff between protecting the interests of innovators and the benefits of unfettered access to their creations. The following pages take a closer look at this tradeoff and the relation between IP protection and economic growth. They also contend that the impact of IPRs on innovation and growth is largely contingent on a country’s level of economic development. If that is so, why should IPRs be protected? In the mainstream discourse on economic development, it is widely accepted that technological progress is a key driver of economic growth and international competitiveness.

In his paper titled “Technology and Competitiveness,” Fagerberg maintained that, “[t]he empirical results, based on data for 15 OECD countries from the early 1960s to the early 1980s, generally confirmed the importance of growth in technological and productive capacity for competitiveness.”¹¹ National governments and private agents invest in research and development in the hope that it will result in products or innovations that yield profit.

Lucrative or useful innovations will likely be copied and imitated which, however, reduces the gains that go to the innovators and dampens the incentive to undertake costly research whose success is by definition unlikely. To combat this disincentive, IPRs give creators a temporary monopoly over their innovations. For governments and businesses, the protection of IPRs makes costly and risky investments in research and development (R&D) worthwhile. This is the primary economic argument for the protection of IPRs. The underlying assumption is that innovation and knowledge creation drive economic growth and that the protection of IPRs stimulates growth by encouraging both innovation and the acquisition of knowledge. The enforcement of strong IPR protection makes sense for IP producers, which typically are based in developed nations, as it gives them the ability to profit from their creations. Developing countries, who are mostly IP consumers, are for their part encouraged to institute similarly high standards of protection under the assumption that this will generate similar effects on innovative activity in their economies.

That said, does stronger IP protection really translate to increased innovative activity in developing countries? In their paper titled, “The Role of Intellectual Property Rights in Technology Transfer and Economic Growth: Theory and Evidence,” Falvey and Foster provide a comprehensive review of the available literature on the relation between IPR protection and economic growth.¹² Their

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conclusion suggests that the impact of IPRs on innovation largely depends on a country’s level of development and innovative capacity. They note that stronger IPRs have little to no effect on innovation in countries that are not able to devote significant resources available to innovative activity. Such resources include spending on research and development (R&D), technological know-how, human capital, and industrial capability. Therefore, countries that strive for innovation should first focus on those resources by investing in infrastructure, developing human capital, and technology transfer. In some cases, rigid IP protection hinders the dissemination of knowledge by restricting imitative activities or adding costs to other forms of technology transfer activities that are necessary for the development of a country’s knowledge base and innovative capacity. Moreover, overly strong IP protection gives foreign firms a significant advantage over domestic firms.\(^{(13)}\) The benefits and effects of stronger IPRs for innovation and technology transfer in developing countries are therefore ambivalent.\(^{(14)}\) No “one size fits all” solution or strategy, when it comes to IP policy, exists.

Before they craft effective IP policies, governments must first evaluate the maturity of their national innovation systems and their levels of economic development, identifying leverage points and gaps they need to bridge to bolster innovative performance and competitiveness. In its “National Innovation Systems” study, the Organization for Economic Cooperation and Development highlighted the relevance of national innovation systems to IP policy:

> Countries differ in the way in which knowledge flows are structured and in the relative importance of different types of institutions, actors and linkages for their respective production systems…A number


of framework policies relating to regulations, taxes, financing, competition and intellectual property can ease or block the various types of interactions and knowledge flows. Technological innovation takes place within a specific industrial structure and national context; a better understanding of this context or system will lead to better government technology and innovation policies. (15)

Understanding IP policy as an essential component of an overall national innovation system is key to realizing the economic function of IPRs. Therefore, in conceptualizing a path forward for Saudi Arabia, we must start by evaluating the country’s current capacity for innovation in terms of the four elements listed above in order to identify the IP policies that best catalyze increased domestic innovative capacity.

2. Saudi Arabia and the Question of IP: Context, Developments, and Challenges

This section discusses why innovation success is imperative for Saudi Arabia and explores some of the innovation-focused government initiatives, particularly, the creation of SAIP. It then examines the innovation ecosystem and argues for weaker standards of IP protection to allow for the smoother technology transfer necessary to bridge existing gaps in the country’s innovation system. Saudi Arabia owes much of its economic prosperity and development to the production and exportation of oil. However, the unsustainability of an oil-dependent economy has become increasingly apparent to Saudi policymakers and the public at large. As the population continues to grow, relying on oil revenues alone will make it difficult to maintain the standard of living to which Saudis are accustomed. Moreover, based on a 2013 International Monetary Fund (IMF) report, up to 1.6 million young GCC nationals, including Saudis, were to

enter the labor market by 2018.\textsuperscript{(16)} The economies of these countries, however, were only expected to generate enough jobs for about 17\% of the new labor force.\textsuperscript{(17)} The Covid-19 pandemic served another rude awakening to Saudis. Oil prices dipped to historical lows, and the Saudi government was pressed to implement austerity measures, which included increasing the value-added tax rate from 5\% to 15\%. Primarily due to these factors, for the first time since the Saudi government began announcing its quarterly budget, non-oil revenues surpassed oil revenues in the third quarter of 2020.\textsuperscript{(18)}

In April of 2021, in an interview marking the fifth-year anniversary of Vision2030, HRH Crown Prince Mohammed bin Salman cited the aforementioned concerns as well as a desire to encourage further growth in non-oil sectors as the motivation for the reforms.\textsuperscript{(19)} Though the Crown Prince blamed “the Saudi addiction to oil” for stunting development in many sectors in the past, the Saudi leadership would now endeavor to reinvest oil revenues into education, entrepreneurship, and innovation in order to promote economic diversification.\textsuperscript{(20)} This process would be deployed through the Public Investment Fund (PIF), a vehicle for the realization of Vision2030 also mandated to localize “cutting-edge technology and knowledge” in Saudi. The success of the PIF and its investment projects thus depends on Saudi Arabia’s ability to foster an effective innovation ecosystem. One example of such a project is Neom, often advertised as a “hub for innovation where global business and emerging players can research, incubate and commercialize groundbreaking technologies to


\textsuperscript{(17)} “Labor Market Reforms to Boost Employment and Productivity in the GCC,” \textit{IMF}.


\textsuperscript{(19)} لقاء ولي العهد الأمير محمد بن سلمان مع عبدالله المديفر بمناسبة "سنوات على إطلاق الرؤية" \textit{YouTube}, April 2021, https://www.youtube.com/watch?v=MnKoES8rcKA.

accelerate human progress.”\(^{(21)}\) Taqnia is another PIF-owned company that was established by royal decree and tasked with investing in and commercializing IP and R&D output from research institutions locally and globally, in addition to promoting commercial technology transfer in the strategic sectors identified in Vision2030.

To monitor these initiatives and the overall progress of Saudi’s innovation goals, the Saudi government announced the creation of a Supreme Committee for Research, Development, and Innovation in March of 2021, which will report to the Council of Economic and Development Affairs (CEDA) headed by Crown Prince Mohammed bin Salman.\(^{(22)}\) As a key driver of innovation and R&D, IP will be a policy area of significance for the newly established committee.

### 2.1 Recent Developments in Saudi IP

The objective of this subsection is to lay out recent progress in Saudi IP, focusing on institutionalization, awareness, enforcement, as well as international representation. The Kingdom has long recognized the importance of IP: the first Saudi IP law dates back to 1939.\(^{(23)}\) However, in 2018, the country stepped up its commitment to IP by establishing a specialized agency, the SAIP. In terms of its policymaking, SAIP seems to be on a promising path. The authority has elaborated policies that take into account international experiences but are tailored to Saudi’s specific context and needs. Seventy different entities from the public and private sector as well as other international partners participated in the formation of SAIP’s IP strategy. According to Sami Alsodais, Deputy CEO of IP Policy and Collaboration at SAIP, the authority’s strategy will be linked to that of the Supreme Committee of Research, Development, and Innovation and remain


mindful of the Kingdom’s level of economic development. This detail signals SAIP’s recognition of the important role IP plays in the formation of dynamic innovation systems. In a televised interview, Dr. Abdulaziz Al-Suwailem, the CEO of SAIP, characterized the authority’s policy as an attempt to strike a balance between promoting local content and attracting FDI. SAIP’s nuanced approach to the design of IP policy is notably different from past government bodies. This difference comes across clearly in the World Bank’s 2010 review of GCC innovation potential in 2010:

[In the GCC,] there is too much adaptation, even replication, of best practices from elsewhere rather than true self-discovery in the sense of experimenting with novel, yet existing institutional features that reflect the local culture. [...] [The Gulf countries] are prepared to pay whatever price is necessary for the best experts and the best global practice, assuming, at times naively, that best practice will remain just that in any context.

Part of the SAIP mission is raising awareness and promoting respect for IP. SAIP uses various media outlets to achieve this goal. In 2019, SAIP launched the IP Academy, in coordination with WIPO, with the aim of creating a self-sustainable national IP training center. One year later, WIPO issued a report placing Saudi Arabia among the ten countries that most benefited from WIPO’s IP programs in the world. SAIP is also developing training programs and curricula for schools. Another important target in SAIP’s education and

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(24) Two interviews were conducted with the team at SAIP; one of which was with Mr. Sami Alsodais, the Deputy CEO of IP Policy and Collaboration at SAIP, interviewed by Noura AlZaid, March 15 and 16, 2021.


awareness efforts are Saudi businesses. The authority issued an IP policy-guiding document meant to assist such enterprises through the institution of firm-level IP policies. It also established an IP clinic that offers inventors and SMEs guidance in IP registration and management. To enhance this education and capacity-building effort, SAIP established 34 National Network of Technology and Innovation Support Centers (TISCs) across the country, and which commenced operation in September 2021.

On the regulatory and enforcement fronts, SAIP is an important player in building the national IP legal infrastructure. The authority exerts considerable effort to determine the needs and sentiments of IP stakeholders. They tweet about regulatory proposals to gauge public opinion and communicate with universities and enterprises to raise awareness and garner feedback that might inform decisions. SAIP is also building legal capacity in IP-related cases. Previously, the lack of local legal expertise in the field of IP added to the cost of registering IPRs in Saudi. To counter this problem, SAIP began offering tests, certifications, and licenses for firms and individuals to practice IP-related work. In addition, the authority helped establish specialized IP courts. It also trained judges and paralegals in IP matters through the Justice Training Centers. In terms of enforcement, SAIP recently formed the National Committee for the Enforcement of Intellectual Property. Putting words into action, the authority led inspection campaigns, in collaboration with the Ministry of Media, online and in-store, taking action against 308 websites and destroying over 3.5 million goods.(28) Finally, SAIP launched an initiative with the participation of 70 different government entities to train IP respect officers. It has since accredited 76 officers in order to improve compliance with IP laws and regulations in government entities through self-inspection methods.

The desire to be the leading IP hub in the Middle East and North Africa (MENA) region motivates SAIP’s efforts. Accordingly, SAIP has worked

to enhance its international profile. It signed cooperation agreements with a range of international partners including the IP5, the five largest IP offices in the world. Saudi Arabia, via the authority, also joined several new IP-related treaties, including four new treaties in 2020 alone. On both the international and national levels, Saudi Arabia has made great strides in building its IP capacity. Yet despite achieving so much within a relatively short time, the Kingdom was once again placed on the United States “Priority Watch List” for the third year in a row. Curiously, Saudi Arabia first made an appearance in the “Special 301 Report” in 2018, the same year the SAIP was established to devote greater attention to IP. In the midst of intensified protection pressure on the Kingdom, will higher standards positively contribute to innovation success?

This is a dilemma whose resolution requires a nuanced understanding of the metrics of innovation ecosystems and the place of IP in them. When looking at national innovation systems, the limitations of purely numerical inputs such as R&D expenditure and the number of research personnel, or outputs, such as number of patents registered, as measures of technology and innovation performance have become evident. Recent theory, informed by the experiences of countries around the world, suggests that simply ramping up spending on innovative inputs does not guarantee successful innovation outcomes. Rather, the innovation performance of a country is largely contingent on the interactions and linkages among the people and institutions involved in knowledge creation and technology development, namely linkages between academia, industry, and policy-making. IP comprises but one element of this system. As discussed in the first section, if a country’s innovation system is not sufficiently mature, overly rigid IP standards obstruct the knowledge flows that are essential to building its knowledge base and innovative capacity.

2.2 The Strengths and Weaknesses of Saudi Arabia’s Innovation System

Before proposing an IP approach that serves the Kingdom’s innovation ambitions, then, the strengths and weaknesses of its current innovation system must be identified. This subsection sheds light on some of the innovation achievements of KFUPM, an important player that serves as a representative reflection of Saudi’s innovation system, one which shows that individual efforts do not necessarily translate to successful national innovation. Since its establishment by royal decree in 1963, KFUPM’s primary purpose has been to train highly qualified Saudis for service in the Kingdom’s petroleum and minerals industries. The university was a complement to its industrial counterpart Saudi Aramco, one of the largest state-owned oil companies in the world. Because of the strong link to industry enshrined in its foundation and its wide recognition as the Kingdom’s best university in science, engineering, and math, KFUPM is particularly well-positioned to contribute to the Kingdom’s innovation efforts.

One demonstration of KFUPM’s innovation potential is its ranking as fourth among the world’s universities in terms of US utility patents granted in 2019.(30) In recent years, KFUPM has also paid greater attention to commercial value in its research and IP management activities.(31) In 2006, KFUPM founded Dhahran Technology Valley (DTV), a science park and base of R&D centers for 16 multinational corporations, including General Electric and Saudi Aramco. To further consolidate industrial collaboration, KFUPM has actively marketed its IP for commercialization through either licensing agreements or investments in startups. KFUPM’s activities mirror similar efforts by other entities in the Saudi innovation system, such as the King Abdullah University for Science and Technology and the King Faisal Specialist Hospital and Research Centre. These efforts, however, do not offer any metric of innovation success.

In their 2020 report, the Global Innovation Index (GII) ranked Saudi Arabia 66th worldwide in innovation performance, a performance that falls well below expectations for its income level. Elsewhere in the region, the United Arab Emirates ranked 34th, and Israel ranked 13th. The report measures innovation performance based on seven “innovation pillars”: (1) institutions, in which Saudi ranked 102nd out of the 131 countries measured; (2) human capital and research, in which Saudi ranked 31st; (3) infrastructure, in which Saudi ranked 57th; (4) market sophistication, in which Saudi ranked 44th; (5) Business sophistication, in which Saudi ranked 51st; (6) knowledge and technology outputs, in which Saudi ranked 88th; and (7) creative outputs, in which Saudi ranked 69th.\(^{(32)}\)

The GII report points to the serious limitations facing the Saudi innovation system, beginning with its limited absorptive capacity of foreign technologies. This has been recognized by Saudi policymakers in both the Eighth and Ninth Development Plans as well as by the Technology Transfer and Localization Program call for the indigenization of knowledge and technologies.\(^{(33)}\) Despite this acknowledgement, the country’s absorptive capabilities still lag behind. The information and communication technology (ICT) sector provides a good representation of this weakness. The GII report identified ICT access and use as two of Saudi Arabia’s greatest strengths. However, ICT service exports were flagged as a major weakness.\(^{(34)}\) Although the Kingdom has managed to create a robust digital and ICT infrastructure through importation, it has as yet failed to assimilate the imported knowledge. Ultimately, “foreign technology can generate technological change and upgrading for local


firms only insofar as sufficient indigenous R&D activities and human capital are present.”(35)

Underlying its limited absorptive capacity is the lack of sufficient investment in human capital. Education has long been accorded significant attention in the Kingdom. In the 2021 budget, education was the largest recipient of funding, with an expenditure of 186 billion SAR.(36) In its most recent education reforms, the government has focused on boosting the quality of education.(37) Granted, in engineering and scientific fields, the number of graduates has increased in recent years. However, the number of qualified engineers working in R&D remains low in comparison to industrialized economies.(38) In 2018, the General Authority for Statistics (GASTAT) conducted a survey of institutional innovation that surveyed 6,700 Saudi establishments it deemed innovative. The total number of PhD degree holders working in these establishments was 5,323 – 4,100 of whom were foreigners.(39) This deficiency in Saudi talent might be partially attributed to a lack of incentive to work in these fields. In its annual report, the King Abdulaziz City for Science and Technology (KACST), the largest research entity in Saudi, identified human capital and brain drain as one of its key operational challenges, citing poor financial incentives as a primary justification for this inadequacy.(40)


(38) Iyad Al-Zaharnah and Khaled Al-Sultan, “Academia-Industry Innovation Linkages in the Case of Saudi Arabia.”


Another problem facing the Saudi innovation system is the weakness of the links between academia, policy, and industry. In terms of policy, greater emphasis must be placed on research in science and engineering fields, aligning academic research with national economic, social, and environmental priorities, as the Saudi Ninth Development plan underscored. Another issue is the unclear definition of the roles of government-sponsored research entities like Taqnia and KACST, which causes conflicts and coordination issues.\(^{(41)}\) As for industry, industrial R&D remains very low. According to the 2018 GASTAT institutional innovation survey, innovative enterprises in the private sector only spent 2.74% of their revenue on R&D.\(^{(42)}\) Though no specific figures were provided in government sources or the GII report, the private sector contribution to R&D financing is assumed to be very low in comparison with developed countries, another issue mentioned in the Saudi Ninth Development Plan.\(^{(43)}\) Industry plays an important role in the deployment of new technologies, as it is uniquely positioned for innovation in manufacturing processes to create prototypes and scale IP innovation. Yet, such innovation in Saudi Arabia is sorely lagging. This was confirmed in an article published in the 2012 GII report on the case of Saudi Arabia: “The deficit in engineering design skills and the inability of the labor force to execute small devices or provide specialized shops that can build systems and components to specifications as required by the scope of research projects are among the most challenging difficulties.”\(^{(44)}\) This industrial shortfall effectively eliminates the chances of successfully commercializing IP and research outputs from academia. Another factor contributing to weak academia-industry linkages is the lack of awareness of corporate and IP law. Dr. Iyad Al-

\(^{(41)}\) “Annual Report 2020,” *King Abdulaziz City for Science and Technology*.


\(^{(44)}\) Iyad Al-Zaharnah and Khaled Al-Sultan, “Academia-Industry Innovation Linkages in the Case of Saudi Arabia.”
Zaharnah, KFUPM’s Director General of Innovation and Technology Transfer, noted that one of the major challenges the university faces when marketing its IP is that local enterprises often do not possess the technical or legal infrastructure to manage IP. Many SMEs are unaware of what licensing even is. In other cases, local enterprises are sometimes parties to agreements that bound them to the exclusive use of certain foreign technologies that prevented them from adopting local technologies.\(^{(45)}\)

Lastly, the point must be made that startup culture in Saudi Arabia is still in its infancy. As others have argued, “Saudi Arabia has the lowest total early-stage entrepreneurial activity rate of all the factor-driven economies in [the International Development Research Centre’s] study.”\(^{(46)}\) To incentivize Saudi entrepreneurs to invest time and energy in startups, Saudi Arabia needs to tackle obstacles in its restrictive regulatory environment and financing culture. The GII report found some progress in an assessment of the country’s attempts to promote venture investment. The country has undertaken a number of regulatory reforms, such as introducing a second-tier market for entrepreneurial listings and simplifying the business licensing process. It also established venture funds and regional hubs, like Waed, Aramco’s venture fund located in DTV. Despite these reforms, however, the survey reports that the level of venture capital in Saudi Arabia remains concerningly low. According to the consulting firm MAGNiTT, venture capital raised by Saudi firms represented 0.006% of GDP, a ratio that is sixty times lower than that of Israel.\(^{(47)}\)

The deficiencies in Saudi’s domestic innovation system are especially problematic because of the resulting loss this causes to Saudi technology.

\(^{(45)}\) A consultation interview was conducted with Dr. Iyad Al-Zaharnah, Director General of Innovation and Industrial Relations at KFUPM, and Mr. Najid Mohammed, Manager at KFUPM Intellectual Property Unit, interviewed by Noura AlZaid, February 8, 2021.

\(^{(46)}\) Iyad Al-Zaharnah and Khaled Al-Sultan, “Academia-Industry Innovation Linkages in the Case of Saudi Arabia.”

One example is the water desalination system developed by researchers from KFUPM in collaboration with the Massachusetts Institute of Technology (MIT). In the end, the technology was licensed to a startup in the US. Al-Zaharnah reflected on the decision to commercialize the technology in the US, saying: “When the results started appearing, the ecosystem here was not ready. [...] The entrepreneurs were ready from the MIT side, the venture money was there in Boston, the engineering infrastructure was there.”(48)

In order for Saudi Arabia to reap the economic benefits from its investments in R&D and innovation, it must resolve the issues outlined above in its innovation system. These include removing institutional barriers, improving linkages between industry and academia and building up the country’s human capital, whether through education, learning from foreign technologies, or adopting new production methods. IP offers a tool for innovation. This notion must guide the creation of the Saudi IP legal framework and capacity-building efforts. At this stage of development, the Kingdom’s IP strategy should put learning and capacity building before imposing rigid standards that might represent institutional barriers. The experiences of countries like China, examined in the next section, confirm that such knowledge flow is often initially facilitated by weak IP standards.

3. China’s Approach to IP

This section argues that China initially built up its innovative capacity via a two-fold approach: it first improved its absorptive capability by intensifying R&D inputs, strengthening industry-academia linkages, and learning from foreign technologies, and secondly it had lax enforcement of IPRs, despite instituting IP legislation over the years. Only recently, after China succeeded in building up its knowledge base and emerged as a major IP producer itself,

did it begin exerting efforts to fix the deficiencies in its IP regime, especially with respect to enforcement and due process. The initially indulgent IP strategy adopted by China is not unique. Indeed, many other developed nations built their innovation systems under regimes with initially weak IP protections. Discrimination against foreign producers, often expressed by denying them IP protection in courts or by charging higher fees, was commonplace, as excluding entire domains from patentability. The US, for example, did not originally recognize international copyrights, and did not strongly enforce IPR protection until late in the nineteenth century. Likewise, in the 1960s, when South Korea sought to develop its economy through technological progress, the country initially reversed course by loosening many of the stringent IP laws it inherited from Japanese and US military occupation. The scope and length of IPRs were reduced so Korean producers could enter markets more easily. Even though this IP strategy has several historical antecedents, China’s experience is particularly pertinent for Saudi Arabia because it, like China, is attempting to transition to an innovation-driven economy under the similarly high international standards-regime present today.

**3.1 Building Innovation Capacity**

This subsection explores the first component of China’s approach, wherein it pushed through economic and innovation reforms that enabled its rise as an IP powerhouse. These reforms increased innovation capacity by first improving linkages and human capital, enhancing absorptive capacities, only after which

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(49) David Hulme, *Global Poverty: How Global Governance Is Failing the Poor* (Abingdon: Routledge, 2010), 156.


attempts to gain access to and learn from foreign technologies were launched. Back in the 1980s, the Chinese leadership recognized the dysfunctions in its Soviet-style national innovation system and launched its own set of institutional reforms to improve innovation inputs and improve linkages under the slogan of “building the nation with science and education.”(52) One of these was the 1985 government decree called “The Solution of the Central Committee of the Communist Party of China on the Reform of the S&T (Science and Technology) System.”(53) The decree encouraged university research institutes (URIs) to strengthen ties with industry. This was effectuated through budget cuts on universities and research institutions that forced them to reach out to businesses for (financial) survival and competitiveness. Regulations for patenting and technology transfer were also introduced that encouraged collaboration between URIs and industry. In addition, high-tech development zones were founded, yielding 52 national high-tech development zones by 1992.

A second wave of reforms came following Deng Xiaoping’s tour through southern China in 1992. That tour stimulated the promulgation of the S&T Progress Law of PRC and the inauguration of the Climbing Program. Both initiatives encouraged basic research and gave universities and URIs greater operational autonomy. To further fortify links with industry, college teachers, and researchers were allowed to take on full-time or part-time research jobs in enterprises in addition to academic occupations. Over time, industry became the second largest source of funding for Chinese university research, and for some institutions, such as Tsinghua University, industry sources actually provided more financial support for research than the government.(54) The “Climbing Program” was aimed at the development of local talent in basic research. This

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(53) Zhong, Xiwei, and Yang Xiangdong. “Science and Technology Policy Reform ...”

investment in human capital incentivized students to become researchers and offered those studying and working abroad attractive packages in terms of benefits and remuneration. In the early 2000s, over 205,000 such researchers had returned to China.\(^{(55)}\)

Strengthening industry-academia linkages and rebuilding China’s innovation system in the 1980s and 1990s improved the country’s absorptive capacity and enabled it to learn from foreign technologies. As part of this latter effort in the early 1980s, China established special economic zones (SEZs), which served as engines for growth as well as hubs for learning. These zones were governed by independent open policies and flexible measures, such as tax incentives for foreign investors. The purpose of these SEZs was to attract foreign investors and technology, create employment opportunities for Chinese citizens, and deploy available domestic resources. In this early stage of building its knowledge base, China needed to reassure the uneasiness of foreign investors and businesses that wanted to move their production to the country. At the national-level, the government instituted a set of market-oriented regulations, including American and European-style IP regulations.\(^{(56)}\) China established the Trademark Law in 1982, the Patent Law in 1984, the Copyright Law in 1990, and finally the Anti-Unfair Competition Law in 1993.\(^{(57)}\) It also entered into several bilateral

\(^{(55)}\) Ming Feng Tang, “Indigenous Innovation System for Catching-up in China.”

\(^{(56)}\) There are major differences in the scope of protection and enforcement measures from country to country. In simple terms, a difference in the moral and economic justifications behind IP protection between developed and developing nations seems evident. See John Mittelstaedt and Robert Mittelstaedt, “The Protection of Intellectual Property: Issues of Origination and Ownership,” *Journal of Public Policy & Marketing* 16:1,1997, 14-25. Different conceptions of IP protection and regulation in copyright in China from the 1890s to the 1950s competed when the country was going through a series of political changes which created a vacuum in law and order, particularly with regards to IP. During that time, publishers actually set up their own enforcement units to crack down on violations of what they viewed as their copyright or *banquan*, which literally translates to the “right to printing blocks.” The concept of copyright at that time was linked to the printing method. Woodblock printing was the dominant printing method in China, and the owner of the copyright was not necessarily the author; but rather whoever possessed or owned the physical printing blocks. See Fei-Hsien Wang, *Pirates and Publishers: A Social History of Copyright in Modern China* (Princeton University Press, 2019).

agreements with the US, such as the 1992 Memorandum of Understanding and the 1995 Agreement Regarding Intellectual Property Rights. These agreements forced China to revise and amend its patent and copyright laws four times within a twelve-year period.\(^{(58)}\) These various laws created the basic legislative framework for IPRs found in China today.

These reforms achieved considerable success. Foreign businesses, along with their technologies and production methods, flocked to China to set up shop, resulting in an average growth of real GDP rate equaling 9.4% between 1978 and 2012.\(^{(59)}\) Many developing countries attempted similar reforms with lesser success, begging the question of why China succeeded where others did not. For one thing, China had a unique comparative advantage that gave it enormous leverage: its size. Since the 1980s, China’s population has surpassed one billion people. Meanwhile, in the 1980s the US population grew from 227 million to 250 million.\(^{(60)}\) Access to Chinese markets meant that foreign companies could (potentially) tap into China’s millions of consumers. This unique advantage coupled with the allure of lower costs and SEZ incentives, made China an irresistible hub.

China took advantage of the bargaining power its size entailed by adding technology transfer arrangements into the joint venture agreements it signed with foreign partners.\(^{(61)}\) An example is the Admittance Management Rules for New Energy Auto Manufacturing Companies and Products promulgated by the Ministry of Industry and Information Technology in 2009. This policy required


foreign companies to “master” core new energy vehicle (NEV) technologies within a joint venture agreement with a Chinese partner as a precondition for manufacturing licenses and other government allowances for NEVs. (62) Foreign companies have repeatedly complained that they felt forced into these agreements, while China argued that the condition was fair remuneration for market access. The annual survey by the EU Chamber of Commerce in China conducted in 2019 reported that 20% of the survey’s participants felt pressured to transfer technology to maintain market access, up from 10% in 2017. (63) American businesses, such as DuPont, have voiced similar concerns. In 2006, DuPont struck a deal with Zhangjiagang Glory, its Chinese partner, and trained Glory to produce Sorona polymers and spin them into fibers. DuPont referred to this deal as a “tolling” partnership, meaning a type of toll or payment for market entry. (64)

Pressure for technology transfer was particularly felt by strategic high-tech companies, such as those in telecommunications. China is valuable for American mobile phone makers as both a production base and a market. Motivated in part by the cheap labor, many of the world’s leading mobile phone companies manufactured at least some of their parts in China, including Apple, Motorola, and Samsung. According to a 2012 ABC News report on Foxconn, the factory that assembles the bulk of Apple’s iPhones, the starting salary for workers was around $1.78 per hour, in contrast to the $7.25 minimum wage in the US. (65) US and other multinational conglomerates sought greater global

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(62) Dan Prud’homme, Max von Zedwitz, Joachim Jan Thraen, and Martin Bader, “‘Forced Technology Transfer Policies …’.”


market share by subcontracting production to cheap Chinese manufacturers. Similar goals motivated their efforts to tap into the Chinese market. From approximately 393 million mobile Chinese subscriptions in 2005, the number rapidly grew to 1.7 billion in 2019.\(^{(66)}\) These numbers made China one of the largest and most promising mobile phone markets in the world, as well as one of the fastest growing, which added to the appeal of setting up production bases in the country.

The manufacturing operations of international companies directly contributed to building China’s local know-how and improving its innovation capacity. In a 2017 interview at the Fortune Global Forum, Tim Cook, Apple’s CEO, shared his views into how this process might have happened with respect to Apple’s supply chain.\(^{(67)}\) He pushed back against the notion that innovation and design happens in the US and products are simply sent over to China for production, arguing that a lot of innovation actually happens in the manufacturing process itself. He asserted:

> The truth is the process engineering and process development associated with our products require innovation in and of itself, not only the product but the way that its made because we want to make things in the scale of hundreds of millions and we want the quality level of zero defect … and the way that you get there, particularly when you’re pushing the envelope on the type of materials that you have and the precision of the specifications that you’re forcing, require a hand in glove kind of partnership.

For Apple to produce products at the quality and scale it does, it must have more of an interactive and collaborative relationship with its manufacturing partners, where knowledge flows are more horizontal than is commonly

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perceived. The operations of foreign businesses, like Apple, required highly technical and highly precise advanced manufacturing. This created a demand for vocational Chinese talent as well as an advanced level of automation; both of these resources were further developed through the manufacturing process itself. Even if low labor costs initially attracted businesses to move production to China, today, the type and quantity of skill available is what is keeping many businesses in China. “You find in China sort of the intersection of craftsman kind of skills and sophisticated robotics … which is very rare to find anywhere,” asserted Cook. FDI created the demand for and provided China with technical support, operational capacity, and talent.

This permeable environment also gave rise to parallel informal industries, such as that of counterfeit (shanzhai) phones. Shanzhai and formal industries coexisted in the same geographical area. Sometimes the same facilities, technicians, and workers subcontracted by global brands would work to produce shanzhai phones. The shanzhai industry boomed in 2003 and 2004 when local Chinese manufacturers began producing knock-off mobile phones to cater to the large demand for cheap devices in both China and other developing nations. Over the years, the shanzhai industry moved from producing replicas to innovative solutions and mobile phones adapted to niche markets. One example of such adaptations was including two subscriber identity module (SIM) slots in phones. As large numbers of Chinese traveled between telecom licensing zones, the demand for a phone that could function on multiple plans to dodge roaming charges was large. The two SIM slots filled the need of customers who used two plans simultaneously. Shanzhai manufacturers work in a collaborative environment and their primary concern is making products that sell. They have

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(68) Fortune Global Forum “Tim Cook Discusses Apple’s Future in China | Fortune.”


no regard for IP which, coupled with their knowledge-sharing culture, affords them fast market feedback to develop, assemble, and distribute products with innovative solutions at a much cheaper price mark. This gave the shanzhai industry a competitive edge over large international mobile phone makers, such as Nokia and Motorola.

The dynamic of how formal and informal industries feed off of each other is neatly illustrated in Shenzhen, an SEZ that benefited from FDI in the early 1980s following the enactment of the reform and opening-up policies. It is no coincidence that Shenzhen is also the home of many counterfeit manufacturing factories. Today, Shenzhen is dubbed by the media as “China’s Silicon Valley”. It is a major hub for innovation and R&D activity in China. It is also the birthplace and headquarters of the poster child of the trade war between the US and China: Huawei. In little more than three decades, Huawei has ascended to the position of the world’s largest telecommunications company, reporting a revenue of $100 billion in 2018. Huawei boasts one of the largest patent portfolios in the world. By the close of 2020, it held over 100,000 active patents. This comes as no surprise, considering it invested 15.9% of its total revenue in R&D that year alone. Internationally, Huawei ranked first in the number of corporate international patent applications filed, followed by ZTE, another Chinese telecommunications giant. These innovative companies helped push China up the ranks to second place in the number of international applications filed through the Patent Cooperation Treaty (PCT). In fact, China can boast double-digit annual growth in PCT applications since 2003.


3.2 IP Legislation and Lax State Enforcement

This subsection examines the second component of China’s approach, which is a lax attitude towards proper enforcement of IPRs. As the prior subsection demonstrates, China’s success was largely facilitated by learning through formal as well as informal channels, like imitation, which often led to infringements of IPRs. Over the years, the Chinese government turned a blind eye to these violations to allow for smoother technology transfer. In an attempt to curb Chinese infringements, international organizations, foreign businesses, and researchers have tried to put blame on various aspects of China’s IP regime, and primarily its ineffective enforcement measures rather than insufficient legislation. In 2003, the US-China Business Council estimated that counterfeit goods accounted for as much as 15-20% of China’s total GDP.\(^{(74)}\) The serious IP infringements led to a series of American threats to impose trade sanctions and the WTO, following China’s accession to it in 2001, became the main venue for the US to voice such concerns. As the unabated growth of the *shanzhai* industry suggests, however, Chinese authorities did not effectively uphold IP protections. All this raises the question as to what actually happened at the state-level in terms of both legislation and enforcement.

Regarding IP legislation, certain provisions distinguish China from its Western counterparts. For example, unlike the American first-to-invent rule, Chinese patent and trademark laws are characterized by a first-to-file rule.\(^{(75)}\) Under this rule, the party that is first to file a trademark or patent is granted the right, regardless of who actually invented the patent or first used the trademark. This often benefited Chinese producers. Furthermore, patent trials were quick, without any panel evaluation or investigation. Beyond these technical


differences, China’s IP legislation falls mostly in line with WTO standards and is accordingly considered sufficient in terms of sanctions for piracy and copyright infringements. Enforcement thus emerges as the real source of the problem.

China enforces its IP laws through administrative, civil, and criminal forms of adjudication. The issue is that there is a reluctance at the local administrative level to transfer cases to the courts. The interests of local governments are often at odds with IPR protection and due process. Local economies benefit from counterfeiting activities and local administrative officials often do too, whether directly from bribes or indirectly from overall prosperity. Even cases passed along to the judiciary may be impeded by factors such as the court’s ties to the Communist Party or insufficient damage awards. One example of this enforcement problem is a case brought to the Beijing Higher People’s Court in 2006 by five luxury designer brands against the landlords of China’s “Silk Market” for allowing IP infringements through the sale of counterfeit goods. The court awarded $2,500 in damages to each plaintiff. These damages did little to deter future infringements and are probably nowhere near the losses these brands incurred. In 2011, a banner was hung in the market which read: “Protect Intellectual Property Rights, Be Law-Abiding Vendors,” further highlighting the stark contrast between China’s calls for protection on paper and the reality on the ground at that time. For technology-related IP, the lack of effective enforcement shields counterfeit activities viewed as important conduits for informal technology transfer and developing local expertise. With state protection, Chinese producers learned how to reproduce, modify, and eventually improve foreign technologies in a process that yielded indigenous innovation.

3.3 Building an IPR Regime

For many decades, China learnt from foreign technologies while also maintaining a lax IP protection regime, all to its benefit. However, now that China built up its innovative capacity and became a major IP producer itself, the strengthening of IP protection has become a priority. In recent years, the Chinese government has accelerated reforms of its national IP system. In one article written for WIPO by Justice Tao Kaiyuan, the Vice President of the Supreme People’s Court of the People’s Republic of China, the Justice summarized the key developments in China’s IP system. She noted the 2008 announcement of the “Outline of the National Intellectual Property” called for strengthening the judiciary’s role in the protection of IPRs. In 2014, IP courts were set up in Beijing, Shanghai, and Guangzhou to investigate the creation of a specialized Chinese IP adjudication system. In 2017, the Supreme People’s Court issued its Outline of Judicial Protection of IPR in China. The outline addressed areas such as the creation of an IP court system on a regional basis with greater sanctions for damages to act as a better deterrent, as well as reforms to improve technical fact-finding and procedural aspects of litigation. That same year, 19 IP tribunals were established across the country. These specialized tribunals were set up to better equip the judiciary for patent and other heavily technical cases. Additionally, a national-level appeal system was created in 2019. China’s progress in IP is reflected in the number of cases brought to Chinese courts, which in 2005, made it the most litigious country in terms of the number of IP-related cases, with that number continuing to rise at a high rate. As Justice Tao proclaimed in her article: “China is increasingly becoming the ‘preferred venue’ for settling international IP disputes.”


The timing of these reforms reflects the Chinese government’s prioritization of the interests of domestic business in their IP policymaking, wherein Chinese businesses are now more likely to be in the offensive position rather than the defensive in IP-related lawsuits. A *Financial Times* article published in September of 2021 actually identified Chinese businesses as the primary beneficiary of the recent progress in IP adjudication, with foreign businesses emerging as a target. Among a growing list of foreign businesses being sued for IP infringements in China include Apple, which has been taken to court by Shanghai Zhizhen Intelligent Network Technology Co Ltd, a Chinese artificial intelligence company which claims that Apple’s voice recognition technology infringes on its patent.\(^{(79)}\)

In addition to these domestic efforts to establish a reliable IPR regime, China appears to be taking it a step further by seeking a more active role in international standardization efforts. In 2015, China outlined a five-year Standardization Reform Plan, which highlights “promoting advantageous and special Chinese technology standards to become international standards to serve Chinese enterprises and industry going global.”\(^{(80)}\) IP standardization is one important element of this endeavor. China is beginning to rise as a champion of IPRs through the Belt and Road Initiative (BRI), a program that it advertises as an effort to develop regional infrastructure and connectivity, facilitating economic growth and prosperity among BRI countries. The BRI has not only facilitated greater access to raw materials and new markets for China, it has also enabled it to spread Chinese technologies and standards. This raises risks, which have been identified and highlighted by the Chinese media, for Chinese businesses


whose IPR and ideas might be compromised or copied by local competitors.\textsuperscript{(81)} A major focus of the BRI agenda is policy coordination, of which IP policy is a key component.\textsuperscript{(82)} Since the announcement of the initiative, China has hosted two high-level conferences on IP for countries along the Belt and Road and has begun offering a master’s degree in IP to students from those countries. Furthermore, it is taking on a “mentoring” role in the communication of macro policies, IP review, construction of basic facilities, and the exchange of information and data. Simultaneously, China has deepened its relationship with WIPO. Crowning China’s newfound international status, WIPO opened an external office in Beijing in 2014, one of only six external offices in the world. In 2019, Foreign Minister Wang Yi proposed another Chinese official, Wang Binying, to succeed the Director General of WIPO when his term ends in 2020.\textsuperscript{(83)} China’s BRI IP cooperation efforts combined with a leadership role at the WIPO would give it enormous leverage in influencing evolving global IP governance institutions. In an interview with the \textit{China Global Television Network}, WIPO’s former Director General Francis Gurry stated:

There is a strategic vision and leadership from the top in China. This concerns building scientific capacity and innovation, which means new products, services, or technology entering the economy and intellectual property, whose role is to protect the competitive advantage that is given by that innovation. [The Director General further stated that the sequencing and vision of how these elements fit together] is extraordinarily coherent in China.\textsuperscript{(84)}


\textsuperscript{(84)} Kaiyuan Tao, “China’s Commitment to Strengthening IP.”
4. Conclusion: Learning from China?

Saudi Arabia is at a crossroads when it comes to innovation. The Kingdom cannot replicate everything from China’s experience. For one, it cannot extend foreign businesses the same advantages China did - it does not boast China’s market size and cannot offer the low labor costs China once presented. Nonetheless, at this stage of its economic development, Saudi Arabia could adopt a dual approach similar to that of China comprised of building up innovation capacity while having lax enforcement of IPRs for smoother technology transfer. To achieve this, Saudi Arabia should leverage characteristics unique to it, like its central location to attract FDI and the time it will take for it to reform its judiciary and legal system. In many ways, lax enforcement is a default of the current deficiencies in Saudi’s legal system. Saudi law, primarily governed by sharia, is not codified and decisions are at the discretion of the judge without being bound to precedent. Historically, this, along with other issues such as overlapping legislative and judicial jurisdictions, resulted in an inconsistent and unpredictable legal system. These issues extend to IP-related cases. Over the last few years, the country has been taking serious steps towards reforming and restructuring the judiciary. In February 2021, Crown Prince Mohammed bin Salman announced his plans to approve four new draft laws: the personal status law, the civil transactions law, the penal code of discretionary sanctions, and the law of evidence. These new judicial reforms will put the Kingdom down the path of codification.\(^{(85)}\) In the meantime, Saudi Arabia should take advantage of this “window of opportunity” to gain know-how and to build a solid legislative framework for IPRs.

In international trade negotiations, it is crucial that Saudi Arabia protects its developing country prerogatives. Developing countries, including Saudi Arabia, should question the motives behind the pressure to enforce high IP standards and

carefully scrutinize the effects of such standards on their economies. Economic superpowers like the US and China are interested in creating new markets, not new competitors. One default value of the nation-state system is its focus on national interest. By signing on to high IP standards, developing countries are forced to navigate uncharted territory. Historically, no developed country had to develop its knowledge economy in an environment with similarly high standards. Under the Paris Convention, the national treatment principle made room for what was called “asymmetries,” which allowed different countries to adopt different standards of protection according to their level of national development. As the technological divide between the developed and developing nations continues to grow, the TRIPS Agreement affords developing countries privileges by granting them certain “flexibilities” that allow them to pursue their own macroeconomic policies through TRIPS-compatible norms.

In March of 2021, during Saudi Arabia’s trade policy review at the WTO, the US called on Saudi Arabia to give up its special and differential treatment in WTO negotiations using the argument that Saudi Arabia was now a member of the G20 and a high-income country. This argument, nonetheless, does not invalidate Saudi status as a developing country; wealth is not a reflection of development. There might be some incentive for Saudi Arabia to appease foreign powers like the US, especially under the pretense that high IP standards attract greater FDI. It is clear, however, that while strong IPR protection helps persuade foreign entities to invest in a developing country, it is not a necessary condition. This is illustrated by the large foreign investment inflows in countries with historically weak IP standards like China and Brazil. Some developing


countries have comparative advantages, such as cost advantage in manufacturing or market size that, as in the case of China, act as a much stronger incentive for foreign investors.\(^{(89)}\) Saudi Arabia should focus on identifying and developing its own comparative advantage in its quest for FDI.

Despite the efforts to harmonize and internationalize IP standards, IPRs are conferred by national governments and are only valid within national jurisdictions. Developing countries should be cognizant of the flexibilities offered in the TRIPS Agreement and employ them strategically to optimize and advance their respective economic development goals. A moral argument can be made that developing countries should enjoy the same flexibilities and liberties from which developed countries once benefited. Likewise, a moral duty to respect and protect IPRs seems evident. For the global community to build fair and effective international IP institutions, balancing these moral questions is crucial. When it comes to technology-related IPR protection, it is not a question of whether Saudi Arabia should or should not adopt a strong IP regime, but rather a question of when.

About the Author

Noura AlZaid graduated from Brown University with a double-concentration in international relations and Middle East studies. Her honors thesis examined legal education in women’s huquq schools in Jeddah. Since her graduation in 2016, Noura has worked in consulting, mostly on projects related to women’s empowerment and the reform of policies that place disproportionate burdens on women in the Saudi workforce at BMO, a local firm. In 2020, Noura served as a consultant for the World Bank on a project evaluating women’s entrepreneurship in Saudi that informed the G20 agenda. Motivated by the insights she gained on the opportunities and challenges in the Saudi business environment, her current interests lie in stimulating local content and tackling institutional obstacles to Saudi Arabia’s quest to become an innovation-driven economy. She is also particularly interested in the experiences of East Asian economies and their development. Noura speaks Arabic, English, and French.
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