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**gLAWcal
Comment #324**

**JUDICIAL HURDLES IN COMPEN-
SATION**

Based on

**Jayashree Watal “Public Health, Intellectual
Property Rights, and Developing Countries’ Ac-
cess to Medicines”**



gLAWcal
Global Law Initiatives for Sustainable Development



Routledge
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A gLAWcal comment on Jayashree Watal “Public Health, Intellectual Property Rights, and Developing Countries’ Access to Medicines” in Paolo Davide Farah and Elena Cima (Eds.) **China’s Influence on Non-Trade Concerns in International Economic Law**

There are often hurdles to making a person whole again after they have been the victim of a wrongdoing. Not only does the legal system have to determine who is at fault, they must also assess how to properly compensate that individual. Generally this involves a monetary exchange from the tortfeasor to the victim, but could also be simply that the feator must be willing to change their practices to ensure that a similar violation does not occur again. Chinese law does offer some very specific examples of how a victim must be compensated. In a personal injury case, the victim will be compensated for “reasonable costs” associated with their new state; whether that be treatment and rehabilitation, mobility aids,

and other directly associated needs. There is also death benefits that must be considered if the victim’s death was the result of negligent action. Environmental protection is often dealt with in a less strict way that other areas of tort law. The author notes that there is often less-strong language written into law, meaning that the severity of the violation could be interpreted to be significantly less, and often will be. The lack of professionalism of the judicial system often hampers progress in enforcing law throughout the nation. Judges are often poorly trained, and are unable to adequately match the levels of the counselors on both sides to suss out what is the correct action in a given case. Focusing on training and enhancing education requirements of the judges may provide some relief in cases that arrive in the court system in the future.

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The gLAWcal comments are insight and short analytical pieces written by the gLAWcal team. The gLAWcal comments are based on, and inspired by, the books and chapters published within one of the [gLAWcal book series](#) published by Routledge Publishing (New York/London).

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To collaborate with Government, Civil society and business community to balance the excess of globalization with Non Trade Concerns.

OUR GOALS

To influence policymakers, to raise awareness over Non Trade Concerns, to encourage stakeholder participation, and to disseminate gLAWcal’s publication results.



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