

# The Characteristics and Historical Traditions of Criminal Procedures in the Medieval Mongolian Law

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## Abstract

*The purpose of our study is to research the criminal justice system's evolution, history, and reform in medieval Mongolia. Studying the evolution, history, and reform of the criminal justice system in medieval Asian countries is a fascinating and important endeavor.*

*Additionally, a historical and legal analysis will be conducted, focusing on the era's innovative approaches to investigation and victim rights thinking. Understanding the history of investigative services is closely tied to the development of legal regulations for handling criminal cases.*

**Keywords:** Government, Law, Law Enforcement, Criminal Process, Crime, Investigators, Human Rights, Damage, Innovative

## 1. Introduction

The history of the investigative service is fundamentally inextricably linked to the question of how legal regulation of the criminal process came to be, how it was managed, and how it was organized. This issue has also given rise to several globally accepted ideas. The history of investigative services has generated widely accepted concepts globally. These ideas have been still shaping not only how criminal processes have been regulating but also how investigative techniques are employing across different legal jurisdictions in the social science.

## 2. Therotical Framework

We examined the conceptions of the criminal justice system, its administration, and the genesis and evolution of legal regulations throughout global history in our study.

Each medieval Asian civilization had its own legal codes and systems that governed criminal procedures. For example, China had the Tang Code and the Ming Code, while Japan had the Taiho and Yoro Codes.

Confucianism and Legalism were two major philosophical and ethical systems that influenced the legal frameworks of many

medieval Asian societies. Confucianism emphasized moral rectitude and social harmony, while Legalism emphasized strict adherence to laws and regulations. These philosophies influenced criminal procedures, particularly in terms of emphasizing social order and the authority of the state.

Medieval Asian societies typically had hierarchical judicial systems with various levels of courts and administrative bodies responsible for handling criminal cases. Judges and magistrates were appointed to preside over trials and make legal decisions, often with the assistance of legal scholars and advisors.

Criminal trials in medieval Asia often followed formalized procedures, which could vary depending on the specific legal codes and traditions of each society. Trials typically involved the presentation of evidence, examination of witnesses, and legal arguments by both the prosecution and defense. The accused had certain rights, although the extent of these rights varied across different civilizations.

Asian societies, the use of torture to extract confessions was a common practice in criminal investigations and trials. Confessions

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obtained through torture were often considered valid evidence, although there were sometimes restrictions on the types of torture that could be used and the circumstances under which confessions could be admitted.

Punishments for criminal offenses in medieval Asia ranged from fines and corporal punishment to exile, imprisonment, and even death. The severity of punishment often depended on the nature of the crime, the social status of the accused, and other factors. Additionally, some societies implemented measures for rehabilitation and reintegration of offenders into society, such as community service or mandatory education.

In addition to formal legal procedures, many medieval Asian societies also had systems of community-based or customary justice, where disputes and offenses were resolved through mediation, arbitration, or the intervention of local leaders and elders. These informal justice mechanisms played an important role in maintaining social order and resolving conflicts within communities.

Religion often played a significant role in shaping criminal procedures and legal norms in medieval Asian societies. For example, Islamic law (Sharia) influenced legal practices in regions such as Persia and parts of Central Asia, while Hindu legal traditions influenced legal systems in India. Buddhist principles also influenced legal thinking and practices in countries like China, Japan, and Korea.

Through our research, we would like to study and to clarify and examine the historical customs of Mongolia's ancient laws to combat crime and infractions, as well as explore and validate how its administration was perceived from the standpoint of legal regulation, even though the dominant international viewpoints are acknowledged globally.

Unquestionably, the general pattern of how laws are created and developed, the national traits of each state and power, the comprehension and acknowledgement of crime, and the influence of the entire system of social, economic, political, and cultural development on the fight against crime are all important factors.

Based on the analysis of historical sources, Mongolia has a history spanning more than 2,000 years in terms of politics and law. The ancient peoples who first inhabited the region of Mongolia, including the Hunnus, Xianbi, Nirun, Turks, Uighurs, and Kidan, created extremely strict laws and gave military orders. There is a history of overseeing civil law relations, war and administrative management, and managing and directing the efforts to establish and resolve violations.

To establish the administrative structure, for instance, the Hunnu Dynasty King appointed the head of the Modun-Shanyu Tumet, who was also authorized to handle cases and disputes in addition to managing the military, the administration, and the economy. "During the Hunnu Dynasty, the Shanyu tribe had the right to

interrogate the crime, interrogate it in as little time as possible in accordance with the nomadic life, and not exceed 10 days of imprisonment."

Additionally, it seems that the crime has been investigated for a while and the case has been closed because of the individuals who make decisions about the investigation process.

The Mongolian states of Sumbe (Xianbi) and Ikh Nirun originated during the Hunnu Dynasty and were khanate states, while All Mongolia, Hereid, Naiman, Ongud, and Khonkhiariad were khanate states formed by the Sumbe (Xianbi) and Ikh Nirun states of the Mongolian ethnic group emerged from the Hunnu Dynasty, "to prove the problem, it was necessary to hear rumors from others, to follow their footsteps, to trace people's bodies and places." Apart from searching houses for witnesses and documents, they also adhered to the long-standing customs.

The codified law known as "Ikh Zasag" like Great Government, which was approved by Genghis Khan's order in 1206, and issued by his assistant Shikhihutag, is the first law and is regarded as the primary source of Mongolian law.

Genghis Khan addressed the state prosecutor, Mr. Shikhihutag, saying, "You are my eyes and ears to see and hear." kill those who should be killed, stop state theft, clear the guilty of lying, and bring charges against the right people. He was appointed "state prosecutor," with the authority to investigate and punish the wrongdoers, and he was given an order that read, "Divide the entire property and punish the lawsuits."

The state prosecutor anticipated that Mr. Shikhihutag would note in the "blue book" that he had penalized every state and every individual for filing duplicate lawsuits. Since this time, it has been established that the Grand Government has been presenting cases to the Grand Prosecutors of the Kingdom that are extremely dangerous and have been looking into them thoroughly.

The codified law known as "Ikh Zasag" like Great Government law covers the authority of the Great Mongolian king, as well as the administration, military, foreign relations, customs, relationships between citizens and their families, teachings, lessons, pensions, and allowances. It also regulates property, inheritance, commerce, taxation, crime, penal policy, and judicial procedures. These laws have been studied in various historical manuscript sources.

Also, the codified law known as "Ikh Zasag" law encompasses the authority of the Great Mongolian king, as well as the administration, military, foreign relations, customs, relationships between citizens and their families, teachings, lessons, pensions, and allowances. It also regulates property, inheritance, commerce, taxation, crime, penal policy, and judicial procedures. These laws have been studied in various historical manuscript sources.

Equality of rights and punishments under the law between common

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people and nobles is a defining feature of the "Ikh Zasag". This is evident from the "Ikh Zasag" Law's paragraph 22, which says that "Equal rights for everyone, rich and poor, noble and inferior cannot be distinguished."

The historical event of the Great Mongolian State's establishment led to the approval of the "Ikh Zasag" law. The concept of law, rules, regulations, and customs was expressed in the word "government's ancient root meaning. Professor G. Sovd who researcher notes that the right to criminal proceedings is one of the "Great Government" law's dominant norms. Many researchers have examined the law from the perspective of criminal law norms, and they have not studied it extensively from the perspective of the law of process, which aims to prove and investigate crimes. It was defined and determined for the first time that there is a legal norm, or a norm intended to investigate and prove the case.

The "Ikh Zasag" law was the first to codify the process for uniting the nomadic people's way of life and customs under the emperor's single rule. which found that it was evaluable and demonstrated to be a valuable source of that era's legal history.

The Mongolian Secret Bureau declared, "A person was given to his family by a hundred Tumdi because of Borokhul's skeleton," in reference to the first compensation procedure. We acknowledge that construction law is a custom that dates to the 13th century, and that this is when the process of calculating damages began. As some of our scholars have pointed out, Ogodei Khan followed the principle of "resulting in the place where the case was committed by Genghis Khan" to the letter when he finished writing the Great Government Law, published the final version, and put it into effect. It's accepted that he was concentrating.

Enacted by the Great Assembly of the Kings of Northern Mongolia at the close of the XY1st and the start of the XYIIth centuries, the "Memorial document of Khalkh's newly found executioner" was the next codified law. This law regulates control relationships and governs disputes that arise during the investigation of criminal and civil violations, as well as how those disputes are investigated and resolved.

According to this law, witness testimony is crucial to the investigation, prosecution, and sentencing processes for both felonies and misdemeanors. For instance, Law I. Clause No. 76 stipulates that a witness will receive nine small animals as payment for providing a statement, while Law VIII. Clause No. 6 permits him to use five animals out of a hundred head of animals for his own needs and food. Additionally, Law No. II. Clause 3 stipulates that a witness will be fined nine small animals if he provides false testimony, and Law No. VIII. Clause 3 stipulates that a witness who is killed at the expense of his life will be fined five camels and fifteen horses.

Approved by the assembly of Mongol-Oirad princes in 1640, the "Great Execution" is one of Mongolia's historical legal documents.

This law aims to establish numerous norms governing civil and administrative relations in addition to putting an end to the collapse and crisis of the Mongol-Oirad princes. Equal rights without discrimination are also granted to citizens.

The goal of legal regulatory relations was also to review and resolve crimes, infractions, civil disputes, and violations; officials and messengers at all levels participated in this process. The goal of legal regulatory relations was also to review and resolve crimes, infractions, civil disputes, and violations; officials and messengers at all levels participated in this process.

The "Great Penal Code of Mongolia" also introduced the idea of criminal law and attempted to define crime categories for the first time. The "Ministry of Investigation and Case Decision" was used to investigate cases, assess guilt, and make decisions during the Manchurian state's (1691–1911) reign. For instance, in order to confess, the princes and officials in charge of cases and lawsuits caused harm to other people's bodies, minds, and lives. This was a brutal way of putting Manchu rule into effect. The suspects who were the subject of the "Nine Tortures" were kept in the dark for the remainder of their lives.

The policy of Manchurian in Mongolian law was one of the ways the Manchurian state attempted to completely subjugate Mongolia; examples of this are the 152-article "Mongolian Execution Book," which was composed between 1626 and 1638 and published in 1695, and the 209-article "Law of Laws," which was written in 1789 and is slowly being implemented.

Up to the issuance of the "Khalkh rule" law in 1709, the Mongol-Oirad law served as a regulatory framework for the social relations within Mongolia's feudal society. One of the most outstanding pieces of Mongolian legal literature is the "Khalkh rule" law, which has been extensively studied by both domestic and foreign scholars. S. Jalan-Aajiv has done specialized research on it and has produced a number of works. In his conclusion, he stated that "Mongolian law is the best and highest law, not just a monument of execution."

The Khalkh rule, which is based on actual events in Mongolia, is a fantastic document that records the legalization of independence, statehood, religion, equality without discrimination, and local customs.

### **3. Comparisons of Legal Traditions and Systems in Asia**

Asian countries often developed distinct legal traditions influenced by indigenous philosophies, religions, and historical experiences. John H. Wigmore's work on evidence law and legal system development provides valuable insights into the evolution of legal regulations in Asia.

Traditional Asian societies had hierarchical structures for administering justice, with various levels of courts and officials responsible for different aspects of the legal process. The role of

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judges, magistrates, and legal scholars varied across regions.

Randall Peerenboom's comparative legal studies offer valuable insights into the similarities and differences between Asian and Western legal traditions, highlighting the complex interactions between different legal systems throughout global history. Legal regulations in Asian countries evolved over centuries, often influenced by political changes, societal norms, and external factors such as colonization. The development of legal codes, enforcement mechanisms, and legal institutions reflects these historical dynamics.

The contributions of scholars like Wigmore, Wang, Ueda, and Peerenboom, researchers can gain a deeper understanding of the criminal justice systems, administration, and legal regulations in Asian countries within the broader context of global legal history.

Asian countries have developed distinct legal traditions shaped by indigenous philosophies, religions, and historical contexts. Scholars like John H. Wigmore and Randall Peerenboom have provided valuable insights into the evolution of legal systems in Asia, highlighting hierarchical structures, diverse roles of legal actors, and complex interactions with Western legal traditions. Legal regulations in Asia have evolved over centuries, influenced by political shifts, societal norms, and external forces like colonization, resulting in the development of codes, enforcement mechanisms, and institutions reflecting historical dynamics. Through the contributions of scholars like Wigmore, Wang, Ueda, and Peerenboom, researchers can gain a deeper understanding of Asian legal systems within the broader context of global legal history.

#### 4. Conclusion

All of this was made possible by the research materials that demonstrated how Genghis Khan's laws—from the "Ikh zasag" Law to the "Khalkh rule"—regulated civil and criminal law as well as the identification, prosecution, and settlement of crimes as well as the administration of the feudal society in Mongolia at the time. Is Examining the sources of documents used by Mongolian law enforcement reveals that the way crimes were investigated and managed prior to the people's revolution was not strictly literal;

rather, based on the way laws were implemented and carried out and management.

In other words, Examining Mongolian law enforcement documents reveals that the investigation and management of crimes before the people's revolution were not strictly dictated by literal interpretations of laws. Instead, they were influenced by the practical implementation and management approaches employed at the time.

In conclusion, the research materials elucidating Genghis Khan's laws, such as the "Ikh zasag" Law and the "Khalkh rule," provide invaluable insights into how civil and criminal law were regulated in Mongolia during that era. These laws not only governed the identification, prosecution, and settlement of crimes but also shaped the administration of feudal society at the time.

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