

Exploration of Excellent Culture in the Chinese Legal System History

Wenhong Qu*

Jilin Province Veterans Service Center, Changchun 130022, China

*Corresponding author: Wenhong Qu, 1308418466@qq.com

Copyright: © 2022 Author(s). This is an open-access article distributed under the terms of the Creative Commons Attribution License (CC BY 4.0), permitting distribution and reproduction in any medium, provided the original work is cited.

Abstract: This paper explicates the historical practice of China's legal system history and its excellent culture. Also, it analyses the inheritance and innovation of China's legal culture, and further analyses the practical utilization of China's legal culture in the modern legal system, in order to provide related people for reference.

Keywords: History of Chinese Legal System; Excellent culture; Legal inheritance

Online publication: January 20, 2022

1. Introduction

Ancient Chinese legal culture has left a large number of rich materials and valuable experience, and has rich cultural connotation and excellent resources, which is the crystallization of the excellent history, culture and wisdom of the Chinese people for thousands of years. A correct understanding of the excellent culture in the history of Chinese legal system plays a certain role in promoting the further inheritance of Chinese legal system and history. In the historical development stage of China's legal history, China's excellent culture has been inherited to a great extent. The current legal system has inherited the successful experience of governing the world according to law. The development of China's legal history is the carrier of humanistic spirit. Exploring the excellent culture in the legal history can strengthen the national self-confidence and scientifically summarize and absorb the valuable factors in the accumulation of history and culture.

2. Historical practice of Chinese legal history

China formed the national system earlier. In the Xia, Shang and Zhou dynasties, it mainly used the combination of rites and punishment, which is also the earliest legal system in China. With the development and progress of the times, there were a hundred schools of thought contending in the Spring and Autumn Period and the Warring States Period. Various schools had different opinions on national governance, and the legal system was diversified at that time. In the Western Han Dynasty, due to the unification of politics and dynasties, Emperor Wu of the Han Dynasty, as the leader of the unification of dynasties and politics, accepted the suggestions of Dong Zhongshu at that time and implemented the policy of exclusive respect for Confucianism. Since then, China's legal system has changed from the combination of rites and punishment to the combination of rites and law, and the legal system has been gradually improved in the continuous change of history, which provides successful experience for modern legal system. The practice of Chinese legal history in history can be reflected in two aspects:

First, the excellent practice of China's legal history is reflected in the formulation of the code. During

the Spring and Autumn Period and the Warring States Period, Zi Chan in the state of Zhen casted the punishment book, and Zhao Yang and Xun Yin of the Jin State cast the punishment tripod, which set the fashion. Then Li Kui of the state of Wei formulated the *Book of Law* and drew a blueprint for the traditional Chinese law code. During the Yonghui period of Emperor Gaozong of the Tang Dynasty, the Law of the Tang Dynasty, a masterpiece of previous generations, was promulgated all over the world, indicating that the traditional Chinese law code reached the peak, and the Chinese legal system was formed. *Tanglv Shuyi* is not only the template of legislation in Song, Yuan, Ming and Qing Dynasties, but also the blueprint for the formulation of laws in East Asian countries. For example, North Korea's "System of Korea generation is largely similar to the Tang Dynasty." Japan's *Jinjiang Decree* and *Dabao Decree* are mostly the same as the laws of the Tang Dynasty; The *Book of Punishment* of the Li Dynasty in Vietnam and the *Criminal Law of the State and Court* of the Chen Dynasty are all derived from the law of the Tang Dynasty.

Second, in the construction of legal principles and systems, China also has excellent practical experience in the history of legal system. The legal principles in ancient China reflected the concept of law respecting life, and mostly adopted the legal concept of "morality first and punishment second" to carry out the system construction of the legal system. This view was first put forward by the rulers of the Xia Dynasty. At that time, it was embodied as "assuming disputed crime as light," which undoubtedly reflected the humanization of China's legal system and the principle of respecting life. In the change of dynasties, the rulers carried out a series of system construction, such as prison recording and suggestion submitting system in the Western Han Dynasty, and put forward the replay system in the Northern Wei Dynasty, which was further improved and inherited by the rulers of the Sui and Tang Dynasties. According to the law of the Tang Dynasty, local death penalty cases need to be "submitted to the throne three times" to the emperor, while capital death penalty cases need to be "submitted five times." Emperor Taizong of the Tang Dynasty once warned his ministers to "rule the world with mercy, and be especially cautious in criminal law." The Song Dynasty advocated "benevolence as the rule." In order to prevent the indiscriminate killing of innocent people, the Song Dynasty established the system of different exploration. The Ming and Qing dynasties developed and improved the systems of joint trial and court trial. The practice of these excellent systems in the historical development has provided good successful experience for the development of China's legal system and greatly prevented unjust, false and wrong cases in the administration of justice.

3. Inheritance and innovation of Chinese legal culture

With the continuous development and expansion of China, the ancient traditional culture has been further inherited and developed. The historical culture has been well applied and reflected in the legal system, and has been continuously innovated and applied. China's modern legal system is a more perfect legal system further optimized on the basis of China's traditional legal culture. Specifically, in criminal proceedings, when the court summons witnesses in court, it does not force the close relatives of the defendant to testify in court, and the source of this system can be verified in the laws of the Han Dynasty, the Tang Dynasty and the Ming and Qing Dynasties. For example, the laws of the Han Dynasty require that "concealing crimes among relatives shall not bear criminal responsibility." China has a system of criminal relief for the elderly over the age of 75 and minors, which has been reflected in ancient China. *The Book of Rites · Quli* records: "Elders in their eighties and nineties and children under seven are exempt from punishment, even if they have committed crimes." In other words, people over the age of 80 and under the age of 7 do not have to bear criminal responsibility. The representative *Tanglv Shuyi* stipulates in detail the reduction and exemption of criminal responsibility for crimes committed by the old, the young, the disabled and the sick. The current Chinese legal system only further improves and inherits the excellent culture.

The announcement and adoption of the *Civil Code* is the inheritance and innovation of China's current legal system to China's ancient legal system. In the *Civil Code*, both disabled elderly and minors without

full civil capacity needs the protection of guardians. This regulation reflects China's filial piety culture. The development and implementation of the *Civil Code* are more inclusive of reason. It is stipulated in the *Civil Code* that if the perpetrator of a courageous act doesn't cause a gross negligence, he will not bear tort liability. In reason, the courageous act does good deeds, which is contrary to general reason if he is to be sentenced. Therefore, the *Civil Code* has high tolerance for reason^[1]. The *Civil Code* provides a guarantee for promoting people's better life. People's persistence in real estate has existed since ancient times, and real estate is also stipulated in the *Civil Code*. The regulations show that after the expiration of the use right of residential construction land, the use right of this type of land can be automatically renewed, which undoubtedly sends a calming pill to the people, and meets people's expectations for a better life.

4. Practical utilization of excellent legal culture in legal modernization

4.1. Effective combination of rule of law and rule of virtue

The effective combination of ruling the country by law and ruling the country by virtue can provide guidance for the development of modern legal system. Obviously, the current laws should comply with morality in order to better promote the development and implementation of legal system. Of course, the construction of modern legal system is not to restore a traditional legal culture of "etiquette," but to pay more attention to the improvement of morality in the process of modernization in the process of governing the country according to law^[2]. The legal system needs to inherit the excellent culture of the Chinese nation, critically summarize moral and judicial experience, and maintain social stability and development. In the education of Chinese legal history, we should adhere to the direction of moral education, not only impart legal knowledge to students, but also carry forward excellent Chinese traditional culture, so that students can really apply what they have learned. The construction of socialist rule of law with Chinese characteristics cultivates citizens' morality, strengthens the awareness of rules, and carries forward the spirit of contract, public order and good customs. Guide people to consciously assume legal, social and family responsibilities^[3].

4.2. Implement arbitration and litigation settlement, save litigation resources and increase social stability

The ancient Chinese thought of "no litigation" and "stopping litigation" has a very wide influence among the masses. The traditional legal culture has been internalized into a part of the national spirit and national psychology. Whether at the ideological or institutional level, there are legal resources worth absorbing. In ancient China, many of the rural rules and civil conventions reflected the traditional virtues of the Chinese nation and the common interests of the working people. Patriotism, respect for the elderly, good neighborliness, thrift, diligence and so on have become the moral norms regulating thousands of families. In today's society, the interests are diversified, and the contradictions and conflicts between people are complex and diverse. We should improve various dispute resolution mechanisms that organically link mediation, arbitration, administrative appeal, administrative retrial and litigation. The traditional systems and practices of social mediation and litigation can now be used as a reference to solve similar problems. In today's society, many civil and minor criminal disputes can be solved by mobilizing the strength of all levels of society and through the mediation of relatives, friends, acquaintances and grass-roots organizations. It has become an important way to realize the modernization of traditional legal culture, reduce the burden of judicial institutions, reduce litigation costs and promote social harmony^[4].

4.3. The combination of the ancient civil service system and the rule of law of civil servants makes the modern legal system more perfect

The civil service system originated in ancient China. It appeared as early as the Spring and Autumn Period

of China. In the feudal society of more than 2000 years, in order to consolidate their feudal rule, successive kings continuously absorbed the experience of previous generations, and gradually formed a system in the selection, use, merit examination, supervision, reward and punishment of civil servants. The tradition of clarifying responsibilities and governing officials according to law was formed very early. Since the Warring States period, China has gradually formed a fairly developed administrative law, and public management law is the core of administrative law. In the traditional legal culture, the establishment, appointment and removal of public officials are legalized and institutionalized. There are legal procedures and requirements for the appointment of public officials, and the responsibilities, authorities and responsibilities of public officials are clear. Successive dynasties have implemented a strict supervision system to strengthen the supervision of officials^[5]. At the same time, strengthen the bureaucratic self-discipline mechanism. The state of public power is related to the rise and fall of national sovereignty. The rule of law tradition of China's ancient legal system is still an important reference to improve the modern rule of law.

5. Conclusion

To summarize, China's legal system has a long and glorious history that displays the country's traditional excellent culture. People's perceptions of China's legal system have shifted as a result of its widespread Westernization. Cultural self-confidence is to blame for these phenomena. As a result, it is not difficult to find that the excellent culture in the history of China's legal system is worth inheriting and carrying forward, all of which highlight the wisdom and classics of history, if we publicize the excellent traditional Chinese culture and review the history of China's legal system from an objective and realistic perspective. An important topic is preserving China's legal history's excellent culture.

Disclosure statement

The author declares no conflict of interest.

References

- [1] Zhong H, 2020, Characteristics and Highlights of the Civil Code of the People's Republic of China, the First Law Named "Code" in the History of Legal System in New China. Shanghai Quality, (06): 72-74.
- [2] Zhang Y, 2021, Strengthen Cultural Confidence with Excellent Traditional Chinese Culture. China Culture Daily, (003).
- [3] Lv L, 2020, Review and Prospect of Chinese Legal History Society in 40 Years. Law and Social Development, 26(06): 179-198.
- [4] Kong D, Li H, Zhong Y, Guo M, 2020, The Relationship between Propriety and Law in the History of Chinese Legal System. Legal Expo, (14): 212-213.
- [5] Wu D, 2020, Review and Prospect of Modern Chinese Religious History from the Perspective of Legal History. Journal of Guangzhou Police College, 37(01): 81-87.

Publisher's note

Inno Science Press remains neutral with regard to jurisdictional claims in published maps and institutional affiliations.