



The Characteristics and Influence of Ancient Chinese Judicial System

Rongyuan Lv

Beijing Institute of Technology
No.5 Zhongguancun South Street, Haidian District, Beijing 100081, China

yuanrongl20@163.com

Abstract. This article systematically reviews the development of China's ancient judicial system, from the construction of the legal system from the pre Qin period to the Han Dynasty, to the further development of Tang law and the laws of the Song, Ming, and Qing dynasties, revealing the evolution process of ancient Chinese law. The article deeply analyzes the social characteristics of ancient legal systems, explores the unique positions of family and religion in law, and their impact on social stratification and legal implementation. Further elaborated on the execution of the judicial role in the bureaucratic system and the profound impact of the judicial system on social governance. This study aims to comprehensively evaluate the characteristics and influence of ancient judicial systems from the perspective of historical development, providing historical references for understanding current legal systems.

Keywords: ancient judicial system; Legal history; Social characteristics; Bureaucratic system; social governance.

1 Introduction

The ancient Chinese judicial system had distinct characteristics, forming a unique legal culture that had a profound impact on social governance, power relations, and ethical morality. As early as the Xia Dynasty, the initially established judicial system tended to be loose, with specific cases relying heavily on local temples and religious ceremonies to determine disputes. During the Shang and Zhou dynasties, the legal system gradually became standardized, and Zhou rituals emphasized the importance of "ritual" and the combination of ritual and law, which was the foundation of judicial practice.[1]

Legal texts lack systematic organization and are usually promulgated directly by the monarch, exhibiting the characteristic of "using people to govern". The Qin Dynasty carried out legal reforms and promulgated the Qin Code, marking the beginning of codification. The hierarchy of legal system establishment is clear, divided into main law, subsidiary law, and case law, reflecting the use of debate and evidence. During this period, the function of judges was not only that of adjudicators, but also

the responsibility of supervision and error correction to ensure the implementation and enforcement of the law.[2]

The Han Dynasty continued the Qin system, while during the reign of Emperor Wu of Han, laws were revised according to the needs of social development, forming the "Han Law". During the legislative process, emphasis was placed on the integration of social customs and morality, making the law more operational. During this period, the principle of "one case, one discussion" was adopted to handle cases, emphasizing the specific circumstances and evidence of each case, reflecting the judicial spirit of adapting measures to local conditions.

During the Sui and Tang dynasties, the "Tang Code" was formulated, further enhancing its systematic level. The Tang Code clearly divides articles and precedents, and important principles such as "combining power with the law" and "not losing its essence" provide a framework for future legal codes. The judicial trial system during this period was relatively mature, and the distribution of judicial power between the central and local governments was clearer, strengthening the supervision mechanism of higher courts over lower courts.[3]

During the Song and Ming dynasties, with the development of the imperial examination system, scholars and legal scholars began to participate in the discussion and formulation of laws, promoting the integration and innovation of law and society, and the application of local regulations and case law emerged. Especially with the rise of commercial law, it reflects the needs of the market economy and promotes the diversification of legal provisions. The infiltration of folk customary law has made the rule of law and social customs complement each other, shaping people's legal awareness.

Overall, the ancient Chinese judicial system, through continuous evolution and adjustment, constructed a system that unified law, customs, and morality, playing an important role in maintaining social order and regulating interpersonal relationships. Although the importance of legal provisions has gradually become prominent, they are still influenced by social and historical backgrounds as well as moral concepts in their practical implementation, which still has significant inheritance in later legal cultures.

2 The Evolution of Ancient Chinese Law

2.1 Legal System from Pre Qin to Han Dynasty

The legal system of the pre Qin period was characterized by the combination of ritual and law, emphasizing the importance of moral and ceremonial norms in the implementation of the law. As a social behavior norm, etiquette goes beyond simple legal provisions and maintains social order through religious ethics such as family and clan. Especially taking Zhou Li as a model, the "Li" system of Zhou Gongxian had standardization, reflecting the ruling ideology and social hierarchy of the rulers at that time. The legal provisions are mainly reflected in classics such as the Book of Documents, the Book of Changes, the Book of Rites, and the Spring and Autumn Annals, forming a legal concept centered on the rule of virtue.[4]

In the Spring and Autumn Period and Warring States Period, various feudal states established their own legal systems in order to strengthen centralization, presenting a change in the rule of law and the rule of man. During this period, the number of legal texts significantly increased, and the Criminal Law, Civil Law, and others gradually became independent books. The Shang Yang Reform, represented by Legalism, promoted the comprehensiveness and systematization of the law by formulating the "Book of Shang Jun", emphasizing the importance of the rule of law and consolidating state power. The severe punishments and laws proposed by Shang Yang, such as the "Lianzuo Law," have increased the severity of punishment for illegal acts, making the idea of rule of law deeply rooted in people's hearts.

The Han Dynasty inherited and developed the legal system of the pre Qin period, establishing the "Han Law". The "Han Law" can be divided into three parts: "Law", "Order", and "Example", which respectively stipulate different types of legal issues and have a systematic nature. Especially during the reign of Emperor Wu of Han, the strengthening of centralization promoted the integration of law and state functions, forming an important principle of using law as a means of national governance. The Han Code has formed a complete set of legal frameworks on criminal, civil, and administrative matters, effectively implemented through the authoritarian and centralized system.

The strict legal measures implemented in the execution of Han law, such as "no tolerance for punishment" and the improvement of the appeal system, ensure the authority and strictness of the law. The laws and regulations of the Han Dynasty were not only punishments for illegal acts, but also norms for social behavior. During this period, the law not only had a punitive nature, but also gradually reflected the emphasis on family ethics and social morality. For example, there are a large number of registered residence management and monitoring systems to maintain social security and promote the development of agricultural production.

The Han Dynasty also implemented the "Civil Law of the Common People", which balanced the privileges of feudal lords with the rights of the common people, making the legal system more fair and reflecting the attention and actions towards the lower classes of society. During this period, legal constraints on official corruption emerged, limiting the power of the privileged class to achieve the fairness of the rule of law.

Overall, from the pre Qin period to the Han Dynasty, the ancient legal system in China went through a process from the combination of ritual and law, which was mainly governed by virtue, to the importance of strengthening the rule of law, and then to a comprehensive and systematic legal system architecture. The evolution of various legal systems is closely related to the social and political background, demonstrating the dual role of law as a tool for social control and a means of national governance.

2.2 Tang Law and the Development of Law in Song, Ming, and Qing Dynasties

The Tang Code was officially implemented in 618 AD, forming the foundation of ancient Chinese legal codes and having a profound impact on the development of law

in later generations. The Tang Code provides detailed regulations on the scope of application of the law, the division of charges, and corresponding punishments, establishing the principle of "statutory responsibility for crimes". Through the specific classification and sentencing of criminal acts, legal norms transition from customary law to statutory law. The Tang Code consists of 12 chapters and 603 articles, covering multiple aspects such as criminal law, civil law, and administrative law, demonstrating a systematic legal governance concept.

The legal system of the Song Dynasty (960-1279) was revised and improved on the basis of Tang law, and the "Song Penal Code" was compiled. The Song Dynasty Criminal Code emphasizes the combination of rule of law and rule of virtue, proposing that the law should not only punish offenders, but also guide social morality through education. The legal system of the Song Dynasty began to accommodate new things in economic and social changes, with specialized rules for cities, ships, etc., to cope with the growth of commercial activities. At the same time, the judicial system of the Song Dynasty strengthened local autonomy, implemented joint liability and fixed compensation, reflecting the gradual maturity of the rule of law thinking.[5]

The legal policies of the Ming and Qing dynasties were further refined and systematized on the basis of inheriting the legal system of the Tang and Song dynasties. The "Great Ming Law" was promulgated in 1397 and is divided into criminal, civil, administrative, and deliberative parts. It clarifies the litigation mechanisms such as overturning cases and deducing crimes, and stipulates the prison litigation system to ensure the fairness and transparency of legal procedures. The Qing Dynasty's "Laws and Regulations of the Qing Dynasty" were revised based on the Ming Dynasty's laws, with a complete system and a wide range of content, specifically including 305 articles, emphasizing the principle of "the law is not noble" and protecting the legitimate rights and interests of civilians, including special provisions for vulnerable groups such as women and slaves.

The evolution of laws in the Tang, Song, Ming, and Qing dynasties not only reflected changes in legal provisions and clauses, but also reflected the evolution of legal thought, gradually shifting from the spirit of authority to the spirit of rule of law, promoting the universal application and fair enforcement of the law. In addition, the interaction between law and society is closer, and legal affairs play an important role in social governance, promoting economic development and social stability. With these mature legal systems and institutions, ancient China ultimately formed a comprehensive legal framework that was adapted to the social and cultural characteristics of the time, laying the foundation for the subsequent development of the rule of law.

3 The Social Characteristics of the Legal System

3.1 The Status of Family and Religion in the Law

Family and religion played an important role in ancient Chinese law, profoundly influencing the structure and enforcement of the law. As the fundamental unit of society, the family holds a particularly prominent position in judicial practice. The law not only embodies individual rights, but also reflects the collective interests of the family.

The criminals targeted by the death penalty often involve family reputation, and family members often bear joint responsibility, even in cases of "family law", where internal family rules take precedence over national laws. This phenomenon indicates that the authority of the family holds a place in the implementation of the law, and disputes within the family are usually resolved by the family itself. Parents play an important role in this process, and the opinions of the entire family play a decisive role in legal judgments.

In terms of religion, during the Han and Tang dynasties, the influence of religion was profound, especially Confucianism, Taoism, and Buddhism, which had a significant impact on the formation of legal norms. Confucianism emphasizes ethics and morality, advocates "benevolence" and "righteousness" as the basic principles of law, and explicitly combines ethical constraints with law to form an organic combination. Taoism provides an understanding of nature and harmony, and influences the legal understanding of social morality. The causal principles of Buddhist dissemination have also permeated into the law, affecting the system of punishment and forgiveness for criminals. In certain specific situations, religious law can even coexist with secular law, influencing the adjudication and management of cases.[6]

The clarification of social identity is also an important manifestation of the legal status of family and religion. In ancient times, the status of a family was divided based on blood and social relationships, and the law defined roles for family members to protect their rights and obligations, resulting in a specific family governance structure. At the same time, religious rituals and festivals help to enhance family cohesion and social identity, influencing the acceptance and compliance with legal practices.

In legal proceedings, the family is not only a supportive part of the victim or defendant, but also a constituent element of social opinion. The social status and wealth status of a family often have a specific impact on legal judgments, which are made by external judges, but often need to take into account the reputation and interests of the family. Religious leaders and their doctrines also play a unique role in the process of judgment and mediation, resolving internal conflicts within families through mediation and ensuring social stability.

In ancient legal documents, references to family and religion can be seen everywhere, and legal provisions are often carried out on a family basis. Different religious backgrounds have their own unique ways of handling cases. Factors such as "parental responsibility system" and "clan supervision" demonstrate the legal dependence on the family, while also promoting recognition and strengthening of the authority of the family and religion. It can be seen that family and religion are not only beneficiaries of the law, but also important makers and implementers of legal norms. The family and religious factors in the legal system together constitute an important foundation for social governance.[7]

3.2 Social Stratification and Legal Enforcement

The stratification of ancient Chinese society significantly influenced the implementation of law, forming a legal system and enforcement mechanism centered on the ruling class. The class structure of society is mainly divided into four levels: scholars,

peasants, workers, and merchants. Among them, the scholar class occupies a dominant position, holds political power and social resources, while the peasants, as the basic production group, bear heavy taxes and labor, while workers and merchants are in a relatively marginal position. The implementation of the law often reflects this unequal hierarchical feature, and there are significant differences in the application of the law between different social classes, which are influenced by different legal statuses.

In judicial practice, scholars enjoy a higher legal status and can obtain legal relief through means such as relief and written correspondence, or obtain the privilege of exemption or reduction of punishment through recommendation. Farmers often lack legal aid and face high litigation costs when subjected to unfair trials and violations. Corruption in institutions and bribery by officials make it impossible for them to seek help. When the court hears a case, the judgment is more likely to lean towards the upper class, and the protection of the rights and interests of the lower class can be almost ignored.[8]

In terms of the formulation of specific legal provisions, ancient laws had clear provisions targeting different social classes, such as the "scholar not imprisoned for ten days" in the Book of Rites, which granted scholars higher criminal immunity. In addition, the Ming Code established the privilege of visiting without relatives or reasons, further solidifying the close relationship between scholars and local power. The punishment measures for the lower classes are generally harsh, and due to the harsh terms on workers and the severe suppression of the lower classes, a double standard has been formed in the process of legal implementation.

Furthermore, local strongmen and landlords often exploit loopholes and unfair enforcement in the law, resulting in the implementation of "evil laws". This kind of exploitation of institutional loopholes strengthens its own oppression of the common people, making the stabilizing and protective role that the law should play a tool for the strong to defend their rights. The solidification of social stratification also limits the education and popularization of law. Only scholars can deeply understand the principles and rules of law, and the transmission of legal knowledge heavily relies on the mobility of social classes.

With the evolution of history, although changes in the legal system have gradually advanced, the chronic problem of social stratification is still difficult to cure. The lack of legal transparency and the strengthening of local power have further hindered the implementation of the law. For ordinary people, the law does not have universal binding force and is often a tool to protect the interests of the wealthy class, which largely leads to the infringement of the authority of the law. Overall, the hierarchical structure of ancient society deeply influenced the formulation and implementation of laws, making them a part of power games and further exacerbating social conflicts and class divisions.

4 The Implementation and Impact of the Judicial System

4.1 The Role of the Judiciary in the Bureaucratic System

In ancient China, the judicial role in the bureaucratic system was not only the executor of laws, but also an important institution for maintaining social order and regulating the relationship between individuals and the state. The bureaucratic system strengthens its control over judicial power through specific legal systems, ensuring the unity and stability of the law, which is reflected in the following aspects:

Firstly, the ownership and distribution of judicial power have a clear hierarchical structure. Judicial institutions are usually supervised by higher-level administrative agencies, and the appointment, removal, and promotion of judges and local officials are often closely related to their position in the bureaucratic system. This system has led to the implementation of the law being influenced by political factors, resulting in insufficient judicial independence and constraints on the power of judges.

Secondly, the combination of officials and law promotes local governance. Local officials (such as county magistrates), as judicial administrators, are not only responsible for handling cases, but also undertake multiple responsibilities such as administration and taxation. Through the combination of local governance and law enforcement, local officials rely on top-down orders and local customs when handling criminal, civil, and administrative cases, forming a legal application model closely related to traditional cultural backgrounds.[9]

Furthermore, in the process of law implementation, the standardization and proceduralization of the bureaucratic system are extremely important. According to the "Da Ming Law" and "Tang Law", multiple practical procedures have been established, such as interrogation, evidence presentation, and case judgment. Taking the "Da Ming Law" as an example, it stipulates the specific process of case handling, including filing, investigation, trial, and appeal, striving to maintain procedural fairness in the application of the law. However, political intervention in the bureaucratic system often leads to lax implementation of procedures, affecting the ultimate fairness of cases.

Moreover, the influence of bureaucratic judicial roles is not limited to case trials, but also involves relationships with defendants and whistleblowers in judicial practice. Officials often use bribery, threats, and other means to manipulate the progress of cases, leading to a decrease in society's trust in judicial fairness. Especially in local areas, the collusion between judges and local forces has led to the breach of trust in the law, unequal execution of penalties, and the frequent occurrence of the situation of "no customization of the law".

The relationship between legal education and the role of the judiciary cannot be ignored. The cultivation of officials not only relies on the imperial examination system, but is also closely related to local practices. The circulation of legal books and the legal literacy of officials directly affect the quality and efficiency of judicial precedents. Especially in the era of the prevalence of Neo Confucianism, officials were required to combine Confucianism with legal rules to form unique legal concepts.

Finally, the evaluation criteria and assessment mechanisms within the bureaucratic system also have a profound impact on the role of the judiciary. The political achievements of officials are often demonstrated through the rule of law, and the number and quality of completed cases become key factors in their promotion, which in turn fosters the pursuit of formal justice and weakens substantive justice. And this evaluation mechanism to some extent promotes bureaucracy within the bureaucratic system, making the judicial role a tool for performance evaluation, and challenging the seriousness and fairness of the law.

The judicial role in the bureaucratic system carries the complexity and multiplicity of ancient society. Although it seeks a balance between the rule of law and the rule of man, the flaws in institutional design make it face many difficulties in maintaining fairness and justice. In the long river of history, the evolution and changes of this role have profoundly influenced the formation and development of China's ancient legal system, leaving behind profound historical experience and lessons.

4.2 The Impact of the Judicial System on Social Governance

The influence of ancient Chinese judicial system on social governance is reflected on multiple levels, including legal authority, social order, moral norms, and the shaping of public mentality.

In terms of legal authority, ancient legal systems were often directly governed by imperial power, and the issuance and enforcement of laws were closely linked to the central government. Officials at all levels strengthen the authority of the law through the combination of strict laws and local customary laws in the process of law enforcement. The "Great Ming Law" specifically stipulates criminal penalties, civil dispute resolution, and administrative regulations, forming a relatively complete legal framework, which greatly promotes the standardization and institutionalization of social governance.

In maintaining social order, the judicial system ensures social stability by punishing criminals and mediating civil disputes. Based on the idea of "heavy punishment and light punishment", ancient laws focused on reducing crime rates through severe punishment. The Tang Code set clear punishment standards for crimes such as theft and rape that are harmful to social security, reducing the probability of social crimes occurring.[10]

The formation of moral standards is closely related to the judicial system. Ancient justice was not limited to the enforcement of legal provisions, but also emphasized moral education. Confucianism occupies an important position in law, emphasizing the parallel of the rule of law by gentlemen and the rule of virtue, while regulating social behavior and enhancing the moral level of the people. For example, when handling cases, judges often consider the moral background of the parties involved and make judgments based on Confucian standards of benevolence and righteousness, encouraging the public to consciously follow social norms.

The judicial system also has a profound impact on the mentality of the people. Through legal propaganda and judicial practice, ancient governments shaped citizens' awareness of the rule of law and sense of belonging. People not only view the law as

a mechanism for safeguarding their own rights, but also incorporate it into their rational choices in daily life. For example, in village communities, setting up village rules and regulations as supplementary justice further strengthens the legal binding force on public behavior, effectively reducing serious conflicts caused by minor disputes.

In addition, the transparency and fairness of the judicial system are directly related to the effectiveness of social governance. During the Ming and Qing Dynasties, the provincial and county governors and Supervisor of the County and other authorities established promoted the credibility of the judiciary through regular trial and public trial. When handling cases, in addition to bureaucratic privileges, a combination of "prosecution and defense" is adopted, which enables basic satisfaction of public demands and enhances the trust relationship between the state and the people.

Overall, the ancient Chinese judicial system formed a social governance model with specific practical backgrounds and cultural connotations through legal authority, maintenance of social order, moral education, and stimulation of citizens' awareness of the rule of law, which had a significant impact on historical development. The principle of the coexistence of morality and law and its profound implications for social governance still have important practical significance in modern society when drawing on ancient judicial experience.

5 Conclusion

The ancient Chinese judicial system had obvious hierarchical, closed, and procedural characteristics. The hierarchical nature is reflected in the bureaucratic system, where judicial power is gradually delegated from the central to local levels, and local officials enforce laws based on their own power and status. Closure refers to the fact that judicial activities are usually limited to specific classes, and ordinary people have difficulty obtaining fair trial opportunities, often relying on local forces or elites. Procedural representation emphasizes the importance of proceduralization and standardization in the trial process, emphasizing the legitimacy of form, and legal provisions often reflect the intentions of rulers rather than public interests.

The diversity of laws is another characteristic. The Tang Dynasty's "Tang Law" specifically listed 52 major crimes and more than 80 minor crimes, and local regulations in some regions also supplemented national laws, showing diversity in normative content. However, the unequal enforcement of the law is also a significant flaw in this system. The law is often interfered with by the personal discourse power of those in power, or due to geographical and political factors leading to local judicial independence, and even the phenomenon of local separatism and disconnection.

The influence of the ancient judicial system was extensive and profound. Firstly, in terms of social structure, its strict regulations on identity and status have led to the solidification of social classes, and the implementation of laws often tends to safeguard the interests of the ruling class. Secondly, the interpretation of laws in history often depends on the will of rulers, leading to a lack of the concept of the rule of law.

The result is that the concept of the rule of law has not been deeply rooted in the changes, but has been limited to temporary measures under imperial power.

From a cultural perspective, the ancient judicial system had a significant impact on later legal thought, the process of amending laws, and the formation of public awareness of the rule of law. For example, the embedding of Confucianism in the law allowed moral considerations to transcend legal rationality and influenced the evolution of the legal system. In addition, the impact of this system on the construction of modern rule of law countries cannot be ignored. Although the current legal system emphasizes fairness and justice, the deep cultural influence brought by ancient judicial relics can still be seen.

In summary, the characteristics and influence of the ancient Chinese judicial system formed a complex legal and cultural system. Although designed to maintain centralization and social stability, it became an important reflection basis for future reforms due to various injustices in its implementation and its profound impact on society. The existence of this system is not only a collection of legal provisions, but also a manifestation of the interaction between power, society, and culture, profoundly influencing the stability and evolution trajectory of ancient Chinese society.

References

1. Corne, Peter. *Foreign investment in China: the administrative legal system*. Martinus Nijhoff Publishers, 2023.
2. Lu, **ng. *Rhetoric in ancient China, fifth to third century BCE: A comparison with classical Greek rhetoric*. Univ of South Carolina Press, 2022.
3. Smith, Richard J. *Fortune-tellers and philosophers: Divination in traditional Chinese society*. Routledge, 2021.
4. Xue, Melanie Meng. "Autocratic rule and social capital: Evidence from imperial China." Available at SSRN 2856803 (2021).
5. **ao, Chaojun, et al. "Lawformer: A pre-trained language model for chinese legal long documents." *AI Open* 2 (2021): 79-84.
6. Csikszentmihalyi, Mark. *Material virtue: Ethics and the body in early China*. Vol. 66. Brill, 2021.
7. Sourdin, Tania, Bin Li, and Donna Marie McNamara. "Court innovations and access to justice in times of crisis." *Health policy and technology* 9.4 (2020): 447-453.
8. Johnson, David, Andrew J. Nathan, and Evelyn S. Rawski, eds. *Popular culture in late imperial China*. Vol. 4. Univ of California Press, 2023.
9. Wagner, Donald B. *Iron and steel in ancient China*. Vol. 9. Brill, 2021.
10. Zhong, Haoxi, et al. "How does NLP benefit legal system: A summary of legal artificial intelligence." *arxiv preprint arxiv:2004.12158* (2020).

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