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MONGOLIAN STATE LEGAL SANCTIONS AND NATIONAL MEMORY

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ABSTRACT

This article explores the connection between Mongolia's legal and historical memory and national memory. National memory encompasses the principles, goals, orientations, and heritage of the nation's struggle for survival, deeply rooted in history, culture, ideology, religion, morality, and legal consciousness.

The research employed a comparative analysis of historical documents and scholarly works. A key aspect of Mongolia's legal tradition is the "Great Government" law established by Genghis Khan in 1206, a valuable legacy of statecraft and legal science for Mongolians and humanity worldwide.

The article highlights fundamental principles of Mongolian legal thought, including justice, the rule of law, legal integrity, environmental protection, and legal education. These principles form the basis of national memory and legal consciousness, spanning from the Great Mongol Empire to the Yuan Empire, the Bogd Khanate of Mongolia, and the Mongolian People's Republic. The study underscores the significance of studying and preserving these traditions to uphold historical truth and instill patriotic ideals in the younger generation.

KEYWORDS

Memory, National Memory, Law, State Law, Law Enforcement, Patriotic Ideals

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Introduction

Exploring the ideas of memory and national memory, particularly in relation to state law and the political inclinations of individuals within national memory. The legacy and customs of legal thinking among Mongolians, with a focus on the significance of the "Great government" as a core aspect of national memory and legal philosophy in Mongolia. Delving into the principles of Mongolian legal thought, including justice, adherence to the rule of law, the holistic and consistent nature of legal frameworks, the ethos of cherishing and preserving the environment, and the impact of educational initiatives on shaping legal ideologies.

We believe that the article's novelty and significance stem from its exploration of the relationship between national memory, state law, legal thought, and the heritage and values of state law. Memory is defined as a reflection of objective reality that is stored in the brain through human senses. It is a crucial source that shapes the consciousness, attitudes, and worldview of human society, enabling development, progress, civilization, and experience.

It is widely understood that humans are inherently shaped by both nature and society. The primary social environments for human interaction include family, clan, social group, class, ethnicity, and nation. Through membership in these groups, individuals develop their consciousness, thinking, and memory by assimilating the traits of the collective. As a result, human memory can be categorized as either individual or collective, spanning from personal to professional, ethnic, national, and universal levels.

According to Professor B. Dash-Yondon, national memory is the highest and most important form of human memory. It represents the collective interests of a nation, reflects the characteristics of its people, and is rooted in morality. National memory is a concept that embodies spiritual independence and is deeply ingrained in a nation's philosophy, ideology, religion, morality, and sense of rights throughout its history. It is a spiritual value that encompasses the ideas, motivations, orientations, principles, and heritage of a nation's struggle for survival. National memory is primarily conveyed through the policies and actions of state and social leaders, as well as through the patriotic education of citizens. Therefore, memory plays a crucial role in the intellectual resilience of a country's independence and security.

Throughout Mongolian history, significant events have shaped the nation's identity and pride. These include the establishment of the Great Mongolian State by Genghis Khan in 1206, the victories of Genghis Khan and his successors, the national freedom and people's revolutions of 1911 and 1921, the abolition of monarchy and serfdom in 1924, the Khalkhin Gol and liberation wars of 1939 and 1945, and the country's transition to democracy with the adoption of the Constitution. These events have played a crucial role in shaping Mongolia's history, traditions, and collective memory, instilling a sense of national pride, independence, and security.

Throughout the history of nations, progress and development have been accompanied by valuable lessons, including the importance of remembering and avoiding mistakes, corruption, and deviations. For instance, in his work "Chinggis Khan's Morality and Legal Chronicles," academician S. Narangerel highlighted how the pursuit of power, bribery, gossip, slander, and prioritizing personal gain can erode unity and destroy history. Similarly, Rashid-ad-din's "Assembly of the Scriptures" offers a lesson on the repercussions of the conflict between Jochi (Zuchi) and Chagadai during the Khorezm War.

In Mongolian history, there are numerous bitter experiences and lessons that remain unforgettable. These include the conflicts between Kublai and Arigbukh, the struggles among the great khans (Ogedei, the descendants of Chagatai, and Gueg), and the subsequent feudal fragmentation that weakened Mongolia's power and led to its subjugation by external forces (such as the Manchus). Recent history also holds bitter lessons, such as the lack of unity, strength, vigilance, and experience, the absence of a cohesive class ideology, and the detrimental effects of extreme revolutionary fanaticism that contradicted the Mongolian people's nature. Additionally, the dearth of intellectuals who turned against their own nation, the mass repression of compatriots, and the denial of national cultural and historical values are all unforgettable events. The memory of a country and its people serves as a testament to the values created in the past and as a stark warning against repeating past mistakes. It is a lesson that must be heeded. Therefore, safeguarding the true history of our nation from distortion due to politicization and ideology and educating our citizens with the authentic power of history is a crucial objective of state policy in this era of diverse perspectives.

National memory is ingrained in the culture, experiences, thoughts, history, international and national laws, and legal reasoning of the state and nation. The history of the development of culture, norms, and the three-way relationship between man and society, man and man, and man and nature is intertwined with the history of law and legal reasoning. Throughout this historical process, the social life of humans, their organized existence under the control or dominance of external power and authority, and the inherent "political" nature of humans are revealed. This nature, as defined by Aristotle in "Politics" and later by Max Weber in "Politics as a Vocation and Destiny," emphasizes that human society's inherent nature is to coexist in an organized manner, and cooperation implies organization. In essence, individuals have no choice but to be part of a group (tribe, region, family, nation, etc...) and abide by its laws, traditions, and customs in order to survive. This way of life is shaped by the collective experiences and memories of individuals and groups, known as legal reasoning.

The state is the fundamental form of organized human society, essential for governance and administration. The relationship between people, government, and law is interdependent, as ancient thinkers like Heraclitus, Socrates, Plato, and Aristotle noted. They emphasized the importance of law in governing society, stating that where there is law, there is government and morality. Upholding the law is a defining characteristic of the state. Therefore, the history of people, nations, and the state is intricately linked to the history of law and order. Respecting and adhering to the law, and resolving state and citizen issues in accordance with legal principles, are integral parts of Mongolian traditions and the state's legacy.

The most significant aspect of Mongolian legal consciousness, memory orientation, and historical tradition is the enduring wisdom of Genghis Khan's teachings: "Let my glory fade away, let my state not fade away" and the legal framework of the "Great Government" that he established. This legacy is not only cherished by Mongols but is also recognized as a valuable contribution to state-building and legal philosophy

for all of humanity, as acknowledged by numerous scholars worldwide. Genghis Khan's unparalleled intelligence and wisdom set him apart as a leader above all others, as evidenced by historical accounts of powerful rulers such as the Khosrovians, the Pharaohs, and the Caesars. He dedicated himself to studying and implementing laws with unwavering determination.

As for the method of conquering countries and the ability to destroy the power of his enemies, it was the power of his clever mind, the power of his extensive knowledge, and the help of his friends,” Juwayn wrote in his “History of the Conqueror of the World.” Rashid-ad-Din wrote in his “Collection of the Scriptures” that “if my descendants who are born in the world and rule the kingdom in five hundred, one thousand, or ten thousand years in the future observe the morality and government laws of Genghis Khan, which are applicable to all nations, without changing them, salvation will descend from heaven on their empire, and they will always be joyful and happy.”

The “Great Government” law, which served as the primary source of state and legal authority in Great Mongolia, outlined the structure of the state, government system, royal power, organization of state institutions, rights, responsibilities, administrative procedures, territorial boundaries, environmental conservation, protocol, taxation, customs, criminal justice policies, and guidelines for imposing and enforcing penalties. For instance, the “State Law” in Great Mongolia encompassed foreign affairs, military affairs, judiciary, and religious matters, while the “Civil Law” covered customs, interpersonal relationships, education, pensions, benefits, property rights, inheritance, marriage, family, and trade. Furthermore, the “Criminal Law” was established to uphold state authority and societal order in Great Mongolia, safeguarding legal norms from criminal transgressions and regulating all social interactions within a legal framework.

The Great Government of the Great Mongolia State and its foreign policy have introduced many concepts that have become the cornerstone of state policies in later generations. These include safeguarding border security, deterring foreign invasions, enhancing political, economic, and cultural relations with Western and Eastern nations, promoting information exchange, and advancing the country. The protection and security of ambassadors and the bestowal of the “Gerege” symbol of inviolability are significant contributions by the Mongolians to the development of modern diplomatic practices.

In addition to foreign relations, diplomacy, and security, it is a unique tradition to protect the mother earth as a whole, to “revive” the mountains and waters, to establish and enforce taboos on worshipping and attacking, and to ensure that all citizens and descendants understand and appreciate them, and to closely align their lives with the natural environment. Preserving this Mongolian tradition of nature protection is something that should be ingrained in the memory of not only the nation but also all of humanity.

The Great Government Law is also notable for being the first time in history to address women's rights in state laws. For instance, a document discovered by Professor Sumyabaatar from the Guulin State Sutra states: “The ruler and soldiers, being overwhelmed by their power, cannot forcefully marry the women and girls of any new city or town they conquer.” It is important to highlight that safeguarding the life, property, and well-being of Erdenet people was the top priority of the Great Government. Violations of these laws carry severe penalties.

Therefore, the Great Government Code and the Law of the Great Mongolia were considered natural laws, originating from the essential and practical requirements of society and encompassing various aspects of human relationships within legal regulations.

According to J. Boldbaatar and D. Lundeeljantsan, the Great Government Code holds significant importance comparable to renowned ancient laws like the Code of Hammurabi of Babylon and the Code of Manu of India, shaping world civilization history and establishing a comprehensive social and political framework. The principles and concepts of this law not only influenced Mongolia but also impacted major global powers, leaving a lasting legacy in the development of world law.

Footnote1. The earliest formal law can be traced back to the Sumerian Code of Ur-Nammu, which was written around 2100 BC. Other notable laws include the Ten Laws, the Laws of Solon, the Twelve Tables of Roman law, and the Code of Justinian. English law predates the Norman Conquest of 1066, but was codified by the Magna Carta of 1215 and evolved into its modern form with the First and Second Statutes of Westminster of 1275 and 1285. Anglo-American law began to take shape in the American colonies in the early 1600s and eventually served as the foundation for the United States Constitution of 1787.

Footnote 2. Genghis Khan’s “Great Government” law had a significant impact on the empire he established, influencing the lives of the Mongols and other conquered peoples in various ways and serving as a primary legal system for a considerable period. For instance, Russian scholar V.A. Ryazanovsky noted that in the Golden Horde, which held sway over the Russian principalities, no other written law existed apart from

this law. The “Great Government” law remained in effect in the Chagatai Ulus until the 15th-16th centuries and in the Zuchi Ulus until the 16th century.

Scholars suggest that the Great Government law was initially approved by the Great Khural in 1206, underwent revisions and amendments in 1210 and 1218, and was finalized in 1227.

Ancient historians and chroniclers like Makrizi, Mirkhogend, Ibn Battuta, Vartan, and Rashid al-Din have documented and passed down certain aspects of the Great Law. Chinese sources have also provided additional insights into this law.

According to Makrizi, the Great Law consists of 26 articles that outline various regulations, including the imposition of the death penalty for offenses such as “debauchery, rioting, deliberate lying, and sorcery.” Other provisions include the punishment of individuals who repeatedly go bankrupt after buying goods, the equal treatment of all religions, restrictions on princes engaging with anyone other than their sovereign, the establishment of post offices, and the supervision of law enforcement.

Mirhoven also established norms regarding the punishment for military mistakes during the war and the exemption of individuals sentenced to death from paying debts, with specific amounts outlined for different ethnic groups. Ibn Battuta, on the other hand, introduced rules such as the requirement for a person who steals a horse to return nine more horses to the owner or offer his child as payment. According to Vartan and other sources, the “Great Government” law consisted of approximately 40 articles. Additionally, scholars like Dr. Erenjin Hara-Davaa suggest that there were oral decrees, known as “Bilig,” issued by the King, which included around 170 articles and sections in addition to the written law.

Throughout Mongolian history, including the Great Mongol Empire, the Yuan Dynasty, the Bogd Khanate of Mongolia, the Mongolian People’s Republic, and the Mongolian Empire, the ideals of the government, the main laws of the state, and the true natural standards that emerged from the needs of social life have been a constant source of state law and policy activities. These guiding principles have become integral elements of the national consciousness and memory of the Mongolian people.

Examples include the Great Yuan Law of the Death Penalty (1271), “The Law of the World to Repair” or “The Law of the Khan to Repair the World of the State” (1312), “The Encyclopedic Law of the Great Yuan” (1322), “The Mongolian and Oirat Law” (1640) during the period of political disintegration, the “Death Penalty of the Golden Khan,” the “Khalkh Law” (compiled and enforced between 1709 and 1795) during the Manchu rule, the “Legal Code of Outer Mongolia” (1785), and the “Legal Code of Mongolia Established by Decree” (1915-1918) during the Mongol Empire (Bogd Khanate Mongolia). These laws were considered “natural law” that arose from the actual needs of social life, as evidenced by comparative studies conducted from a historical perspective.

When we analyze them comparatively from a particular historical viewpoint, the values enshrined in the Mongolian state constitution as a national memory include:

1. The principle of justice that upholds equal and fair treatment for all citizens, irrespective of their status, wealth, or ethnicity, with compassion and without discrimination. Marco Polo describes how Genghis Khan’s just and compassionate rule attracted people from other countries to join him. As his followers spread worldwide, he became bold enough to conquer and govern the world. The “Integrity Law” of the Great Yuan allowed for certain punishments to be exchanged for ransom, familial punishments, restrictions on cruel torture, and prohibition of nighttime interrogations.

Juveini praises the high level of justice in Mongolian law, noting that even powerful generals can be swiftly punished by the khan for mistakes or accidents, regardless of their location. This system ensures accountability and upholds moral values. Academician S. Narangerel emphasizes the importance of justice as a fundamental aspect of Mongolian tradition, likening it to the essential structure of a Mongolian ger. Without justice, individuals lose their integrity and the country cannot thrive.

Duldyut Danzanravjaa warns that if justice is lost:

- ✓ The young will oppress the old
- ✓ The old will ignore the young
- ✓ The honest will be among the nobility
- ✓ The arrogant will occupy the throne
- ✓ The guilty will claim innocence
- ✓ The innocent will defend the guilty
- ✓ Reconciliation will breed jealousy
- ✓ Those in power will be envious
- ✓ Those under rule will be oppressed.

2. The principle that punishment and reprimand should be commensurate with the seriousness of the offense;

3. The conscience and order of strictly adhering to and upholding the laws, regulations, and decrees (in modern terms, respecting the law);

“Princes, officials, soldiers, and even servants, if they are able to carry out their respective duties, will achieve great accomplishments for the eternal power of Heaven. Therefore, my teachings should be followed and upheld from generation to generation without alteration for a thousand years and without change for a thousand generations.” These (2, 3) are closely tied to righteous morality and serve as the necessary conditions and forms for its implementation.

4. The law should be comprehensive, covering all aspects of social life and interconnected with each other (e.g. Great Zasag, Khalkh Juram Law).

5. Ideas and principles such as the concept of “reviving and worshipping” and lovingly protecting Mother Nature, mountains, and waters, as well as the idea of reviving and worshipping mountains and waters, human customs, and order.

Examples of provisions from historical laws like “Altan Khan’s Execution Code” (1507-1582) on protecting wildlife and saving livestock from danger, the “Mongol and Oirat Law” (1635), and the “Khalkh Juram” on “Keeping the source of spring water clean and pure” can be cited to illustrate the importance of protecting nature.

The rule of law is the most important value that should be preserved in the national memory as a tradition of Mongolian state's legal thought, as formulated by the founders of the Constitution: Doctor, Professor, Hero of Labor B. Chimed, Doctor, Professor, Honored Lawyer D. Lundeeljantsan, and constitutional scholars. This includes the principles that:

- Legal norms should regulate relations only through law, decrees, and legislative acts.
- All laws and legal acts should align with the main law of the state.
- Human rights and freedoms should be safeguarded through a fair trial guaranteed by law.
- The Constitution and laws consistent with it should be understood and universally followed across the country.
- Those found guilty of violating the law should face appropriate legal consequences.

B. Chimed stated that including the main characteristics of justice, ethics, and other social norms in the constitution establishes the rule of law. The ideas outlined in the Mongolian state constitution have been and will continue to be the guiding principles of the state constitution. These principles form the core of Mongolian national consciousness and thinking, serving as the essence of its memory.

It is important to highlight that there have been intentional and unintentional efforts to distort the history of Mongolia, including the false notion that nomadic Mongols have always lived lawlessly. R. Saishaal Abugai countered this in his work “The Secret History of Genghis Khan,” stating that the idea that Mongols have no laws is a misconception perpetuated by those unfamiliar with Mongolian history and by individuals who denigrate ethnic groups as uncivilized. Abugai argued that the Mongol nation has a long history of laws and governance.

To strengthen the newly formed Mongolian khanate and establish social order, the Mongolian leader implemented laws, decrees, and regulations, creating the original Mongolian legal system and the first written law code known as the “Great Government.” Additionally, he appointed a state governor to oversee all regions within the nation.

This demonstrates the importance of Mongolian consciousness in preserving its native history, restoring memory, and educating its citizens with historical truth. The essence of enlightenment is safeguarding citizens from deception, as advocated by the XIY Dalai Lama and philosopher I.Kant, and promoting positive values such as virtue, environmental protection, patriotism, and harmony. Preserving national pride is crucial for peaceful coexistence as a nation.

Conclusions

The research findings above highlight the significance of national memory in upholding and passing on Mongolia's legal traditions, culture, and historical values. The legal principles of Genghis Khan's "Great Government" serve as the cornerstone of Mongolian legal consciousness, embodying essential values such as justice, respect for the law, legal integrity, and environmental protection. These principles not only reflect the past heritage but also underpin present and future legal frameworks in Mongolia.

It is crucial for political policies in this era to safeguard historical truth from politicization and ideology, while educating citizens on the transformative power of history. Preserving Mongolian legal and state traditions within national memory and instilling patriotic values in the youth will serve as a wellspring of intellectual strength for the nation's independence and security.

Therefore, the preservation of Mongolian legal traditions and the principles of the "Great Government" in national memory, along with research and their integration into educational initiatives, are imperative in the current context.

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