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Comparative Analysis of Litigation System between Tang Dynasty and Ancient India

Xueyi Huang

School of Southwest petroleum university, Chengdu 610500, China

Abstract: As early as the Western Zhou Dynasty, China and India had already started cultural exchanges. Because of the similar geographical environment, the same philosophy and the strict hierarchy between the two countries, the litigation systems in Tang Dynasty and ancient India have similarities. However, due to the different interests maintained by the two countries and the different subjects of formulation, there are also many differences in the litigation systems between the two countries. This paper will specifically analyze the similarities and differences between the litigation systems of the Tang Dynasty and ancient India, and analyze the specific reasons.

Keywords: Ancient Indian, Litigation System, Tang Dynasty.

1. The Similarities between the Litigation Systems of Tang Dynasty and Ancient India

There are similarities between the litigation systems of Tang Dynasty and ancient India in terms of litigation organs and litigation restrictions.In the litigation organs, all adopt four levels of trial, and the rulers have the highest judicial power and the right of final adjudication; In terms of litigation restrictions, there are identity restrictions for prosecutors, and different identities have different litigation rights.

1.1. Litigation Organ

The local government in the Tang Dynasty not only undertook administrative functions, but also performed the duties of judicial organs. The lawsuit in the Tang Dynasty was accepted from the bottom up, starting from the county, going through the trial at the state level and Dali Temple, and then reported to Shangshu Province and the three departments, and finally to the emperor. The judicial system in the Tang Dynasty was divided into central and local governments. The central judicial system was mainly composed of the Ministry of Punishment, Dali Temple and Yushitai, namely the "three divisions", which were jointly responsible for the management of judicial affairs and occupied a dominant position. [1]The local judicial affairs are managed by the administrative organs, which are basically divided into two levels. With the strengthening of centralization in the Tang Dynasty, the highest judicial power was in the hands of the emperor, which was embodied in the trial of cases above the death penalty. After in-depth discussion and deliberation by ministers, these cases were finally decided by the emperor, and the death penalty cases had to go through strict procedures of three or five repetitions.[2]

India's litigation framework covers a four-level system, including village heads and elders, county-level governors, provincial governors and even kings. In this system, the king is revered as "the embodiment of punishment" and has unparalleled judicial final adjudication power. When the king is unable to hear a case directly for some reason, in order to ensure that the handling of the case conforms to the wishes of God Manu, a special court will be formed by four knowledgeable Brahmins to act as the judge of the king. If the king decides to accept the appeal case and try it in person, the judge who originally undertook the case will face a fine. For any unfairness of ministers or judges during the trial, the king will not only personally intervene in the trial, but also impose a fine of 1000 on those involved, which is a necessary and fair sanction imposed by the king on officials who are corrupt and misbehave.[3]

Both the Tang Dynasty and ancient India made relatively standardized provisions on the prosecution and acceptance of cases, all of which adopted four levels of trial, and the rulers all had the highest judicial power and the right of final adjudication. However, before the emperor of the Tang Dynasty examined the death penalty case, he had to convene nine ministers to discuss it, and the procedure was more standardized. The king of ancient India can directly review the case.

1.2. Litigation Restrictions

Both Tang Dynasty and ancient India needed certain conditions for prosecution. In ancient India, it was necessary to file a lawsuit and provide witnesses or evidence. In order to avoid malicious litigation, the Tang Dynasty also stipulated the conditions for prosecution. In addition, there are restrictions on the identity of the parties. For example, in the legal system of the Tang Dynasty, it was forbidden for handmaiden to bring a lawsuit against their master, or for the younger generation to sue their cohabiting elders. Similarly, in India, there are also litigation restrictions for specific groups, especially for kings and brahmins. These classes are regarded as "people who are free from condemnation and corporal punishment in this world". They enjoy such privileges because they bear the important responsibility of maintaining the real social order. Therefore, in Indian law, the king and Brahman are clearly defined as objects to be exempted from legal prosecution, and all their property is regarded as a means of atonement to show the dignity and particularity of their social status. In addition, ancient India prohibited low castes from suing high castes.

In Tang Dynasty and ancient India, there were identity restrictions on prosecutors, with different identities and different litigation rights. Handmaiden and sudra, the lowest status, had almost no litigation rights.

2. The Differences between the Litigation Systems of Tang Dynasty and Ancient India

The litigation system in Tang Dynasty and ancient India is different in the form of prosecution, limitation of litigation, mediation and regulations on foreigners.

In the Tang dynasty, there were various forms of prosecution, such as telling and reporting. In ancient India, the prosecutor usually filed a lawsuit. Litigation restrictions in the Tang Dynasty were based on morality and ethics, while in ancient India caste and religion were emphasized. There was a clear mediation system in the Tang Dynasty, but there was no specific regulation in ancient India. There were clear regulations on foreign-related cases in the Tang Dynasty, but there were no similar regulations in ancient India.

2.1. Form of Prosecution

In the Tang Dynasty, there were various forms of prosecution, different identities and different ways of prosecution. The victim's prosecution methods include telling and reporting; There is surrender for the perpetrator; Judges report, correct questions, correct bullets and so on.

When the case happens, the victim or his neighbors, relatives and judicial organs must complain to the government, which is the most important way of prosecution. In addition, the victim's insider can also report, but in order to prevent groundless accusations and maintain normal judicial order, the Tang Dynasty requires real-name reporting and prohibits anonymous reporting. And after three trials, it is confirmed that the case is basically true before it can be accepted.

Surrender originated in the Western Zhou Dynasty and was further perfected in the Tang Dynasty. The law stipulates that criminals surrender voluntarily before they are found guilty, or entrust others to surrender and wait for the punishment.

The three forms of reporting, correcting bullets and asking questions are raised by the government, which can be reported to both the official and the people. Specifically, reporting refers to judicial officials or administrative officials, Li Zheng and Cun Zheng who have jurisdiction over crimes committed by officials and people. Timely feedback to the judicial organs. Correcting bombs means that the supervisory department finds that officials violate the law and impeach them. Interrogation means that when no one reports, the judicial organs can also take the initiative to solve the case if they have clues about the case.

In ancient India, however, the source of cases was generally that the prosecutor filed a lawsuit with the judge, and there was no provision for the government to take the initiative to sue the offender and surrender.

2.2. Litigation Restrictions

The judicial practice in the Tang Dynasty is deeply rooted in the etiquette law. No matter whether it is a civil dispute or a criminal case, the litigation is "one-size-fits-all", aiming at punishing those behaviors that violate the etiquette and the dereliction of duty of officials. Therefore, the limitation of litigation status is more due to moral and ethical considerations. For example, it emphasizes mutual tolerance and concealment between relatives, that is, "relatives hide from each other". At the same time, it is also forbidden for slaves to sue their masters. No 80-year-old man or disabled person can be accused, and no wife can sue her husband. These regulations are aimed at maintaining social order and embody the judicial concept of paying equal attention to law and morality in the Tang Dynasty. In the specific litigation process, the organ that accepts the lawsuit must first tell the prosecutor the charges of falsely accusing the crime, and then review it. Generally, it will be tried three times in three days, and in special circumstances, it will be tried three times on the same day. Should be resigned from the lawsuit, and have a small show and have to sit back. Every trial is resigned on another day. If you leave people on the road, you must not leave them to be resigned on another day and listen to the third trial on that day. "

In addition, the Tang Dynasty followed the principles of trial level, regional restriction and respect for local ethnic customs, and advocated "no litigation" and "litigation" to educate the people. At the same time, the time, facts and real name of the lawsuit are also restricted. For example, in addition to criminal cases, the Tang Dynasty set a clear time limit for general civil litigation, that is, it was accepted from October 1 of each year to March 30 of the following year, and no related litigation was accepted outside this time period. The purpose of this regulation is not to occupy agricultural production time and protect the development of agriculture. In ancient India, however, there was no provision to take care of the farming season.

In ancient India, caste and religion were emphasized, religious behavior was brought into the legal category, and the stability of caste system was maintained. Any behavior that violates the caste system, such as low-caste people suing high-caste people, is regarded as a violation of religious teachings, which constitutes an illegal act that should be punished by law. To sum up, the law-making in ancient India mainly focused on the maintenance of caste system, and less involved in moral condemnation.[4]

2.3. Mediation

In the ancient judicial system of China, mediation, as an important means to solve disputes, has a wide range of applications. It not only covers civil disputes such as family marriage, land, money and debt, but also involves minor criminal cases such as fighting, and has become an important tool for maintaining social order and justice. Because the administrative organs in the Tang Dynasty were in charge of judicial trials, and the judiciary and administration were integrated into one, they had to accept a large number of cases every day. If all cases were handled according to the normal process, it would waste a lot of time and it would not be conducive to the harmony of villages, so the mediation system was adopted. There were two forms of mediation in the Tang Dynasty. The first one was civil mediation, which was in the charge of the township, the village and the village at the grass-roots level. The other is mediation by the government, which is a kind of mediation method according to the nature of the case before the judicial organs at all levels formally accept the case.

There is no relevant regulation on mediation in the Manu Law of ancient India, but Marx once said, "Since ancient times, a special social system, the so-called village community system, has emerged in India ... Patel is still the head of the residents and still acts as a small judge or magistrate of the village community, a tax collector or rent collector of the village community."The "Patel" mentioned here refers to the chief resident in charge of village affairs, mediating residents' disputes and exercising police power. In China's Notes on India, Arabs learned about India's judicial

system and found that it was similar to China, and there was also a mediation system. It is mentioned in the book that "there are arbitrators in the local area, aiming at resolving disputes without frequently relying on official intervention. Indian society has also adopted this approach. "This description clearly reveals the existence of mediation system in ancient Indian society, but it does not involve specific provisions.[5]

2.4. The Provisions of the Outsiders

In the Tang Dynasty, the policy of opening to the outside world was implemented, and there were frequent contacts with foreign countries, and foreigners' illegal activities were also increasing. In order to strengthen the management of foreigners. According to the Tang law, foreign-related civil cases are generally mediated first, and those that cannot be mediated are handed over to judicial organs. The lawsuit in the Tang Dynasty adopted the principle of individualism and territorialism, saying, "All outsiders, those who commit crimes of the same kind, each in accordance with the local customs, and those who commit crimes of different kinds, are based on the law." That is to say, foreigners with the same nationality who commit crimes in China are dealt with according to their own laws, and they are individualistic. Foreigners of different nationalities who commit crimes in China are dealt with according to the laws of the Tang Dynasty, and territorialism is practiced. This regulation, on the one hand, safeguarded the judicial sovereignty of the Tang Dynasty, on the other hand, fully respected the customs and habits of different nationalities. The regulations on foreign-related cases show that the level of legislation in the Tang Dynasty was very high, and China became one of the earliest countries in international judicial legislation.

At the same time, in ancient India, the country was in a period of turmoil and division, and there was no secular law handed down from generation to generation, and there was no similar provision in its legal theory.

3. Background Analysis of Litigation System in Tang Dynasty and Ancient India

The background of the similarity between the litigation systems in Tang Dynasty and ancient India lies in the geographical location, social and economic connectivity, philosophical and cultural connectivity, and strict hierarchical system. The background of the differences is that the two countries' litigation systems have different interests and purposes and different subjects.

3.1. The Geographical Location and Social Economy of the Two Countries are Interlinked.

There are similarities between the geographical environment of the Tang Dynasty and ancient India. The northern part of India is the Himalayas, the middle part is developed with the Indus Plain and the Ganges Plain, and the rest is on the southeast and west sides. India is isolated from other Asian countries, forming a relatively closed geographical environment. The western part of the Tang Dynasty was occupied by ethnic minorities in the north, with the Yellow River, the Yangtze River Plain, the eastern and southern coasts in the middle. This similar geographical environment has enabled the two countries to develop a relatively closed natural economy with agriculture as the mainstay and handicrafts as the supplement. The resulting judicial civilization belongs to agricultural civilization. In addition, under the natural and economic conditions, the laws of the two countries are less affected by external factors and relatively stable.

3.2. Similarity of Philosophy and Culture between the Two Countries

Ancient India was based on religious dogmatism, while the judicial civilization in Tang Dynasty was based on Confucianism and Taoism. The highest classic works of Hinduism are Vedas and Upanishads. Hinduism advocates three major programs: "Vedic apocalypse, universal sacrifice and Brahman supremacy". Think that good and evil cause and effect, reincarnation. The shape of a person after reincarnation depends on the behavior of his previous life. That is, "if you believe in the gods and follow the Vedic rules, you can invest in' Heaven' (the status of God) after death; Secondly, you can vote for the status of people who are' ancestors' and be reincarnated as Brahmins, Khrushchev, Vedas, etc. As for those who do not believe in gods and violate caste obligations, they will sink into the' animal way', that is, hell, and become Chandra, animals and plants in the afterlife. " Ancient India used religious reincarnation to guide people of different classes to obey the rules. At the same time, the Tang dynasty adhered to the Confucian concept and divided the society into four classes: scholars, peasants, workers and businessmen. Different classes should follow their own different etiquette in social families. If you violate the corresponding ceremony, you will be criticized by morality and even punished by law.

In addition, Upanishads declared that "Brahma and I are one", that is, getting the final liberation is the highest realm pursued by Hindus. In order to reach this highest state, Christians must abstain from sex, asceticism, meditation, chanting Vedas and get rid of the secular world. This has something in common with the passive seclusion advocated by Taoism in China and the Confucian concept of harmony between man and nature. Therefore, both countries provide for mediation.

The founders of ancient Hinduism and Confucianism were priests who served the nobility at the earliest. During the turbulent period of the Spring and Autumn Period, Confucianism lost its original position, but because it was familiar with etiquette, it took "xiangli" as a career to make a living. The priesthood needs to maintain the political and cultural dominance of the upper class, which is why the monarchs of the two countries enjoy the highest judicial power.[6]

3.3. Strict Hierarchy

Ancient India practiced a strict caste system, which has a history of more than 3,000 years. Brahma "gave birth to Brahman, Khrushchev, Vedas and sudra from his mouth, arms, legs and feet for the prosperity of all worlds" and "people are said to be cleaner from the navel up; Therefore, speaking freely, the mouth is the cleanest part of human beings, "because it comes from the best part of the body, because it is the oldest, and because it has mastered the Vedas, Brahman is the dharma master of this world."From this, four different castes, namely Brahman, Khrushchev, Vedas and sudra, were determined from high to low.

Brahmins have the highest status and property rights. "Everything in the world is the property of Brahmins;

Because of his superior position and noble birth, Brahmins do have the qualification to enjoy everything. " The property rights of the Khrushchev and the Vedas are also protected, while sudra, who is the most humble, has no property rights. In terms of marriage, brahmin caste men can marry women of the same caste and low caste, while men of lower caste are absolutely forbidden to marry women of higher caste. In terms of judicial power, when the king is unable to hear a case, brahmins can form a court to hear the case.

According to the norms of etiquette, the Tang Dynasty divided the society into different levels. In terms of social life, nobles enjoy remarkable privileges in many aspects, such as diet, residence, clothing, funeral etiquette, religious sacrifice and travel. In terms of marriage, the Tang dynasty paid attention to the right family. "Every man has his own spouse, the color class must be the same, and the good and the bad are different, so why should he marry? The slaves married a good woman for a year and a half. " "Miscellaneous people are not allowed to marry a lover, and the offender will stick one hundred." And in the judicial aspect, nobles and officials enjoy privileges, such as "please" and "eight discussions" This has led to the inequality of "no courtesy can spare Shu Ren, no punishment can spare a doctor".

3.4. The Two Countries' Litigation Systems Have Different Interests and Purposes, Resulting in Differences.

The core of the litigation system in ancient India is to safeguard religious interests. Brahmanism is an important source of ancient Indian judicial civilization. The religious life of believers is not only bound by the teaching method, but also the social life is adjusted and restricted by religion. Therefore, the litigation system has become an important tool to maintain this religious system. With the rise of Buddhism, its teachings and precepts, such as "Five Commandments" (no killing, no stealing, no lewdness, no lying, no drinking), not only standardized the behavior of monks, but also influenced the secular life of Indian society at that time, which became another important source of litigation system.

In contrast, the litigation system in the Tang Dynasty focused on maintaining the etiquette system. The state makes laws to punish acts that violate etiquette norms, which is obviously different from the litigation system in ancient India in design concept. The litigation system in the Tang Dynasty emphasized the importance of etiquette and morality, and maintained social order and moral fashion through legal means.

3.5. The Two Countries Have Different Subjects in Formulating Litigation Systems, Resulting in Differences.

In the formulation of litigation system, the leading force in ancient India was Brahman, while the Tang Dynasty was dominated by the state power organ with the emperor as the core. The litigation system in ancient India mainly originated from social customs and the teachings of ancient saints, which were compiled by religious monks to safeguard the interests of the ruling class, rather than secular laws formulated by state power organs in accordance with legal procedures. Therefore, the litigation system in ancient India is a complex of religious law and secular law.

On the other hand, in the Tang Dynasty, the litigation system was formulated by the relevant ministers of the Tang Dynasty based on etiquette norms, aiming at building and maintaining social moral order. Generally speaking, the legal and cultural exchanges between the Tang Dynasty and Middle India rarely intersect, which leads to both similarities and significant differences in litigation systems between the two countries, which mainly stems from the essential differences between the two cultures.

Fundamentally speaking, the legal system, including the litigation system, is essentially a reflection of a specific culture. The cultural mainstream of the Tang Dynasty is Confucianism, Taoism and Buddhism, but Confucianism occupies the core position. Therefore, in law, the Tang Dynasty mainly embodied the spirit of maintaining the Confucian concept of etiquette. Although Buddhism prevailed in the Tang Dynasty, its precepts did not become the cornerstone of secular law. On the contrary, the core of medieval Indian culture is Brahman religious culture, and its laws reflect the values of maintaining this religious culture.

4. Summary

Overall, the litigation systems of the Tang Dynasty and ancient India shared similarities in hierarchical trial structures and identity-based restrictions, largely due to agricultural economies and rigid social stratification. Their core differences lay in foundational values: Tang law centered on Confucian ethics and state-led administration, while ancient Indian law was deeply intertwined with religious doctrines and the caste system, resulting in distinct approaches to procedure, mediation, and jurisdiction. These contrasts highlight how legal systems are fundamentally shaped by their respective cultural and philosophical underpinnings.

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