

# *A Comparative Study of the Tang and Japanese's Systems of Laws and Decrees*

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**Keywords:** Legal system; comparative study

**Abstract:** The Ruling System, a product of the combination of traditional Confucianism and kingship, was a centralized political system in ancient East Asia. In ancient times, both the Tang Dynasty and Japan adopted the legal system, but the Japanese legal system evolved from learning the established system of the Tang Dynasty, and there are certain differences in the development history, content and influence of the two. This paper compares and analyzes the Tang Dynasty and the Japanese legal system to understand the differences between the two in different aspects. Firstly, this paper gives an overview of the historical background and basic characteristics of the Tang Dynasty and the Japanese legal system, and then focuses on the differences in specific contents, such as the structure of the legal system, the central and local official system and the scope of application. Through the comparative study of the Tang Dynasty and the Japanese legal system, the characteristics and evolution of the ancient legal systems of the two countries can be understood more deeply, providing new ideas and perspectives for the study of comparative legal systems.

## **1. Introduction**

### **1.1 Background and significance of the study**

The Tang Dynasty was an important period in Chinese history, and the system of laws and decrees played a key role in its reign. Politically, the system of laws and decrees strengthened the central government's management and control over localities. By formulating unified laws and regulations, the Tang government efficiently managed local affairs and maintained national unity and stability; second, the Tang Dynasty vigorously implemented the system of laws and decrees, and consolidated and codified the legal provisions, which unified the legal provisions of the whole country and Secondly, the Tang Dynasty vigorously implemented the legal system, vigorously reorganized and compiled the legal provisions, unified the legal provisions of all parts of the country, which was conducive to the unification of the legal system, and created a good domestic environment for the strength of Tang Dynasty. The Japanese legal system also had its own unique development, especially influenced by the Tang Dynasty legal system. Therefore, a comparative study of the Tang and Japanese legal systems will help us to better understand the similarities and differences between the ancient social and institutional systems of the two countries, as well as their mutual influence and reference.

The purpose of this paper is to reveal the commonalities and differences between the Tang and Japanese legal systems through a comparative study, and to further explore the impact of these systems on the political, social, and cultural development of the two countries, as well as their historical status and influence in East Asia. In addition, such a comparative study can help promote cross-cultural exchange and understanding, and expand our knowledge of ancient societies and civilizations in East Asia.

## 1.2 Research methodology

Research methods are usually designed according to specific research purposes and questions. For the topic of comparative study of the Tang Dynasty and the Japanese legal system, this paper mainly adopts the documentary research method, comparative method, illustrative method, and interdisciplinary research method. Literature research method refers to collecting, organizing and analyzing relevant historical documents and historical materials, including official documents, legal texts, and historical records of the Tang Dynasty and ancient Japan, in order to obtain detailed information and historical facts about the Torah system. The Comparative Method compares the Tang and Japanese Ruling Systems in detail, including the similarities and differences in their origins, development history, system characteristics, implementation effects, etc., in order to find out their commonalities and differences, so as to reveal their impact on the historical development of the two countries. The Exemplification Method selects representative cases or events, analyzes the way they were handled and the results under the Tang and Japanese legal systems, and explores the institutional logic and social influence behind them. The interdisciplinary research method combines the methods and theories of various disciplines, such as history, law, and sociology, to comprehensively analyze various aspects of the Tang and Japanese legal systems in order to fully understand their status and role in the history and culture of the two countries.

## 2. Tang legal system

### 2.1 Formation and Development of the Tang legal system

"Ruling system" is a concept first proposed by a Japanese scholar, Mr. Kaoru Nakata, in his article "On the Development of the Chinese Ruling System of Law", as a general description of the characteristics of the East Asian legal system headed by ancient China.<sup>[1]</sup> According to Kaoru Nakata, an independent legal system was formed in East Asia centered on ancient China, which was a system based on public law, and could be called the "law and order law system" or "law and order law system".<sup>[2]</sup> This system was widely applied by the ancient monarchical dynasties of China, such as the Han and Tang dynasties. Especially in the Tang Dynasty, the system of law and order was continuously improved, which had a profound influence on the development of China's later law and order system and even the East Asian legal system. The formation of the legal system has a deep historical origin, and its foundation traces back to the pre-Qin period. During this period, the boundaries between the two forms of law, "law" and "order", gradually became clearer, and their respective functions and status gradually stabilized, while the previous situation of blurring the boundaries between the two gradually began to change. The purpose of the "law", as the State's code of criminal law, was to establish prohibitions on major issues of order in order to penalize serious breaches of order. "Decree" is the state to deal with a variety of special political affairs and the rules of law, decrees and regulations for the specific provisions and implementation of a single line of legislation, its purpose is to regulate a variety of administrative behavior, and for officials and the general public to provide a clear guide to the official duties and daily behavior. The period from Qin to Cao Wei was the period of the formation of the legal system. In this period, the

relationship between the law and order shows two significant features: first, it emphasizes that "law" is a relatively stable criminal law, while "order" is a kind of criminal law can be supplemented and adjusted at any time; second, emphasize the relative stability of the two. Secondly, it emphasizes the difference between the two in terms of relative stability. The Han Du Zhou so-called "the former Lord is written for the law, after the Lord is sparse for the order", Du Zhou biography of the Han book - Xuan Di Ji so-called "the son of God edicts additions and deletions, not in the law on the order", <sup>[3]</sup> Han Lu Jia "new book" said "the words of the son of God is said to be the order. The new book of the Han Lu Jia said "the words of the son of heaven are said to be orders. Order A B is also", all reflect this feature. In other words, is to emphasize the special law is superior to the common law. On the other hand, a new perception of the relationship between law and order is also growing. The period from the two Jin dynasties to the Tang and Song dynasties was a period of refinement and finalization of the legal system. In establishing the legal system, the Tang Dynasty inherited and absorbed the experiences and achievements of the previous legal system. During the reign of Emperor Taizong Zhenguan of the Tang Dynasty, a large-scale legal reorganization and revision was carried out, and codes such as the "Tang Law Review" and the "Tang Law" were compiled, laying down the basic framework and normative system of the Tang Dynasty's legal system. Du Prefecture of the Jin Dynasty said, "Laws are used to rectify offenses, and decrees are used to preserve the system of affairs." The six canons of the Tang Dynasty: "the law to the conviction of the crime, the order to set up a model system, the grid to prohibit violations of the evil, the style to track the program things." Reflects the "law" and "order" of the criminal and non-criminal aspects of the clear division of labor, so far, "order" is only as a teaching order for people's behavior, and there is no clear penalty provisions, the formation of the pattern marks the "law" and "order" of the criminal and non-criminal aspects of the clear division of labor. The formation of this pattern marked the finalization or completion of the "law and order system".

## 2.2 Content and features

The system of laws and decrees consists of two main parts: laws and decrees. The law usually refers to the criminal law, which is a legal provision that prescribes penalties and punishments for criminal acts. It stipulates the nature, elements and types of penalties of various criminal acts, as well as the corresponding sentencing standards. Laws played an important role in ancient societies in maintaining social order and punishing illegal behavior. Orders, on the other hand, include administrative regulations, decrees, and institutional regulations, which are different from laws, and are more norms and commands for administration, political system, social order, and so on. <sup>[4]</sup>The content of the decree involves various fields such as politics, economy, military, etiquette, official system, etc., and it is the administrative regulations and policies formulated by the dynastic rulers.

The legal system of the Tang Dynasty has become very mature through the continuous improvement of successive dynasties, and can be well adapted to the needs of the ruling class of the Tang Dynasty, which is characterized by the following five main points. Firstly, the laws were strict and clear. The Tang legal system was famous for its strict and clear laws, with clear provisions and penalties, and detailed definitions and penalties for criminal behavior. Secondly, the local official system was emphasized. The Tang Dynasty established administrative divisions such as prefectures and counties, and set up a system of inspectors to strengthen the management and supervision of local authorities. Thirdly, there was a clear hierarchical bureaucracy in the Tang legal system, with officials divided according to official rank and with clear provisions for promotion and advancement. Fourth, the criminal law of the Tang Dynasty was characterized by a combination of leniency and severity, with severe penalties to maintain social order, and a certain degree of tolerance and forgiveness to reflect the humanization and fairness of the law. Fifth, the importance

of indoctrination, the Tang legal system attaches importance to the indoctrination and reform of criminals, in addition to the punishment of criminal acts, but also pay attention to the education and ideological reform of prisoners, which is conducive to the stability of society and law and order.

## **2.3 Affect (usually adversely)**

### **2.3.1 Maintenance of social order**

The Tang Dynasty had a strict system of laws and regulations and severe penalties, which effectively maintained social order and political stability. The strict punishment of crimes by law and the just handling of civil disputes reduced social conflicts and contradictions, and played an important role in the consolidation of power by the rulers and the maintenance of social stability.

### **2.3.2 Promoting cultural development**

The legal system promoted the consolidation of centralized power and the unification of the state through uniform legal norms. Under such a political environment of great unification, culture was able to spread and exchange over a wider geographical area. The imperial examination system in the legal orders promoted the development of education, the training of literati and the popularization of knowledge, which played a positive role in the spread and prosperity of culture.

### **2.3.3 Influence on future generations**

The Tang legal system had a profound impact on the development of the Chinese legal system in later generations, and laid the foundation for the formation and development of the legal system in successive dynasties such as the Song Dynasty and the Ming Dynasty, making it one of the important legacies of the ancient Chinese legal system.

## **3. The Japanese legal system**

### **3.1 Development of the Japanese legal system**

The Japanese legal system, modeled on the legal system of the Tang Dynasty, is known in Japan as the "Ritsu System" or "Ritsu State," which originated mainly in the Nara Period (710-794) and the Heian Period (794-1185), and went through three important phases.<sup>[5]</sup> During the period of Dahua Reform (645), Japan responded to the serious social crisis in the country by sending a large number of emissaries to the Tang Dynasty to learn advanced systems and introduce them into the country. On the economic level, the Bantian and the Rent and Mediation System were introduced; on the political level, the imperial examination system was introduced, and the two-official, eight-province system was modeled after the three-province, six-ministry system; and on the legal level, taking the legal system of the Tang Dynasty as a model, the Laws, Orders, Grammars, and Forms of Statute were gradually introduced and enacted to make up the advanced state system, which is called the Ruler System, in Japanese. The Nihonshoki, Kokusaiji, and Kazutoki, which were compiled in imitation of the tradition and style of Chinese history, were the products of the Ruling System after the Dahua Reform. The Nara period (710-794) was the peak of the development of the Japanese legal system. During this period, Japan fully transplanted the legal system of the Tang Dynasty, and successively introduced codes such as the Dabo Ruling and the Pension Ruling. In the opening volume of the "Official Position Order" of the "Pension Law Decree", the commentary book "Decree Yi Xie" also quotes Du Wei, the compiler of the Jin Laws of China, as saying: "The Decree is based on teaching and the Law is based on punishment and

correction. Although these two laws are different from each other, they are also based on the principle of benevolence." The combination of the Confucian culture and the legal system, with benevolence as the purpose, orders as persuasion, and laws as punishment, is exactly the combination of the Confucian culture and the legal system. The Heian period (794-1185) corresponds to the middle and late Tang dynasty. During this period, the Tang Dynasty was shrouded in the shadow of the An Shi Rebellion, the prosperity of its heyday was gone, and the influence of the Tang Dynasty was waning. Therefore, Japan did not see the need to implement the Ruling System at this time, and coupled with the increasing phenomenon of land annexation, the ruling class of Japan gave up its adherence to various restrictive ordinances, and the Ruling System gradually came to a collapse.

### 3.2 Content and features

The Japanese legal system covers a wide range of political, economic, and social areas, including the following. First, it provided for the establishment of officials in the central and local governments, as well as the scope of their duties and authority. For example, the Chugoku government set up various departments,<sup>[6]</sup> such as the Ministry of War, the Ministry of Revenue and the Ministry of Ceremonies, as well as court officials, such as the Minister of Taijutsu and the Councillor, and so on. Secondly, a series of codes and ordinances were enacted for the management of social order, land system, taxation, etc. The Dabo Ruling was one of the earliest legal codes in Japan, which included detailed provisions on the land system, taxation, and criminal law, and the Elderly Pension Ruling, which was modeled on the Yonghiai Ruling, regulated the political and economic system of the country, and was the fundamental law of the country, which was similar to the constitution in significance. Thirdly, it stipulated the system of land ownership and distribution. Under the Laws and Decrees system, the state had a nationalized system of land ownership, while private individuals could also own land, but they needed to pay land tax to the state. Fourthly, the legal system provided for various forms of taxation, such as the field tax and the household tax, which were used to maintain the functioning of the government and the maintenance of the army. Finally, in terms of the protection of personal and property rights, the basic rights of the people were guaranteed, while procedures for punishment and adjudication were established.<sup>[7]</sup>

In general, the Japanese legal system is characterized by the following four points. First, it strengthened the control of the central government over local authorities and promoted the centralization of the country. Secondly, in terms of content, it mainly borrowed from the Tang Dynasty system. The legal system was influenced by the Chinese Tang legal system in the early stage of its formation, and drew on the characteristics of the Tang system in terms of content and form. Thirdly, it helped Japan to establish a strict bureaucratic system, with certain institutionalized measures for the selection and management of officials, which provided an effective organizational guarantee for the functioning of the government. Fourth, emphasis was placed on rituals and ceremonies, and various official rites and ceremonies were prescribed for the purpose of manifesting the authority of the ruler and the stability of the ruling system.

### 3.3 Affect

#### 3.3.1 Political centralization and administrative system building

The Rikkyo system established the authority of the central government and the centralization of power with the Emperor at its core, while at the same time creating a clear administrative system and bureaucratic structure, laying the foundation for the future political organization of Japan.<sup>[8]</sup> The implementation of the Taho Ruling marked the basic completion of the Daika Reform, while



the introduction of the more mature Pension Ruling marked Japan's entry into the ranks of the "Ruling State," and the Ruling System enabled Japan to make a successful transition to a feudal society.

### **3.3.2 Social order and stability**

The legal system regulates land ownership, the tax system and the guarantee of rights to personal property, and promotes social order and stability. At the same time, the law regulates the people's behavior and obligations, which is conducive to the normal functioning of society.

### **3.3.3 Cultural and educational heritage**

In the area of culture and education, Japan modeled its "Order of Learning" on the Tang order. The Tang set up the State Scholarship in Chang'an, and each local school; Japan set up the university dormitory in the center, and the local national school; the Tang State Scholarship majored in six subjects, namely, the State Scholarship, the University, the Four Doors of Learning, the Science of Law, the Science of Letters, and the Science of Arithmetic, which were widely popular among the scholars of the scholarly families, while the university dormitory did not flourish in Japan. On the whole, however, the ryuji system contributed to the popularization of culture and the enhancement of the overall cultural literacy of Japanese society.

### **3.3.4 Basis for later legal developments**

The Japanese Torah system, which established a centralized bureaucratic system and emphasized the concept of the rule of law, continued to have an impact on Japanese history for centuries, providing the basic legal framework and norms for Japan's political, economic and social life. Nowadays, even though the Torah system has been abolished, Japan's tradition of legally emphasizing official authority and the rule of law can be traced back to its influence.

### **3.3.5 Agriculture and economic development**

The Torah system regulated the land system and the tax system. The Bantian system allowed for a relatively even distribution of land, which was conducive to agricultural production, while a strict system of taxation provided the government with a stable financial income, laying the foundation for Japan's agricultural production and economic development.

## **4. A Comparative Analysis of the Tang and Japanese Ruling Systems**

### **4.1 Comparison of the structure of the Tang law and the Japanese law**

From the seventh century to the end of the ninth century, in order to comprehensively study the advanced system and culture of the Tang Dynasty, the Emperor of Japan dispatched more than ten missions to the Tang Dynasty, and after the return of the envoys to the Tang Dynasty, the legal culture of the Tang Dynasty was consolidated and formed a number of legal codes, among which the Pensioner's Laws and Orders is one of the most classic and successful codes of the Tang Dynasty, and the Pensioner's Laws and Orders is chosen as the object of the study for the comparison of the structure here. The Pensioner's Laws were modified on the basis of the Dabao Laws, which also inherited the structure and core ideas of the Yonghui Laws of the Tang Dynasty. First of all, the Yonghui Laws and the Pension Laws are divided into twelve parts; secondly, the titles of the Pension Laws are also basically modeled on the Yonghui Laws, which are: Names and Regulations, Guards and Prohibitions, Job System, Household Marriages, Togetherness,

Trespassing, Thieves and Robbers, Lawsuits, Frauds and Falsifications, Miscellaneous Laws, Capture of Deaths, and Judgment of Prisons.

## 4.2 Central and local official systems

The Tang Dynasty practiced a bureaucratic system in which government power was highly centralized, with officials at all levels under the central government responsible for specific administration. Officials were categorized into different ranks according to their positions, forming a strict hierarchy. Japan, on the other hand, also established a centralized system by studying the laws of the Tang Dynasty, with the Emperor as the core, and similar administrative agencies and local bureaucracies were set up. The Japanese legal system, although in its early stages it relied heavily on Chinese political and administrative models, gradually developed a system that was more in line with local realities. For example, Japan developed a system of two officials and eight provinces based on the three-province and six-ministry system of the Tang Dynasty, with the status of the second governor being equivalent to that of the shangshu province, which governed the eight provinces and districts below, and the three special departments of the state, county, and li, which were directly appointed by the central government, making it easier for Japan to be managed as an island nation, as compared to the vastness of the Tang Dynasty. In “The History of Japanese Legal Thought”, Kouguk Toshimitsu commented that “although Japan imitated the Tang system, it could not be as complicated as the mainland Tang system of 300 rituals and 3,000 ceremonies’ for the reason that it was an island country, so everything tended to be simplified”. Secondly, taking into account the special conditions of the country, Japan in the imitation of the three provinces and six ministries system, dedicated to the gods and goddesses official presided over the rituals and religious affairs, playing a special role in the “heavenly orders, under the rule of the people” for the deification of the imperial power services, while the central institutions of the Tang Dynasty did not set up a special ritual officer, ritual affairs are usually handed over to the Taishang Temple and the Ministry of Rites. It can be seen that Japan did not directly copy the administrative system of the Tang Dynasty, but creatively transformed and partially absorbed it in the light of its own national conditions, but the fundamental purpose of both was to consolidate imperial power.

## 4.3 Ideology of punishment

Light probation and prudent sentencing is a major feature of Japanese law. Japanese law compared to the Tang law, generally reduce the penalty by one or two degrees to be punished. For example, regarding the punishment and conviction of the ‘Guanjin refugees’, the ‘Tang Law Review’ gives the punishment of ‘one day the master of the flogging of 40, one day plus a first degree, the offence stops at a hundred canes’; while the Japanese law is expressed as ‘where the Guanjin ferrymen, who stayed in difficulty without any reason, one day the master of the flogging of 20, one day plus a first degree, the offence stops at a hundred canes’. The Japanese law, on the other hand, reads: ‘Anyone who stays in Guanjin without a reason shall be flogged 20 times a day by the chief priest, and the punishment shall be increased by one degree a day, and the offence shall end at 100 strokes of the cane’. Many provisions in Japanese law related to ‘commutation of one to two levels of punishment’ exhibit a trend toward leniency, with nearly half of the regulations concerning ‘prison law violations’ prioritizing penalty reductions. Many scholars generally believe that the Tang Dynasty adhered to the traditional legalistic ideology of heavy punishment, and Japan was less influenced by it. In *Feudalism*, Liu Zongyuan argues that the Qin Dynasty’s implementation of Shang Yang’s legal reforms and centralized governance through prefectures and counties established a precedent that persisted until the Tang Dynasty. His analysis of Legalism highlights how the rule of law evolved into the fundamental framework of social and political

thought in imperial China; the second is that Japan is a strong believer in Buddhism, Takigawa Masajirou has said in the Japanese legal thought of the characteristic, and (Japan) because of the reverence for Buddhism, it is all the penalties for the Tang reduced by one or even two degrees, the scope of guilt by association is also very small, Hongren Kahin time, and stop abolishing the death penalty’.

#### 4.4 Scope of application and its socio-political impact

The Tang Dynasty was one of the strongest and most complete feudal dynasties in China, and also the most civilized and powerful country in the world at that time. The legal system of the Tang Dynasty was not only applied to Chinese mainland the various regions and nationalities under its rule, but also radiated to the whole of East Asia through the emissaries of various countries, and had far-reaching influence on the political, economic, and legal systems of Goguryeo, Siam, etc. The Japanese legal system, on the other hand, was mainly applied to the Japanese islands. The Japanese legal system, on the other hand, was mainly applied to the Japanese islands, and had a wide influence on the political, economic and social life of Japan at that time. To a certain extent, the Japanese legal system also contributed to the unification and development of Japanese politics and culture, and formed the unique political system and cultural tradition of Japan.

#### 5. Conclusion

History is a textbook of continuous learning, and the comparative study of the Tang and Japanese legal systems provides us with valuable experience and inspiration. In today's era of globalization and increasingly frequent legal and cultural exchanges, countries can draw on and learn from each other's excellent experience to jointly promote the construction of the rule of law and the progress of civilization. Just as the Tang Dynasty and Japan enlightened and influenced each other in terms of their legal systems, we should also adopt an open mind and actively learn from the strengths of others, keep abreast of the times, and continuously improve and develop our own legal system. In today's society, only by maintaining a modest and tolerant attitude can we continue to learn from the wisdom of others, make our own legal system more perfect and sound, and continuously promote the construction of the socialist legal system with Chinese characteristics, so as to pave the way for the great rejuvenation of the Chinese nation and the cornerstone of the legal system. Let us, on the road of legal and cultural exchanges, bear in mind the lessons of history, cherish the opportunities of the present, and work together to promote the development of the rule of law and the common prosperity and progress of all countries in the world!

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