

Mongolian Constitutionalism: Traditions, Features and Today

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The Mongols are the people that have established their own state since ancient times and who pacified the world during the certain time of history. As a result of developing traditions of the Mongolian statehood, the Constitution of Mongolia was ratified on January 13, 1992 and 10 years passed since that time. The decade after the introduction of the Democratic Political system, has been the time to perceive the prospective development trends of constitutions, which regulate basic social relations according to the laws.

The introductory part of the Mongolian Constitution, ratified in 1992, claims: "To inherit the traditions of national statehood, history, and culture".

Mongolia has over 2200 years of history. The first state on the territory of Mongolia was the Hunnu state which was established 209 AD. Following nomads continued the tradition of the Hunnu State and established their own united state in 1206. After the establishment, all states furnished their legal and political policy arrangements. This phenomenon was being revealed in every ancient state that emerged and developed on Mongolian territory. Chinggis Khan's powerful empire that covered the huge land from the Baikal Lake in the North to the Great Wall in the South and from the Khingan Mountains in the East to Altai in the West, needed a unified legal system to strengthen the state and regulate various relations in society. The main primary law of the Mongolian State was Chinggis Khan's "Great Yasa". Many scientists and writers such as Persian scientist Makrizi, Ibn-Batuta of Arabia, Armenian historian V.Vartang, the friar Mahakia, Iranian scientist Rashid-al-Din and famous travelers like Plano Carpini, Wilhelm Rubruk and Marco Polo, scientist Ata Malik Juwaini, noted about Chinggis Khan's Great Yasa and other teachings in their works.

The main significance of the "Great Yasa" is that it systematized and developed into laws the best moral values of the Mongols. American scientist George Vernadsky argued that: the "Great Yasa" was the complete new Constitution, based on laws and customs and containing all aspects such as state administration, military, civilians, punishment, trade and customs. The main idea of Vernadsky's conclusion seems to be significant in illuminating the fact that during the times of Chinggis Khan the Mongols operated their political and social institutions through fundamental laws of state. After the "Great Yasa" the laws such as "Yuan Dynasty's Law", "The History of Ten White Virtuous Teachings", "Khutagtai Prince's Laws", "Law Documents of Altan Khan", "Noble Documents of Laws of Khalkha's", "Laws of Mongol Oirads", "Khalkha Juram"(Laws of Khalkha's), "Law Documents of Mongolian State" regulated political and social relations of that certain period of time. It is obvious that the first controlling

factor of the Mongolian state structure was the “Great Yasa’s” social, political and legal principles, reflected in all the laws mentioned above.

Soon after gaining independence from the Manchu-Chin Dynasty in 1911 and the coronation of Bogd Javzundamba, a large number of initiatives to produce legal acts along with a new Constitution and to set up a Parliament have been discussed. Because, previously, the state was perceived through the eyes of certain figures only, especially the Khans, one major peculiarity of the traditional state at that time was the fact that the Khan’s orders and unwritten laws were dominant. New political and legal regulations were established, for the first time, in written form.

As a result of political reformations on the basis of the National Democratic Revolution victory in 1921 the first Constitution was ratified by the First State Great Khural (the Parliament) in 26 November 1924. In this way, the legal foundations of constitutional structure and political principles of Constitutionalism were established and the process of forming a new state system and legacy developed on this basis.

The second Constitution of 1940, finished by the first stage of the People’s Revolution, emphasized on the laws from the perspective of socialist ideology and values. The Constitution of 1960 adopted socialist laws and included among its articles the confirmation of the achievements in building socialism, leaving out capitalism.

Analyses of the three laws presented above, show that all of them had to implement essential principles derived from the central socio-political goals of the certain period of time. Nevertheless, all of these constitutions served to the socialist dogma neglecting the traditions of Mongolian statehood and culture.

In the end of 1989 and beginning of 1990, the former political system was replaced through the democratic revolution and the era of development began. The Mongolians’ national convictions revived, together with the motivations to keep and inherit their statehood traditions. It has become a historical revolution in the Mongolian political history, the beginning of a new state system based on a democratic state-social structure.

The Amendment Law to the Constitution was ratified in May, 1990. This law accepted multi-party system and pluralism, and amended many provisions to the Constitution of 1960 such as renewing main characteristics and activity principles of legislative and executive branches. The Law of Amendment mentioned as the traditional supreme authority, the People’s Ikh Khural, the newly re-structured Parliament - State Baga Khural and The Head of State - the presidential institution and their mutual correlation of power; it also gave priority to principles to separate the power equally and properly. Moreover, the amendments above show the signs of the state’s transition period, until the ratification of the new Constitution. The Constitution of Mongolia from the 13th of January 1992, ratified to strengthen the new state democratic system and to provide a legal basis and guarantees to the country’s development, replaced the former

structure and identified political and legal standards to establish the Mongolian state's social structure and democratic principles of Constitutionalism.

Scientists and professionals such as state and party leaders, lawyers, economists, historians and linguists participated in the development of the new Constitution project. Moreover foreign representatives' from the USA, Australia, Austria, Germany, France, Russian Federation, Poland and Japan and expert opinions from international organizations such as International Human Rights Committee, UNO, International Parliamentary Committee and International Advocacy Organization were reflected. Positive and negative sides of the Constitutions of 1924, 1940, 1960 and trends of the 1990 Law of Amendment were taken into consideration.

From this point the 1992-ratified Mongolian Constitution became modern and democratic, based on modern scientific achievements and reflecting recommendations of many professionals from various countries with long-term traditions of democracy.

The new Constitution of Mongolia is very significant and specific in comparison with the laws and constitutional periods in the history of Mongolia:

1. It replaced the totalitarian regime in Mongolia, following the requirements and principles of International Parliamentarism, transmitted into democratic and market relations. It also confirmed the aims to establish a "humane, civil and democratic society".
2. It provided democratic state systems directed to the principles of power separation, and defined its organizations and regimes.
3. According to this Constitution, the state shall be under the control of voters and respect national independence, security, solidarity and serve its citizens. The state itself, all citizens from ordinary people to the head of state, shall be equal under the laws.
4. The citizens are the center of the social policy; the development of each side is considered to be realization of humanity, thus confirming human rights and freedom.
5. It legally confirmed a position of Mongolia in the International Community, its open foreign policy's goals and principles.

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