

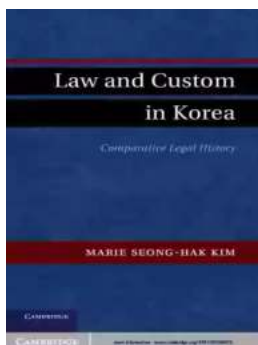
Law And Custom In Korea: Exploring Comparative Legal History

In today's globalized world, understanding various legal systems and their historical evolution is of utmost importance. One such fascinating legal history is that of Korea, a nation known for its rich cultural heritage and distinctive social structure. Exploring the interplay between law and custom in Korea offers valuable insights into the country's legal development and societal norms.

The Korean Legal System

The legal system in Korea has evolved over centuries, influenced by both internal and external factors. Traditional Korean society was largely governed by a code of ethics known as *Sogi*, which laid the foundation for customary law. These customs and traditions were deeply entrenched in Korean society, regulating various aspects of life, including marriage, property rights, and social hierarchy.

As Korea opened up to outside influences, particularly during the late 19th and early 20th centuries, Western legal systems started to make their way into the country. The of modern legal codes, influenced by French, German, and Japanese legal traditions, began to shape the Korean legal landscape.



Law and Custom in Korea: Comparative Legal History by Marie Seong-Hak Kim(Kindle Edition)

★★★★★ 5 out of 5

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Screen Reader : Supported
Enhanced typesetting: Enabled
Print length : 365 pages



Comparative Legal History: Traditional vs. Modern

A deeper understanding of comparative legal history in Korea requires a closer examination of the differences between traditional and modern legal systems.

Traditional Legal System:

In traditional Korean society, customary law held significant importance. The concept of *Li*, which refers to moral ideals, rituals, and customs, played a central role in guiding individuals' behavior and resolving disputes. Traditional legal principles were based on collective values, emphasizing maintaining social harmony above individual rights.

Several legal institutions, such as the *Yeonguijeong* (royal inspector) and the *Buak* (censorship bureau), were responsible for enforcing the law and ensuring compliance with traditional customs.

Modern Legal System:

The modernization of Korea's legal system began in the late 19th century. As a result of Japanese colonial rule, Japan's legal system heavily influenced the Korean legal framework. During this period, Korean laws were drastically restructured in line with Japanese legal principles.

After World War II and the subsequent independence of Korea, the country underwent significant legal reforms. The legal system was further shaped by Western legal concepts, with influences from civil law systems (such as those in Europe) and common law systems (such as that of the United States).

Legal Pluralism: Coexistence of Traditional and Modern Laws

Despite the significant shifts in Korea's legal system, traditional customs and practices continue to have relevance in today's society. Legal pluralism, where both traditional and modern legal systems coexist, plays a significant role in shaping legal outcomes and social norms.

In certain areas, such as family law and inheritance, traditional customs still prevail, while other areas, like criminal law and commercial transactions, are primarily governed by statutory law and modern legal principles. The challenge lies in balancing the need for legal uniformity with the preservation of cultural heritage and traditional values.

Contemporary Challenges and Future Prospects

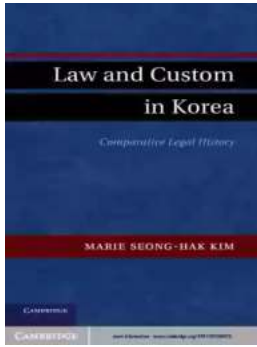
As Korea continues to experience social and cultural changes, the legal system faces various challenges in adapting to new circumstances. Contemporary debates surround issues such as the balance between individual rights and societal obligations, gender equality, and the incorporation of international legal norms.

Furthermore, globalization and increasing international partnerships necessitate harmonizing Korean legal principles with international standards, particularly in the realms of trade, intellectual property, and human rights.

Despite these challenges, the legal system in Korea strives to maintain its uniqueness, preserving and incorporating traditional values while embracing modern legal frameworks.

The study of law and custom in Korea provides valuable insights into the country's rich legal history and cultural heritage. The interplay between traditional

and modern legal systems demonstrates the complexities of legal pluralism and the delicate balance between societal customs and evolving legal norms. As Korea navigates the challenges of the 21st century, it will be fascinating to witness how the legal system continues to adapt and uphold its unique identity.



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This book sets forth the evolution of Korea's law and legal system from the Chosŏn dynasty through the colonial and postcolonial modern periods. This is the first book in English that comprehensively studies Korean legal history in comparison with European legal history, with particular emphasis on customary law. Korea's passage to Romano-German civil law under Japanese rule marked a drastic departure from its indigenous legal tradition. The transplantation of modern civil law in Korea was facilitated by Japanese colonial jurists who created a Korean customary law; this constructed customary law served as an intermediary regime between tradition and the demands of modern law. The transformation of Korean law by the forces of Westernisation points to new interpretations of colonial history and presents an intriguing case for investigating the spread of law on a global level. In-depth discussions of French customary law and Japanese legal history also provide a solid conceptual framework suitable for comparing European and East Asian legal traditions.



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