

# The Comparative Analysis of Differences in Criminal Limitation Periods: The Case of Countries

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## Abstract

The main goal of our study was compared limitation period some countries in criminal law as a statute of limitations is a legal principle that establishes a specific timeframe within which legal actions must be initiated, aiming to protect defendants from outdated claims while promoting timely dispute resolution and enhancing judicial efficiency. There is a growing need for comparative studies to harmonize the diverse models of limitation periods used internationally.

This principle is influenced by various factors, including jurisdictional differences and the nature of the legal claims, making accurate calculation of these timeframes essential for effective litigation; miscalculations can lead to case dismissals. There is also a recognized need for comparative studies to harmonize the diverse models of limitation periods used internationally.

The statute of limitations is a critical legal principle that establishes the timeframe within which legal actions must be initiated for both civil and criminal cases. It serves to protect defendants from outdated claims and promotes the timely resolution of disputes, thereby enhancing the efficiency and fairness of the judicial process. Various factors, including legal traditions and cultural attitudes, influence how statutes of limitations are defined and applied across different jurisdictions. Accurate calculation of these periods is essential for effective litigation, as miscalculations can lead to dismissal of cases.

In conclusion, the statute of limitations plays a vital role in the legal system by ensuring timely legal action, protecting defendants from stale claims, and highlighting the necessity for accurate calculations and international harmonization of limitation periods to enhance judicial efficiency and fairness.

**Keywords:** Law, Criminology, Limitation Period, Mongolia

## 1. Introduction of Study

As society has evolved and developed, the understanding of law and its approach to it have evolved. However, in any case, it is natural for law to provide legal certainty, on the one hand, express the demands of social justice and serve the common interests of society, and on the other hand, serve to ensure the rights and interests of individuals.

Nowadays, based on the principle of pluralism in legal science, there is a continuous need to comprehensively analyze and study the understanding of any legal concept, its underlying theories, concepts, and methodological issues from all sides. For example, there has been a constant need to analyze the issue of time in law, including the determination and application of the limitation period, not only at the theoretical level, but also at the level of legal branches and the application of legislation, theoretically and methodologically, and to determine it in accordance with the trends of legal development and to meet the requirements of fundamental

legal principles.

In contract law, valid consideration is essential for a promise or performance to be legally enforceable. Consideration is a fundamental concept in contract law, referring to something of value that is exchanged between parties in a contractual agreement. It serves as the price paid for the promise or performance of the other party, and without it, a contract typically cannot be enforced. The doctrine of limitation, which sets the upper limit for legal proceedings, has been evolving and facing constant challenges and conflicts both nationally and internationally.

## 2. The Theoretical Framework of Study

The law imposes strict time limits, known as limitation periods, within which civil actions must be commenced in court. If a limitation period does apply and it expires, it may be difficult or impossible to commence legal proceedings.

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It is not necessary that the claim actually be heard in court within the prescribed limitation period. It is only necessary that the relevant court documents initiating the claim have been filed in court.

The lack of a consistent framework for limitation periods in international law not only leads to unpredictability in judicial proceedings, but is also exacerbated by the fact that limitation periods are based on the national laws of States. For example, arbitral tribunals in investor-state disputes look to domestic law for limitations, which can lead to different interpretations across jurisdictions. Reliance on this national framework can undermine the predictability and coherence of international legal standards. Some States also extend limitation periods for certain crimes, while others shorten them.

The limitation periods in law refer to the timeframes within which a party must initiate legal proceedings. These periods are established by statutes and vary depending on the type of claim, ensuring that claims are made while evidence and witness recollections are still fresh.

A statute of limitations (or prescriptive period in civil law systems) is a law that sets the maximum time after an event within which legal proceedings may be initiated. If this period expires, the claim may be barred from being filed or dismissed if it is filed late. Issues related to the limitation period in civil law have been regulated by the Convention on Limitation Periods for the International Sale of Goods (1974), the civil laws of countries, and the Statute of Limitations of countries with special laws. This issue has been studied from the perspective of a civil law institution by Russian lawyers and scholars S.K. Gennadievich, S.V. Sarbash, A.A. Pavlov, K.G. Savin[], English lawyers and scholars I.E. Engelman, S.V. Romanchuk, D.A. Gribkov, and Singaporean scholar Hang Wu Tang[].

### 3. The Meaning of Limitation Periods

Srijan Sachan (The Limitation Act, 1963, is a crucial part of Indian legislation. The Limitation Act, 1963, prescribes the time within which the parties can bring a suit to the courts in order to enforce their legal rights. The Limitation Act, 1963, empowers the court to reject the suit if they weren't filed within the prescribed period. The Limitation Act 1963 was derived from the United Kingdom[].

The motive behind the Limitation Act, 1963, was to create a balanced legal framework that encourages the timely resolution of suits and provides legal certainty. However, the Limitation Act, 1963, has impacted Indian laws. The Limitation Act, 1963, has prevented the revival of old and stale claims, which can lead to the loss of evidence, fading memories of witnesses, and difficulty in ascertaining the facts after a considerable period of time has passed.

The Limitation Act, 1963, encourages the parties to actively ascertain their legal rights. The Limitation Act, 1963, prescribes the time limit, which pushes individuals to seek enforcement of

their rights in any suit primarily. The Limitation Act, 1963, also reduces burdens upon the judiciary by neglecting outdated claims.

The Limitation Act, 1963, balances the right of a person seeking judicial redress with the obligation of doing so within a reasonable timeframe. It puts a limitation on the legal system and stipulates a time period beyond which the courts can no longer entertain claims. Thus, giving individuals the right to legal remedies.

The Limitation Act, 1963, has also created a uniform framework for limitation periods across various types of civil claims and suits. However, the Limitation Act, 1963, implemented strict limitation periods; it also recognizes the disabled parties suffering from illness, fraud, any disability, etc., and contains several provisions for such exceptions.

A limitation period is the specific duration within which a party must file a claim or take legal action. If this period expires, the claim becomes "time-barred," meaning the defendant can use this as a complete defense against the action.

The Limitation Act prescribes a time period within which the suits can be brought, which makes it an important element for law. By prescribing time limits, the Act ensures that legal disputes are raised within a reasonable time, which prevents any threat of litigation.

The Act mandates for the parties to bring a suit under a specific time, which rejects any type of complexity, which can cause injustice. By imposing certain time periods, the Act discourages the parties from unnecessarily delaying legal action. It promotes efficiency in the judiciary by ensuring that the evidence is fresh and justice is not delayed.

The Limitation Act also provides exceptions in specific circumstances. i.e., in the case of fraud, mistake, etc., where the limitation period may be extended. These exceptions include the principles of morality, which make it flexible and follow the principle of "equality among equals."

Thus, the Limitation Act serves to the law as procedural law, ensuring timely access to justice and maintaining a balance between the rights of an individual and the efficient functioning of the legal system.

The limitation periods are crucial for balancing the rights of claimants and defendants while ensuring the efficient administration of justice. They promote fairness by preventing stale claims and protecting defendants from prolonged uncertainty regarding potential litigation.

The limitation periods are essential legal concepts that impose time constraints on the ability to initiate legal actions. They serve multiple purposes and are rooted in principles of justice, fairness, and public interest.

The Limitation Act was enacted to promote timely justice in the

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judicial system and to ensure equity in the disputes. The Limitation Act also brings finality and efficiency to the legal proceedings, but in some circumstances the rigid nature also becomes an instrument of injustice. Due to which the Limitation Act must be applied to the suits carefully so that it cannot cause any injustice to the parties of the suit.

However, balancing the Limitation Act between the responses and justice is a complex task because it requires a careful reconciliation of competing principles. This complexity may arise from the varying time periods for different litigations. It becomes necessary for the courts to interpret and apply the legislation, i.e., the Limitation Act, in a way that is fair and consistent without undermining the purpose of the Act, i.e., to resolve disputes timely. Ultimately, balancing strict adherence to time limits with the pursuit of justice can be complex. However, given the legal principles underlying the Limitation Act, courts must prioritize justice and equity while giving judgments.

The limitation period can be considered as a reason for the elimination of liability, both material and material, based on the principles of public order, public interest and criminal policy, and on the principle of necessity. It is based on the broad principle of the minimum interference of the state in the implementation of the *jus puniendi* [].

The primary purpose of the limitation period is closely linked to the inherent right of a person to self-defense and defense, and is to avoid imposing legal liability when the ability to prove the facts weakens with the passage of time, the memory of people such as witnesses and victims of the incident fades, and the possibility of fully establishing the facts is limited.

#### 4. The Comparison of Current Situation

The word “limitation period” in a narrow sense means a certain period of time for the protection of rights in accordance with the complaint or claim of a person whose rights have been violated. In a broad sense, it is a whole legal institution that determines the beginning of general and special prescription periods, the procedure for calculating them, the methods of extension (suspension, break, postponement, duration of recovery) and the consequences of the expiration of the prescription period.

For example, Academician S. Narangerel in his work “Mongolian Legal Dictionary” defined “the statute of limitations as one of the criminal law institutions, the period of exemption from criminal liability if the trial has not been avoided” [].

Doctor of Legal Sciences G. Sovd in his work “Explanation of the Criminal Code” stated that “the legalization of the statute of limitations (statute of limitations) for a person who committed a crime is a legal basis for considering that the case has become obsolete or the statute of limitations has expired if a long period has passed since the crime was committed without the person being detected and brought to criminal liability, and the conditions specified in the law have been met. The reason why a crime cannot

be brought to criminal liability after the period specified in the law has passed since the crime was committed is that there is no longer any purpose for imposing criminal liability on him” [].

Mongolia's legal system imposes strict time limits for the prosecution of crimes, as outlined in the Criminal Code. These limitations are designed to ensure timely justice and prevent indefinite legal proceedings. Below are the key provisions regarding these time limits:

The prosecution of a crime must commence within specific time frames from the date of the crime's commission, which varies based on the severity of the offense.

*One Year:* For crimes carrying a maximum imprisonment term of one year or less.

*Five Years:* For crimes with a minimum imprisonment term exceeding one year but not more than eight years.

*Twelve Years:* For crimes with a minimum imprisonment term between five and fifteen years.

*Twenty Years:* For crimes with a minimum imprisonment term exceeding twelve years but not involving life imprisonment.

The time limit is calculated from the commission of the crime until a decision is rendered by the first instance court. If the accused escapes, the calculation is paused until their arrest or voluntary return. Exceptions as the time limits do not apply to crimes punishable by life imprisonment or those against humanity and peace, which can be prosecuted without temporal restrictions.

Reoffending as if an individual commits another crime before the expiration of the time limit for a previous offense, the time limit resets for each new crime committed. These provisions reflect Mongolia's commitment to balancing the rights of individuals with the need for effective law enforcement and judicial processes.

The statute of limitations also refers to the period of time during which criminal liability can be imposed based on the category of the crime committed and the sentence to be imposed. This includes concepts such as suspension and interruption of the statute of limitations. In this regard, Dr. G. Gantumur's work "Time in Criminal Law of Mongolia" defines the statute of limitations for crimes as "The statute of limitations in criminal law is the period during which criminal liability can be imposed on the person who committed the crime and the court's sentence that has become effective, as specified in Articles 72 and 76 of the Criminal Code, which is determined by taking into account the nature and extent of the social danger of the crime committed, the severity or lenience of the sentence that can be imposed, and the category of the crime committed, the type of sentence imposed, and the duration of the sentence" []. The period during which criminal liability cannot be imposed and court sentences cannot be enforced is defined in the 2002 Criminal Code.

The statute of limitations is not only a criminal law concept, but also contains common and distinctive features of this period in other branches of law. The institution of the statute of limitations began to be used theoretically and in principle in countries with the Roman-Germanic or civil law family. In this regard, researcher B.

Bataa in his article “Theoretical Basis of the Statute of Limitations for Criminal Cases” cited Article 6, Section 3 of the ancient Roman 12 Tables and mentioned that the statute of limitations was first used in the field of civil law[].

The approach that considers it advisable not to apply the statute of limitations:

The approach that considers it advisable not to apply the statute of limitations is justified on the following grounds:

1. It does not meet the objectives of preventing legal liability, restoring the rights of victims and plaintiffs, and establishing justice;

2. Traces and evidence of crimes and violations are destroyed, the likelihood of each of the participants in the case giving truthful testimony decreases after a long period of time, the reliability of evidence decreases, it becomes difficult to obtain, and it may have a negative impact on ensuring the fairness of the court;

3. The prolonged nature of the proceedings creates an artificial burden on law enforcement agencies and the need to store evidence for a long time, which leads to a waste of space and money;

The approach that considers it advisable to apply the statute of limitations is justified on the following grounds:

1. After a certain period of time after the crime was committed, the social danger of the case has disappeared;

2. Limiting the length of time that individuals and legal entities are investigated, resolving cases as quickly as possible, and preventing torture;

3. Conducting investigations promptly and within the time specified by law;

4. The period during which the perpetrator of the crime must be reformed and educated;

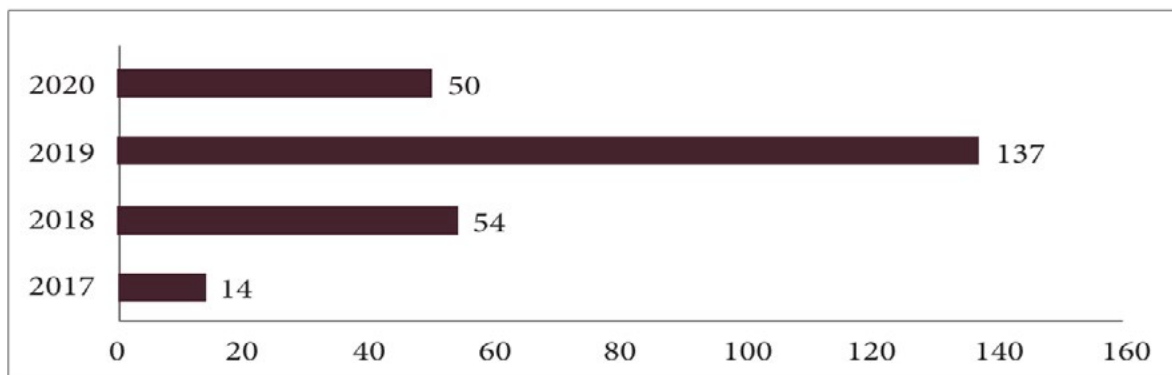
5. Preventing the person or legal entity who committed the crime from being found guilty but not being held criminally liable;

6. Taking into account the circumstances in which evidence in the case may be destroyed or not assessed as evidence due to the passage of a certain period of time after the crime was committed, and difficulties in establishing the facts of the case;

7. In cases where a person or legal entity involved in the crime does not evade the proceedings, it is freed from criminal liability after a reasonable period of time.

On the other hand, the use of the statute of limitations and the dismissal of any case or violation after a certain period of time specified by law is also interpreted as a form of state responsibility for failing to detect and punish the crime in a timely manner.

We compared the number of cases dismissed by courts between 2017 and 2020 on the grounds that the statute of limitations had expired.



Source: Researcher's collected data.

**Graph 1: Number of cases.**

We compared some countries limitation period in our study as below:

The statute of limitations plays a crucial role in criminal law by defining the maximum time after an event within which legal proceedings may be initiated. This analysis compares the criminal limitation periods across various countries, highlighting key differences and similarities.

**No Limitation Periods:** Some countries, like Canada and the United Kingdom, do not impose limitation periods for serious crimes such as murder or sexual offenses against minors. In Canada, for instance, serious indictable offenses can be prosecuted at any time, while summary conviction offenses have a limitation period of 12 months.

**Varied Limitation Periods:** Other nations have specific time frames based on the severity of the crime. For example:

**Finland:** The limitation period varies from 2 to 30 years depending on the offense's seriousness, with no expiration for life-imprisonable crimes like murder.

**Philippines:** The limitation period ranges from 6 months for libel to 20 years for crimes punishable by reclusion perpetual (12 years and a day to 40 years).

**Turkey:** Generally, has a 10-year limit, but there is no statute of limitations for sexual offenses against minors.

**Severity-Based Differentiation:** Most jurisdictions establish longer limitation periods for more severe crimes. For example, Finland's system clearly delineates between various levels of offenses, allowing up to 30 years for the most serious crimes.

**Exceptions for Specific Crimes:** Many countries exempt certain crimes from any limitation period, particularly those involving

severe human rights violations such as genocide or war crimes. For instance, international conventions often stipulate that such crimes are not subject to statutory limitations.

**Impact on Victims and Society:** The rationale behind having limitation periods often revolves around the concept of justice and societal healing. The passage of time can diminish the justification for prosecution as victims and society may have moved on from past grievances.

**Legal Traditions Influence:** The differences in limitation periods can also be attributed to the legal traditions in each country—

common law systems (like that of the UK) tend to have fewer limitations compared to civil law systems (like those in Germany and Spain) which often incorporate more structured timelines based on offense severity.

The comparative analysis reveals that while there are common themes regarding the implementation of criminal limitation periods across different jurisdictions, significant variations exist based on legal traditions, societal values, and the nature of crimes. Understanding these differences is crucial for legal practitioners and policymakers as they navigate international legal frameworks and consider reforms in their domestic laws.

| Country        | Crime Type                         | Limitation Period |
|----------------|------------------------------------|-------------------|
| Canada         | Serious offenses (murder, etc.)    | No limit          |
|                | Summary conviction offenses        | 12 months         |
| Finland        | Life imprisonment crimes           | No limit          |
|                | Crimes punishable by over 10 years | 20 years          |
|                | Minor offenses                     | 3 years           |
| Philippines    | Reclusions perpetual               | 20 years          |
|                | Other afflictive penalties         | 15 years          |
|                | Light penalties                    | 2 months          |
| Turkey         | General crimes                     | 10 years          |
|                | Sexual offenses against minors     | No limit          |
| United Kingdom | Serious offenses                   | No limit          |
|                | Minor summary offenses             | 6 months          |

*Source: Researcher's collected data.*

**Table 1: The comparison of limitation period some countries**

Since the entry into force of the revised Criminal Code, there have been 25,566 decisions dismissing cases on the grounds that the statute of limitations has expired. Comparing the total figures for the above four years by year, the highest number, or about 54 percent of the total number of dismissed decisions, was issued in 2019, while in 2018 and 2020, about 20 percent, or 40 percent of

the total number of decisions, were issued, and about six percent were issued in 2017. Compared to the figures for the other three years, the lowest number in 2017 is believed to be related to the date the law came into effect. In other words, the law came into effect on July 1, 2017, and the implementation of the law for that year is calculated as half a year.

| № | Эрүүгийн хуулийн зүйл, заалт | 2017 он | 2018 он | 2019 он | 2020 он | Нийт |
|---|------------------------------|---------|---------|---------|---------|------|
| 1 | 11.3.1                       | -       | 1       | -       | -       | 1    |
| 2 | 11.4.1                       | 2       | 12      | 20      | 4       | 38   |
| 3 | 11.4.2.1                     | -       | -       | 1       | -       | 1    |
| 4 | 11.4.2.2                     | -       | 1       | -       | -       | 1    |
| 5 | 11.5.1                       | -       | 2       | 2       | -       | 5    |

*Source: Researcher's collected data.*

**Table 2: The case of some issues on limitation period Mongolia**

## 5. Conclusion

The statute of limitations is an important legal concept that determines the possible time to initiate proceedings for crimes and legal violations. It is relevant to both civil and criminal cases and has several important implications for the judicial system. In accordance with the aims and objectives of the study, the results of the study can be summarized as follows:

- The statute of limitations plays an important role in balancing the interests of justice by protecting the defendant from outdated claims while facilitating the prompt resolution of claims. This legal framework contributes to a more efficient and fair judicial process, and its importance in both civil and criminal law has been emphasized by legal scholars.

- The statute of limitations has been defined in various ways due to a variety of factors, including a country's legal system, traditions, policy implications, practical factors, cultural attitudes, and the need to ensure coherence between legal systems, and understanding this helps explain the evolution and changes in statutes of limitations across legal traditions and disciplines. Policymakers have had to balance multiple, sometimes competing, interests when designing limitation periods.

- The correct calculation of the limitation period is essential for all types of litigation. Therefore, in order to ensure the correct application of the limitation period, it is important to emphasize the relative subjective nature of the statute of limitations, based on the nature, principles, and purposes of the law.

- The models for determining and applying the limitation period have varied across countries, and it has become a common transnational problem to compare and harmonize the theoretical and methodological foundations of the limitation period by comparing and studying the most commonly used models.

The theoretical basis of the limitation period in law and the methodology used to determine it are compared, and the objective and subjective factors that negatively affect the determination of the limitation period and increase its differences are evaluated in relation to the purpose and nature of the limitation period, and the goals of determining future trends are proposed.

- To investigate, compare, evaluate, and analyze the origin of the limitation period, the theory, doctrine, and concept of its determination;

- To study and analyze how Mongolia regulates the limitation period by combining and benchmarking each legal branch;

- To study the legal basis for the determination, commencement, suspension, and interruption of the limitation period, the procedures for its application, and the legal practice regarding changes, and to identify and analyze pressing issues.

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