

# Special Topic of Legal Culture

## Conflicts between Customary Law & Positive Law

-with application of Tibetan  
customary law of “the value for life”

# Customary Law of “value for life”（赔命价） in Tibet



# Authority of “value for life”

1. 《法律二十条》（20 Articles of Law) during government of Srongtsen Gampo（松赞干布）
2. 《法律十五条》（15 Articles of Law) during late Yuan Dynasty
3. 《十三法》（13 Laws) and 《十六法》（16 Laws) during 5th Dalai

# Cultural and Religious Basis of “value for life”

- Buddhist belief of ahimsa (No killing of living life and reincarnation)
- Killing is evil, the value for life is not in killing the killer

# Conflict of “value for life” with principles of modern criminal law

- against the purpose of Criminal Law: penalty instead of compensation
- Blurs the line between crime and civil offence
- Challenges the authority of statutory law

# Prohibition of application of Value for Life

- “Interim Regulation Concerning the Stringent Prohibition of value for life”, issued by the Political and Legal Committee of Guoluo Autonomous County of Qinghai Province on March 30, 1995
- Resolution concerning stringent application of law and prohibition of “value for life” by Huang Nan County Committee on April 13, 2000

# Change of customary law



# Prohibition of application of “value for life”





# Situation after prohibition of value for life

- Still applicable, but underground
- Criticism of prohibition by scholars

# Current situation

- Issuance of new criminal policy of balance of leniency with strictness of penalty
- Proposal of criminal settlement
- Article 90 of Chinese Criminal Law

Where the provisions of this Law cannot be completely applied in national autonomous areas, the people's congresses of the autonomous regions or the provinces concerned may **formulate adaptive or supplementary provisions on the basis of the political, economic and cultural characteristics of the local ethnic groups** and the basic principles stipulated in this Law, and these provisions shall go into effect after they have been submitted to and approved by the Standing Committee of the National People's Congress.