Several legal systems operate in Central Asia today: newly introduced Western law, practices left over from the Soviet era, and traditional systems based on custom and religion. The latter did not disappear during the Soviet era, but adjusted themselves to a new world. The symbiosis of traditional society and socialist legacy is the main stumbling block for legislative reform in Central Asia today.

The past legitimizes

Central Asian intellectual elites play a significant role in developing legal concepts. During the late Soviet and post-Soviet periods, university professors and scholars in academies of science aspired to political influence; sociologists, historians and philologists now advise politicians. Academics are charged with developing discourses of nationhood and national development, and to emphasize their democratic and legal nature.

‘by the 1960s, clan relationships and the social cult of the agsakal had mutated into the structures of national nomenclature’

Concurrently governments appeal to the legacy of ancient and medieval Central Eurasian empires and khanates. There are simply too few regional analysts able and allowed to write on the essential contradictions between the political culture of the medieval khanates, the successors to which the present states pretend to be, and the democratic civil societies that they claim to be building. In official ideologies, the historical features of modern Central Asian nations are linked together with Western democratic values. The promotion of national symbols and the celebration of historical anniversaries have become typical ways to demonstrate the legality of political regimes. Here we may be witnessing a modification of customary law: the more ancient the history of the nation, the longer the genealogy of the ruler, the more lawful the regime.

If in the first years of independence political analysts speculated on the democratic elements within Central Asian traditional political cultures, by the end of the 1990s many had grown pessimistic, wondering if democracy was ill-suited to the region. Central Asian populations have likewise become more cynical, evidenced by the widespread mistrust of all authority and legal regimes. By doing so, they approve the authoritarian—each totalitarian—political systems that operate in most of the countries today. 

The active use of the democratic lexicon has yet to further the understanding, much less the application, of democratically based law.

Central Asian legal specialists and the persistence of entrenched habits create other dilemmas. Many inhabitants of the former USSR had grown accustomed to Moscow’s dominance. They seldom recognized the need to learn about their rights, tending to believe bureaucrats would know better, and would observe and defend their rights. After the USSR’s disintegration, Western emissaries and consultants filled the vacuum of external patronage, their observations and opinions gracing the front pages of local newspapers.

References
4. Government building with photo of president

The articles by Isliköl Beller-Hamm, Irina Morozova and Delaime Summerton in IAS Newsletter 34 are based on papers presented at the conference Central Asian Law – An Historical Overview, held in Leiden, the Netherlands, 15-17 October 2003. The IAS-sponsored conference was organized by Wallace Johnson for professor Herbert Franke’s ninetieth birthday and was supported by a grant from the Alexander von Humboldt Stiftung, Germany. Longer versions of the three articles will be among those published in a forthcoming (October 2004) journal of Asian Legal History entitled Central Asia Law: An Historical Overview. The monograph will address sources of law in Central Asia – from customs to religious to codified – as they developed historically.