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How Chinggis Khaan Shaped the Basis of Mongolian Law

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Abstract: When Chinggis Khaan built the Mongol Empire, he quickly realized that establishing a state law was necessary to unite and rule over many different arbitrary tribes, and thus a high priority was given for the immediate establishment of such a law. In order to solidify his administrative reforms for the nascent Mongol Empire, he created a set of legislations referred to as the “The Yasa” (Great Rule). This research explores the extent of the contributions Chinggis Khaan had on The Yasa and the lasting impact of this law on the development of the legal environment in Mongolia.

Keywords: Yasa; kuruktai; law; executive; judiciary

The historical significance of Chinggis Khaan, founder of the Mongol Empire, has been vast and immense for centuries, and his crowning achievements continue to be heard around the world to this day (Khara-Davan 2009, 40). Inspired by his followers and feared by the others, his personality and leadership skills can be said to have been second to none (Purevdorj 2013, 11). The character of Chinggis Khaan as a cruel and destructive despoiler, as described by numerous academics such as Natsagdorj, Saishaalt, and Weatherford, can be explained by the fact that Mongols often greatly exaggerated wartime casualty and cruelty to instill fear among the enemy populace, as well as by the records of many historians from the conquered regions.

Chinggis Khaan’s achievements resulted in an era of peace and prosperity based on administration and leadership known as the Pax Mongolica, where worldwide free trade and mercantilism blossomed, usage of paper currency and passports accelerated, and freedom of religion and safety throughout the empire was achieved, which ultimately established an overarching influence on the lifestyle and culture of its time. Chinggis Khaan united the chaotic mixture of disparate tribes and their offshoots under his banner, which led to the creation of a collective Mongol identity and a Mongolian nation-state. This feat is the reason many Mongolians regard him to be the founding father of the cultural and sovereign existence of Mongolia. Not only did Chinggis Khaan release the Mongols from disunity and disarray, he also aspired to create a vast open

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space for his subjects to roam with freedom and live with ease of mind. When Jebe and Subutai put pressure on Khwarizmia in 1,220, an imperial envoy bearing the sealed edict of the Khaan was sent to the region warning that the people should not rely on their sheer numbers, and promised to leave them and their belongings unharmed if they subjugated to the Mongol rule. The edict stated that he was given the land stretching from sunrise to sunset, and those who chose to follow him would be spared, and those who chose to resist would be executed along with their relatives (Juvayni 2006, 121).

Although Chinggis Khaan utilized the traditional Mongol cultural and moral norms to govern the Mongol tribes, he was aware that it was not sufficient to act as legislation of the broader Mongol Empire. He held the view that a nation that did not enforce the law was doomed to fail, and as such he gave priority to appointing officials to observe such enforcement, as the citizens of the Empire were subject to the law regardless of status. Moreover, Chinggis Khaan reminded his subjects to respect and protect the law at all times. He left further influence of this in the broader Mongolian culture, as he appointed Shigi Qutuqu, his adopted son, as the High Judge of his newly built empire after its proclamation.

Chinggis Khaan made sure that the newly established Mongol Empire enacted massive administrative reform, so that the central government and jury would have the sole right to prosecute and legislate instead of the local chieftains who used to do so. This action is regarded by many as the proper establishment of judiciary in Mongolia (Urgunge 2001, 179–180). Chinggis Khaan told Shigi Qutuqu to be his “seeing eyes, listening ears,” further commanded him to “punish the thieves and put right the lies of the entire nation, kill those who deserve to be killed and punish those who deserve to be punished,” and further instructed him to write the laws in a blue book and let no one from generation to generation change it (Urgunge 2001, 192–193). Furthermore, he outlawed the practice of tribal chieftains and fiercely enforced this throughout the empire. These reforms draw several similarities to the modern concept of human rights and would continue to be revered and referenced throughout the existence of the Mongol steppe nomads.

The Yasa, along with the wisdom of Chinggis Khaan, would continue to be used as per his wishes, as Khans and nobilities would gather in a conference (Kurultai) on the first and last day of the year to study up until the late period of the Empire. From the late twentieth century, researchers have hypothesized that The Yasa may have been the continuation of the traditional Mongol customs that Chinggis Khaan was able to influence, based on historical evidence. Nowadays, the consensus is that The Yasa was created by codifying the customs, traditions, rules, and moral values of the local Mongol tribes rather than taking inspiration from preexisting laws of other nations. Chinggis Khaan’s perspective of the world can be understood from his words, actions, and wisdom (Tserenbaltav and Minjin 2006, 20), however, it is also important to differentiate between these three qualities.

In order to implement and develop his administrative reforms in his nascent Mongol Empire, Chinggis Khaan created The Yasa to be a harsh law. Although the full text of The Yasa has not been found, it is said to have contained regulations concerning the coronation culture, diplomatic regulations, Kurultai regulations, citizen responsibilities and duties, natural protection laws, military laws, hunting and taxing regulations, family laws, rights to property, economic and agricultural aspects, as well as civil and criminal laws. The Yasa, being the first law of Mongolia, had an overarching influence on the establishment of the legislative environment in Mongolia. The principles and legacy of The Yasa go well beyond Mongolia proper, having been used in three empires and over 50 countries under Mongol rule.

Some contemporary lawyers have written that Chinggis Khaan ratified and implemented The Yasa first in 1,189, then in 1,206 when he was made the Great Khan, and then through the Kurultai with other nobilities. Currently, the consensus is that The Yasa was divided into six chapters and 54 articles, most of them being criminal laws and civil punitive laws. Despite the seemingly harsh punishments such as the death penalty in some articles, it is unlikely that these laws were harshly enforced. Later research viewed these laws as more of a measure to preserve the cultural heritage. For instance, the death penalty for polluting the rivers and lakes, or compensating nine horses for each horse stolen, was not enforced heavily but rather designed to make the actions culturally unacceptable in the long term, with the actual punishment being much more lenient. In addition, in the records many of those who were subject to execution were released after a couple of whips or a small fine. Generally, according to some historians, The Yasa was not a brutal law (Tserenbaltav and Minjin 2006, 24); although it was indeed a legal act it also enforced moral principles in many different ways. There are records detailing that the enforcement of The Yasa brought murders, thefts, and corruption in the Empire to a halt, and thus may have made a contribution to the general Eastern image of resisting evil and clearing the mind. With this in mind, it can be said that Chinggis Khaan was concerned with the mindsets and the morality of his subjects.

Chinggis Khaan's fair and pragmatic behavior was evident from his interaction with others, and he not only brought justice to his subjects but also enforced it upon himself. For example, when he appointed the commanders of thousands of people, he preferred personal merits and achievements regardless of status and wealth and selecting from the nobility and his relatives. Among these military commanders and governors there were people from not only the Borjigid clan but those from other tribes, unlanded citizens, and even former servants. He was adamant to follow his equal principle of "punishing the thieves and putting right the lies of the entire nation," and created regulations for each action and event, laws based on specific situations, and exact punishments for crimes (Juvayni 2006, 20).

However, despite Chinggis Khaan teaching his wisdom and perspective to his relatives and close confidants, very few of them were ultimately implemented in The

Yasa, which is a clear indication that his words were not related to the law he created. When Chinggis Khaan was fighting the Tatars in the Dalan Numur, his order not to plunder their riches and to never let the enemy run loose was said to be one of his laws, but it does not feature in the current iteration of The Yasa (Dashnyam 2007, 25).

It is clear that The Yasa was mostly made up of the edicts of Chinggis Khaan. As such, he entrusted his descendants to strictly follow his compiled law without any alterations, so that Mongolia could exist in peace and prosperity for centuries to come.

Chinggis Khaan contributed to the legal environment in Mongolia by creating a judiciary and a national law. According to The Yasa, the Great Khan had to be anointed by the decision of the Kurultai comprised of tribal chieftains, military leaders, and the nobilities of the Golden Lineage, and this law also applied for the selection of vassal kingdom. Kurultai, which was a council of tribal chieftains of the ancient nomadic cultures, was reformed into an advisory body for the Great Khan with its rights and responsibilities (Bira 2007, 24), and was renamed the Greater Kurultai (Dashnyam 2005, 278). The Greater Kurultai was referenced in *The Secret History of the Mongols*, when the massive conference called on the Onon river where the union of the tribes and the establishment of Great Mongol State was proclaimed, Chinggis Khaan was declared as the Great Khan, and he bestowed his favor to those who assisted him, suffered with him, and strengthened him during the unification. Another important event that happened during the Kurultai was the establishment of the executive and administration of the Empire. Muqali was given the title of *guiwan* (State Secretary) and granted 95 commanders of the thousands. Moreover, by having arguments over the necessity of another person of power besides Muqali and Boorchi, Shigi Qutuqu was made the High Judge of the realm (Urgunge 2001, 192), established a separate judiciary with unique privileges, and ordered to “take matter to his own hand[s]” and “let no one alter the blue writing ordained in consultation with me” (Urgunge 2001, 193). This clearly denotes the separation of powers and the rule of law being properly established in Mongolia.

When Chinggis Khaan built the executive, he let Father Monglik into the first seat of the circle, placed Muqali and Boorchi in a higher rank, and ordered Boorchi to rule the western tribes along the Altai and Muqali to rule the eastern tribes along Kharagun Jidun. Based on this and the historical context, Muqali can be seen as the head of the executive branch (Urgunge 2001, 194–195) and the ruler of the eastern part, while Boorchi can be seen as the deputy head of the executive and the ruler of the western part. While Father Monglik had no defined seat in the executive, he had a highly prestigious advisory role besides the Khan. As such he bestowed honors for 88 individuals, and appointed 95 commanders of the thousands, effectively establishing the regional administration and the central government (Demberel 2002, 144). Chinggis Khaan’s government was a mixture of both the civilian and military. Within the Honored 88, there were many notable military generals, heroes, and lords. Researcher

George Vernadsky wrote that envoys, officials, and merchants from all over the world started to flock to the administrative center of Mongolia (Vernadsky 2004, 20).

Chinggis Khaan only received his full rights and title of Great Khan through the Great Kurultai. Though it became a tradition and all Mongol khans were appointed by Great Kurultai, this conference had a significant function aimed at preventing anyone from unlawfully taking power and building the legal framework around the newly anointed Great Khan. Another fundamental part of the traditional Mongolian state governance was the culture of officials, which had its root from ancient Xiongnu tribes (Purevdorj 2013, 168). State officials were vital in executing the government activities. Offices and rankings, duties, rights and responsibilities, salary, politics, and legislative environment comprised the culture of officials. Chinggis Khaan not only employed Mongols in state administration but also selected many highly skilled individuals from Uyghurs, Khitan, Jurchens, Tanguts, Khwarizmi, and other ethnicities to help run his empire as well. Notable examples included the State scribe Tata-tonga (Uyghur) and Yelu Chucai (Khitan) who worked as Khan's advisor and in many other offices (Tumur 2006, 11). Chinggis Khaan enacted a policy called the "Golden Tether of the Mongol State" to ensure the sovereignty and territorial integrity of the state, and by utilizing the tribal relationships into his diplomacy, he was able to tighten his "Golden Tether." On this, Weatherford stated that Chinggis Khaan sent his daughters to the outskirts of the Empire as his "Empire's rays," who would act as the "Empire's shields" to rule over the Oirat, Uyghur, Karluk, and Ongut khanates, highlighting the Empire's borders and protecting the Empire from all four sides (Weatherford 2010, 69). This diplomatic maneuver can be described as a way to weaken the diplomatic position of the opposing side and subsequently prohibit them from using their traditional methods on their foreign policy (Bor 2005, 129). One such method he used was royal marriage.

Regarding the enforcement and protection of Chinggis Khaan's law, The Yasa explicitly stated that "Chinggis Khaan, ordained by the Sky, is absolute." This principle ensured that obeying the law became a part of the social relations in Mongolian customs. Vernadsky wrote in his article "Research and Contents of The Yasa Law" how Chinggis Khaan considered himself to be protected by the gods when interacting in international relations, and used it as a justification of his demands by threatening his opponents with divine retribution if they were not met. It is notable that Chinggis Khaan's orders to uphold and protect the law were valid throughout his lifetime and after this. Venetian explorer Marco Polo noted that the Mongols fulfilled the Khan's order with great efficiency.

As the Mongol Empire was a militaristic feudal state, military laws were codified in The Yasa and were strictly enforced. For instance, the military laws included commanding and warring regulations, as well as soldier-commander communication regulations (Aigle 2022, 322). Military commanders were required to keep their

soldiers trained at all times. Khaan's orders included a meeting place and time where commanders had to bring their soldiers immediately if requested. Commanders had to keep records and accounts of their legions and had to ensure that the soldiers and their horses did not lack food and drinks. Soldiers had a duty to obey their respective commanders without any protest, and could not change their legion without any permission. Soldiers had to strive to fight with bravery and diligence. The wounded were not to be left on the battlefield and were not permitted to leave the battlefield until their banner (standard) fell. Soldiers were also forbidden to seek plunder before their victory, and all plundered resources were to be distributed amongst the soldiers. Lastly, soldiers were strictly forbidden to burn down stolen properties, harass the prisoners of war, or kill or abuse civilians. These military reforms were a part of a greater policy of "detrribalizing" the Mongol Empire, by ensuring army discipline and shifting the decision-making process to the highest commander. Scarred by the inter-tribal conflicts, Chinggis Khaan sought to replace the soldiers' allegiance to individual tribes with allegiance to the Mongol Empire. The soldiers, who would lose their free will, would in return enjoy equitable shares of the war loot (Togan 2022, 81).

Another main aspect of The Yasa was the regulations concerning the livelihood of the people. By orders of Chinggis Khaan, commanders were given lands and the rights to use them as they saw fit. Moreover, war heroes like Sorkhon Shar and Qorchi were awarded lands and households by decree. The households were divided amongst the Great Khan's family, nobilities, and commanders, and they were forbidden to voluntarily leave their designated area, which was codified in The Yasa. These regulations created the land ownership system that was unique to Mongolia. Households allocated to a lord would use the land collectively, and as such natural preservation laws covering the landscapes, plants, and animals were a vital part of the Mongol legislative policy to ensure the continued usability of the land. Laws aimed to regulate the interactions of the citizens usually had a special place in The Yasa and may have had some unique features. Such civil laws covered everyday aspects like marriage, brotherhood, testament and inheritance, trading, family, mutual assistance, dispute between people, and much more. The established brotherhoods of Yesukhei and Tooril, or Temujin and Jamuqa referenced in *The Secret History of the Mongols*, shows that such a relationship was standardized and had legal context, such as shared responsibilities, promises, and evidence.

The inclusion of ritual customs in the civil laws and its strict enforcement was yet another unique aspect of the Mongol laws. For example, if people on horseback found someone eating on the side of the road en route, they had the right to join in without permission, and the other person was not allowed to stop this. Guests had to be provided with more food, and they were not to walk over the food. Moreover, willingly lying, performing magic, choking while eating with others, putting sharp objects inside

other's food or the fireplace, stalking others, and intervening in others' arguments were strictly forbidden and were codified in The Yasa to plant a sense of respectfulness and humility amongst the populace and to further develop the national cultural identity. In addition, laws prohibiting people from damaging the livelihood of others such as robbery, alcoholism, and stealing was implemented, which was recorded in many different historical sources such as in Jami' al-Tawarikh by Rashid ad-Din, as well as those of missionary William of Roubruck and historian al-Maqrizi.

Amongst the historians who studied Chinggis Khaan, there are numerous articles that include information about family laws during the period (Aigle 2022, 322). Specifically, primary sources like *The Secret History of the Mongols* and secondary sources from Ryazanovsky, Dendev, Jalan-Aajav, and Saishaalt contain many interesting documents regarding family relationships. The general comparative analysis of the main ideas of these sources indicate that The Yasa focused on codifying and regulating the familial customs, which include marriage and engagement customs, traditions of prospective grooms visiting the bride's home and proving themselves, patriarchy and the role of other members, and distributing inheritance based on age, polygamy, adoption, and noble marriages. In particular, polygamy was accepted in Mongol society and was regulated in The Yasa, which was well recorded in *The Secret History of the Mongols*, such as Yesukhei having two wives and Chinggis Khaan having four.

Status and role of family members, and their rights, responsibilities, interactions with others, and their inheritance was another important section of the family laws. For instance, the duty of the firstborn to lead the others, distributing inheritance from the oldest to the youngest, the duty of the youngest son to keep the home and its flame going, respecting one's elders, equal inheritance for the children of concubines and adoptees, and the duty of all to maintain family connections was well documented and ratified.

Criminal policies in the Mongol Empire aimed to protect the unity and sovereignty of the state, its economic and social structure, and the health, safety, dignity, and heritage of the Khaan, nobility, bureaucracy, and its people. The characteristics of these criminal policies are studied by scholars, such as George Vernadsky, who classify various crimes mentioned in The Yasa into three groups:

- A. crimes against religion, morality, and heritage
- B. crimes against the Khaan and the state
- C. crimes against personal lives and interests

In the first category, crimes include interference in the freedom of worship, giving false information on official queries, slaughtering livestock without following tradition, and breaking family laws. The second category includes breaking the Khaan's

edict, insulting state officials, breaking the law, and countering military discipline. The third category includes breaking property rights, murdering, and stealing.

As the Mongol Empire expanded further, a need for laws to protect the merchants and enforcement to do so quickly arose. The Yasa explicitly stated that caravans of merchants going across Mongol territory had to be protected from harm even if they were from enemy states. Chinggis Khaan and his court extensively used merchants to establish and improve relations with other nations (Togan 2022, 79–80), and invited merchants from all over the world to keep up with global affairs and provided safe space and opportunity for lucrative trades. This arrangement enabled the Mongol Empire to regulate global trade by safeguarding the famous Silk Road from any risks across the nation (Otgonsaikhan 2023, 69–79).

From the information above, we can deduce that The Yasa was written because actions against the life and dignity of the royalty, nobility, and the bureaucracy, actions against state governance and officials, loss of military discipline and morality in battle, actions against personal property, damaging and contaminating the landscapes and waters, as well as scamming and unfavorable trades, actions against the freedom of religion and other practices dealt damage against the government, social structure, and the people of the Empire, as well as their lives, property, and heritage, which meant punitive actions corresponding to these crimes were standardized. All in all, the influence of Chinggis Khaan in the Mongol laws is immeasurable, and it is clear The Yasa was instrumental in civil, criminal, and administrative legislations in modern Mongolia.

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