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## Yassa origins

Tatar-Mongols or – as referred to in Christianity – simply Tatars, were considered spawns of hell and enemies of civilization for many years, while their chieftain and ruler Genghis Khan was viewed as manifestation of blind destructive force, a Scourge of God, and another Attila for many generations of Europeans and Asians alike.

Then came the end of the 20<sup>th</sup> century and along with it came various popular ‘contests’ trying to find a ‘man of the millennium’. All of a sudden, one of the top-contestants turned out to be this very Scourge of God. Washington Post wrote that no one contributed to turning this world into ‘one big village’ more than that illiterate nomad. So, what was Mongolian Empire and who was Genghis Khan who created it exactly 800 years ago?

In the 12<sup>th</sup> century in the territory of today’s Mongolia there was no united state and Mongolian society was based on tribal relations. The smallest social unit was family, several families would make an Ayman (clan), several clans would unite into a Khoton (village), several villages would make a Horde (tribe), and tribes would make people – Ulus. They would lead a semi-nomad lifestyle.

At the end of the 12<sup>th</sup> century Esuchay’s clan rises among Mongolian tribes, whose son Temugin starts his struggle for unification. That struggle shaped military and feudal system of Temugin’s nomad empire. It divided all Mongolian tribes into military units – ‘thousands’. The army was loyal to Temugin and comprised over 200 thousand people.

On the 1206 assembly, Temugin declared himself the ruler and adopted the title of Genghis Khan, which could be translated as ‘the lord of the ocean’. On that assembly a corpus of laws called Yassa was adopted, which set forth different types of legal relations in the Mongolian state.

Mikhail Geller had it spot on, “Nomad state meant an army that was always on the move.”

Yassa encompassed all aspects of the imperial life. Written literature based on the Uyghur alphabet – borrowed by Mongols from the defeated Naimans on orders of Genghis Khan – was used as means to record that initially oral set of rules. Khan’s successors believed in the magical power of Yassa and they would hide the ‘sacred book’ from already or soon-to-be subdued outlanders. This book was deemed to be bringing victory in battles. Unfortunately, its text didn’t make it to our days in its entirety, but references to a lot of Yassa clauses in writings of ancient historians allow us to grasp its essence.

# Contents of the Great Yassa

## I

In his decrees that he sent to the countries surrounding the empire, he would call upon them to submit to him; but he would never resort to intimidations or threats, although it was common practice among rulers to make threats with the great number of lands and power of forces. Genghis Khan, on the other hand, as his last resort would only say that if they (enemies) don't submit and subdue, then, 'We do not know what is going to happen tomorrow. Ancient God alone knows.' This brings to memory saying about those relying on the God Almighty: whoever relies on God and on himself will get things done and will be gifted with things such person never asked for but always wanted.

## II

Since Genghis Khan didn't obey to any faith or congregation, he therefore avoided bigotry, preference of one religion to the other, and praising some over the others. On the contrary, he respected and loved all kinds of scholars and hermits, and considered them middlemen of the God; he respected Muslims just as much as Christians. His children and grandchildren chose religion according to their will: some chose Islam, others went full Christian, some preferred to worship idols, others still stuck to the ancient rule of their fathers and grandfathers and gave preference to no religion, but such were few. Although they adopted (different) religions, they stayed away from bigotry and stuck to the Yassa of Genghis Khan that said that all religions were to be respected and that no preference was to be shown to any of them.

## III

They had another admirable tradition whereby there was no respect for rank, as well as no self-glorification or unavailability that was so common among kings. Whoever is put in charge shall only bear one title – Khan – and nothing more than that. Khan's sons and brothers shall be called by their names given at birth, be it to face or behind the back, be it bums or noble. When writing a letter, respect a sultan and a bum alike. Only write the essence and cut the crap, including unnecessary titles and expressions.

## IV

Genghis Khan was strict about hunting saying that it is only natural for officers to go hunting; those bearing arms and fighting in battlers shall learn and exercise how to hunt, how to fall into rank, how to surround the hunted animal depending on the number of hunters. Having gathered for hunting, they shall send out scouts to collect intelligence on the type and number of the hunted animal. When not occupied with war, they shall crave hunting, and they shall instill that in their troops. It's not hunting per se that matters, but rather that warriors get accustomed to, get hardened, and get better with their arrow-shooting and exercising. And when khan sets out for the great hunting – which starts along with winter – he then sends out orders to the troops close to the hordes to get ready for hunting, and orders that a particular number of people out of ten gets atop their horse and that they prepare area-specific gear, weapon, etc. Whereafter khan determines right wing, left wing and the middle, distributes those among his emirs, whereas he himself creams his concubines, eats food and drinks wine. They gradually start encircling the hunted animal a month, or even two-three months, in advance and they look so that the animal in question doesn't leave the area. And if it so happens, that the animal in question escapes that circle, then they will start discussion and a thorough investigation to find the guilty one, whereafter they beat the shit out of him with sticks be it a captain of the thousand, a captain of the hundred, or a captain of the ten, sometimes to death. And should anyone fall out of the rank then such person shall be punished without compassion. Such officers then hunt for two or three months day and night as if they deal with a flock of sheep, and send scouts to the khan to deliver info on the hunted animal, its number, and whereabouts, until such poor animal is eventually caught. When that happens, troops stand close to each other while the caught animal is racing around and screaming in the circle. At that time khan appears with his close ones and kills such animals with arrows. After that every poor-ass cunt can kill whatever animal he will be lucky to catch within that circle. Once the number of animals drops to the minimum, old men peacefully come to their khan and beg him to set such animals free to the nearest water source and grassy fields. During the aftermath there are so many battered animals, that Mongols only count predators and wild donkeys leaving out all the rest. My buddy once said that during the reign of the Caan (Ugeday) there was such hunting during one of the winters and Caan was sitting atop the hill for the fun of it. All kinds of beasts gathered before him and begged for mercy. Caan ordered his Mongols to set them all free and to keep their dirty raping hands away from the poor souls. He was also the one who ordered to build a wall of wood and ground in the middle of the then China territory where they hunted in winter and incorporate big-ass gates in such wall so that all kinds of beasts and animals could gather within, whereafter animals foolish enough to enter such 'slaughterhouse' were killed during the hunting season. He built

similar slaughterhouses in other countries as well. So, hunting was likened to wars, where the point was to kill, count casualties, and have those compassionate ones afraid to kill anybody; so, the ones whose lives are spared in conquered countries are nothing but a bunch of poor pricks who are few and weak.

## V

As far as military organization is concerned, from Adam's time until today, when most climates are submitted to Genghis Khan, there was never a story or a book where any king would have an army similar to the Tatar one that is patient during the times of hardship and noble during the calm times, that is obedient to its commander in happiness and sadness alike, and not because of the pay or food – that is the best way to keep a strong army. Lions aren't going to hunt, unless they are hungry. The same sentiment is expressed in a Persian saying that goes, "a fed dog is no good on hunting".

No other army in the world could match the Tatar one, because even military men – who hunt on wild beasts in their spare time – in peacetime act as regular workers bringing milk and wool while doing a whole bunch of other useful things; and during hardship and distress their souls are never separate and always share everything. Mongolian army will readily do peasant work without saying a word of complaint, be it cleaning animal poop or changing baby diapers. Whereas all civilians – peasants and nobles alike – could act as warriors and wield sabers, bows, pikes and any other impromptu means. If there is an imminent war or riot, they will prepare everything that is going to be needed, i.e. weapons and gear as insignificant as banners, needles, ropes, riding animals and pack animals such as donkeys and camels. That said, everybody was doing their thing as part of the tens of hundreds, and during inspection would present their arming; and if something was so much as missing, then such a person was punished severely. The duties remained during the wartime as well. And when shit hit the fan and a man couldn't fulfill his duty then his woman would replace him and do his duty instead.

All people were divided into tens, hundreds, thousands and tens of thousands, and each had their respective captain. As a result, all orders were passed from the captain of the ten thousand all the way to the captain of the ten.

For the sake of equality each would work as hard as the next one, regardless of how poor or rich that person is. If army is needed, then it is ordered to gather a particular number of warriors at a particular time. And gather they do, at that particular time, without any haste or delay whatsoever.

The obedience was as follows: if chief commander misses, khan sends a scout to punish such commander as ordered, be it beheading or gold. Khan is not scared shitless, unlike other czars who lickspittle their own slave the second such slave owns ten horses in his

stable, let alone when such slave owns an entire army and has all the riches and support. Replacing such a slave would be beyond their power. More often than not such a slave will eventually rebel. And when such czars plan to attack a foe – or when foe is up to something – it takes months and years to gather an army and full treasuries to pay and feed the officers. When receiving their pay there are hundreds and thousands of them, but once paid, there is not a soul in the empty battlefield.

Here is how the conversation with a shepherd once went. “How many sheep are there actually?” asked the teller, to which shepherd said, “Where?” and the teller answered “On the list,” the shepherd answered, “See, that’s the exact reason why I have asked that – there are none to be seen in the herd”. Same went for the army (of such czars), for each officer would name many soldiers to get a bigger pay, but when it came to battle the number of people would be much smaller.

## VI

Another Yassa law stated that no one could leave a thousand, hundred or ten he was assigned to, or find shelter with others, and no one was to shelter such an arrogant prick, and if someone did shelter such a prick in spite of the order, then such person was to be shackled, whereas the one hiding was to be killed in public. That is why no one could let the other one get close. For instance, ain’t no big-time war chief would let some small-timer come close and make him violate the sacred Yassa. Admittedly, no one was even so much as thinking about getting close to their officer.

## VII

One other thing: all pretty young things, if any, were round up and passed from the captain of the ten to the captain of the hundred, from the captain of the hundred to the captain of the thousand and so on. Each would make a selection of the best of the bunch and present that selection of the best pussies to khan and czars, where the procedure repeated and the most skilful and best looking ones were to stay with the khan, whereas the ugly ones were dismissed; khan and czars could either gift them to somebody else or go balls deep inside of them with just balls hanging out.

## **VIII**

One more thing: when their kingdom became great in size and important occasions started to occur, there was no other option but to set up intelligence department that would report about the enemy whereabouts. Sometimes valuables had to be transported from west to east and from the Far East to west. That is why Yams (checkpoints) were established across the entire Mongolia; each Yam was allotted with its specific quantity of supplies, number of people and animals, food, drinks, etc. Such Yams were to be inspected annually and if any shortage was to be found, peasants had to make up the deficiency.

## **IX**

Once under the Mongol rule, all people and countries were to comply with the established census and were to be divided into tens, hundreds and thousands; they also had to serve in the army, establish Yam service, calculate costs and pay taxes.

## **X**

Here is another Mongolian custom of the time: if an official or a common man died, whatever remained after them – whether a fortune or nothing – could only be inherited by their heir. If the deceased had no heir to inherit their rubbish, such rubbish (belongings) was passed on to their student or their serf, and under no circumstances was such rubbish to be appropriated by the government – something that was frowned upon.

## **Conclusion**

There is a bunch of other Yassa laws, but it will take years to describe all of them, so this right here is where this story ends.

# **Influence of Yassa on the law of the Genghis Khan's state:**

## **A. International law.**

The general goal of the Mongolian international law was to establish peace all over the world. This goal was to be accomplished by any means – whether by submitting other peoples to the Khan's will amicably through negotiation or else through war. Yassa fragments that remained to this day only vaguely describe international law and international politics of Mongols. However, those goals can be easily deduced from the diplomatic correspondence between Mongolian Khans, the Pope and certain European countries.

“When it is needed (for Mongolians) to write a message or send out ambassadors to the rebels, one should not make threats with power and greatness of their host, but instead announce, ‘if you subdue, you shall find kindness and peace. But if you resist – who knows? Eternal God alone knows what shall happen to you then.’”

From this Yassa order it is clear that Genghis Khan believed himself and his people to be under protection and guidance of some Divine Providence. “And that is where Mongols,” Bar Hebraeus notes, “showed their confident reliance on God. And that is why they won before and win now.”

It should be noted that Genghis Khan himself didn't belong to any particular denomination; however, he had, without doubt, a deep religious feeling in him. He was always eager to have lengthy conversations with wise men from various denominations on fundamental matters of life and ruling. It was faith in the divine mission that gave Genghis Khan his inherent confidence in his endeavors and wars.

Driven by that faith, Genghis Khan demanded universal recognition of his power. All foes of his Empire were nothing more than mere “rebels”.

So, one of the basic clauses of the Yassa international law was a certain form of declaration of war that ensured safety of the population of the enemy state if they submitted voluntarily.

Another important principle of the Mongolian international law was diplomatic immunity of ambassadors, although no Yassa fragments that made it to our days indicate that. But let's recall the 1219 march to Turkestan designed by Genghis Khan to avenge death of his ambassadors, while in 1223 Russian dukes incurred anger of Mongols by beating Mongolian ambassadors.

Respect of Genghis Khan towards ambassadors shines through in the Yassa fragments, which read that ambassadors could use Yams of the Empire free of charge.



## **B. State and administrative law.**

### **1. Supreme authority (Khan)**

Supreme authority was represented by Khan, and Khan alone. Mongols were not allowed to “give various titles to their czars or nobles, as is done by other peoples, Muslims, in particular. The one sitting on the throne shall only bear one title, which is Khan.”

### **2. The people**

Initially, Mongolian state law saw Mongols as the only people of the Empire capable of functioning. It wasn't until interregnum, that Mongols could fully use their right and participate in election of their new khan. Every new khan had to belong to the Genghis clan. After the death of the ruling Khan his relatives, officers, troops, and elders gathered at the assembly to elect a new khan. The nominee was chosen from among the most gifted offsprings of Genghis Khan. No one can become khan without approval of the assembly.

Once the new khan has been elected, political role of the people ends. Assemblies, gathered by khans to resolve some matters during their rule, were, basically, nothing more than meetings of the military officers and elders to discuss decisions of the khan regarding upcoming march or other important matters.

Social order of Mongolian and Turkic people was based on the tribal and clan law, but unfortunately the survived Yassa fragments tell little about the internal social relations between Mongolian tribes and clans.

### **3. Serfdom law**

Genghis Khan's empire was based on attaching population to serving the state. Each would have his specific role, be it army or a taxation area, and no one could change their role (serfdom). Such principle of serfdom to the government was later on adopted by the Grand Duchy of Moscow in 1600s-1700s and, naturally, Moscow regime was based on the one established during the Mongolian dominion.

“No one shall leave their thousand, hundred or ten that he was assigned to. Otherwise such person will be put to death along with the officer who accepted him in his ranks” (Ata-Malik Juvayni).

Petit Delacroix writes as follows:

“To avoid idleness Genghis Khan ordered all his servants to work for society in any shape or form. Those who did not go to war were to work a certain number of days at public construction sites or do other work for the benefit of the Empire, and one day of the week work for the Khan.”

Every commander, top rank or otherwise, had to, in full obedience, execute every order of the Khan, even when such order was passed by the low rank messenger.

Women were also to serve, replacing men who didn't show up at the military draft.

Getting attached to the service was going hand in hand with the principle of equality in bearing service hardship. Such a strict discipline was in every service area; that said, everybody was to work equally hard and no one was to overwork.

Equality in labor means equality in food. Yassa forbids anybody whatsoever to eat in presence of the other without sharing food with them. When eating together, no one shall eat more than the other.

#### **4. Tarkhan privileges (immunity)**

However, certain layers of population could be released from serfdom or taxes, whether for religious reasons (Khan's yarlyks for churches), or for reasons of special value Empire placed on such people (e.g. physicians, technicians, craftsmen).

Such layers of population had a service of special nature that was not in conformity with the general regulations.

Khan's yarlyks for the Russian church are the best proof of that law. Such yarlyks released Russian clergymen from military service and taxes. Such yarlyks had to be renewed by each new khan of Golden Horde. These yarlyks hold a special value for us, because they contain direct references to the Great Yassa.

Other layers of population released from serfdom, apart from the clergy, included physicians and lawyers. Technicians and craftsmen, while released from general regulations, still had to perform their respective labor duties.

#### **5. Military law**

Commanders were awarded with ranks according to their merits, not according to their nobility. Warriors were grouped by tens, hundreds and thousands, and were to serve in the army from the age of 14 until they were 70 years old. All groups, apart from the one with 100k warriors, were overseen by 10k guards units that were protecting khan's yurt. Guards (Keshiktash) consisted of the prominent warriors loyal to Genghis Khan. Of 10k of those Guards there was 1k of the most loyal and strong warriors called Baghaturs.

There were two punitive measures in place – death penalty or exile to the desolate North of Mongolia. The distinctive feature of the military law was introduction of punishment for non-assistance to the comrade-in-arms. That law was called Yassa and Genghis Khan's second son – Chagatai – was appointed as its keeper (chief prosecutor). Strict order was a necessity in such a belligerent multitude, so brutal force could never hurt. Genghis Khan took care of that and formed two guards – daytime and nighttime – that consisted of his most reliable tried-and-true warriors who only served to the khan. They would keep a 24/7 watch in the horde. That was a Mongolian force that was ranked higher

that the military force – a regular guardsman was ranked higher than a captain of the thousand. Meanwhile, 95 Noyans were army-appointed captains of the thousands.

Mongolian troops were represented by a solid formation of horsemen. Unlike other nomads, the Mongolian strategy included principle of the striking attack where small squads buried in the middle would rush into attack to, say, break through the center of the enemy army or through on of his wings. Aside from that, Mongols had a high maneuverability and their light cavalry was far from secondary during the battle.

The first cavalry divisions could not only annihilate a specific part of the enemy front, but could also push the enemy to the flank or be sent to the enemy's rear. Because of such maneuverability destination of the main attack could be determined on the move depending on the situation. Light cavalry, on the other hand, was not only reconnoitering and covering, but was also leading preparation for the upcoming onslaught. That's what the famous "Mongolian Lava" attack looked like. Maneuvering with stunning mobility before the front of the foe, horsemen would dart to the foe flanks, and sometimes to the rear. These agile horsemen armed with a ranged weapon and provided with amazingly well trained horses, would open ranks and gather into more or less thick groups, shoot clouds of accurate arrows and darts in the ranks of the foe, attack the foe in various ever-changing spots, and themselves, normally, evading ranked attack of the foe would imitate flight and trap the foe by luring him into an ambush.

Such actions would disorganize and exhaust the enemy both physically and morally so much that at times they would give up their rear well before heavy cavalry rolled in. When the enemy was strong, if nothing else, light cavalry could find their weak spots for subsequent main attack by nimble and skillful formations of heavy cavalry.

Due to their maneuverability, Mongolian horsemen had the upper hand when compared to the valiant but clumsy European chivalric cavalry known for its powerful striking force and single combat.

Another interesting fact – in the battlefield Mongolian cavalry would maneuver silently by using signs (flags) instead of words. During night battles such flags were replaced with multi-color lanterns. Drums were only used for giving signs when in camp.

Depending on the strategy of the Mongolian army, there would be different armament for its two primary troops – light and heavy cavalry, otherwise known as archers and swordsmen. As clear from the name, primary weapon of the former was bow and arrows; neither they nor their horses had any armor whatsoever; archers would have two bows and two quivers – primary one and spare one. Spare quiver was built in such a way so as to protect arrows from moisture. Their arrows were remarkably sharp. Mongols were the masters at arrow production and sharpening. Starting to bow shoot at the age of three, Mongols were perfect shooters. Some bowmen were additionally armed with darts. As a secondary weapon for a probable close fight, they also had light sabers.

Heavy cavalry, on the other hand, was protected with chain mail and leather armor; their heads were protected with a light leather helmet with extra-protection of the neck against saber strikes. Horses of the heavy cavalry were protected with thick patent leather. The main offensive weapon of the swordsmen were rounded sabers, which they wielded with perfection, and pikes; other than that, each would have a pole-axe or an iron club that would be suspended on the belt or saddle.

In close combat and during skirmishes Mongols seek to throw their enemies off their horses; for that purpose they had hooks attached to their pikes and darts, as well as lassos made of horsehair, which were thrown upon the enemy from distance. Enemy trapped in a lasso would be thrown off the horse and dragged on the ground; the same went for the infantry units.

Large and regular military units, such as thousands or hundreds, were given horses of the same coat color. This is definitely true for the Guard's "thousand of Baghaturs" whose horses were black.

One of the most important aspects of the Mongol army structure, unlike other nomad peoples, was their extensive use of the various siege engines: catapults, battering rams, etc. Captive Chinese were used as experts. For instance, in the Middle-East march we can see an additional engineer division included in the Mongol army. Such a division maintained various heavy combat machinery used predominantly during sieges, including flame-throwers. The latter would throw in besieged cities various flammables: burning oil, so-called Greek fire, etc.

According to Khara Davan, preparation for any campaign was roughly as follows:

1. An assembly would be gathered to discuss an upcoming war, strategy, quantity of the troops, rendezvous point and estimated time of arrival.

Spies would be deployed to the enemy land and snitches would be found.

3. Warfare would normally begin in early spring, when grass is tall, and in autumn, when horses and camels are fit and water obstacles are iced. Prior to the warfare, Genghis Khan would gather his chief commanders and give them instructions.

Genghis Khan was in charge of every military action. Multiple armies would invade the enemy from different directions. Genghis Khan demanded plan of action from the commanders of such multiple armies; they would go over it, whereafter Genghis Khan normally approved it introducing few amendments, if any. After that executor had full freedom of action, as long as it was in line with instructions of the supreme ruler.

4. When coming up on substantially fortified cities main armies would establish observation corps. They would comb through the vicinities for supplies and would establish a temporary headquarters. In normal circumstances main forces would go into offense, whereas observation corps armed with siege engines would kick in during the siege stage.

5. When it was obvious that they would clash with the enemy in the field, Mongols would usually stick to one of the two options: either catch the enemy off guard and quickly bring several armies to the battlefield, or, when the enemy was vigilant enough and element of surprise could be of no use, they would try to bypass one of the enemy flanks.

But that wasn't all there was to it. For example, they would start a feigned escape and skillfully cover up their tracks, literally vanishing from the eye of the enemy until the latter splits his forces thus weakening his army. And that's when Mongols would get atop freshly rested led horses and make a lightning raid emerging as if out of thin air right before the enemy. In 1223 that tactics helped them to defeat Russian dukes at the Battle of the Kalka River. At times after such a demonstrative escape, Mongols would disperse in such a way so as to surround the enemy. However, if the enemy happened to be vigilant and ready to fight back, they would let such enemy out of the ring to attack him later on during the march. That is precisely how they annihilated one of the armies of Ala ad-Din Muhammad II in 1220, which was intentionally let out of Bukhara prior to that.

Another notable fact: prior to a battle a Mongol would put on a dress made of shantung. That fabric is remarkable for its property of going in the wound along with the arrowhead thus preventing it from penetration. Edge of the arrow cannot pierce shantung and therefore extraction of the arrowhead becomes easier than ever.

## **6. Hunting law**

“When it is peacetime one shall hunt and teach their son to do the same, so they get accustomed to the fight, and gain strength and stamina, and so they throw themselves at the enemy just as selflessly as they throw themselves at wild animals.”

Genghis Khan considered hunting to be the best military school. The great winter hunt was a big part of the Mongolian economic and social life.

The big hunt required entire corps of the Mongol army to surround and corner herds of wild animals such as predators, wild donkeys, antelopes, etc. Back in the day hunt played the same role for the military, as big-scale maneuvers play today.

Yassa had detailed instructions on account of surrounding and cornering of the animals. A big regiment would make a huge ring and gradually make the ring smaller and smaller until the hunted animal had eventually nowhere to run and was caught.

The entire campaign would at times last as long as three months. Any negligence or misdeed by an officer or a private was severely punished. Once caught, the animal was first killed by khan, whereafter officers and privates would follow. However, not every caught animal was killed – some of them were set free for breeding.

## **Internal structure**

### *Administrative decrees*

According to Yassa, the general goal of the Mongolian administration was to maintain peace and order.

Cities and important routes were free for use and open to any merchants. Genghis Khan was striving to provide people with such safety and security, whereby everyone within his rule could carry gold atop their heads without any threat (of being robbed) in the same way people carry regular pots.

Pursuant to these goals, one of the most imminent administrative tasks at hand was to establish supply points (Yams) along every imperial route.

On top of the Yams and taxes, they issued special decrees some of which were included in Yassa. There were a total of three of them:

- Decrees ordering everybody under penalty of death to return a runaway slave to its captor.
- Decrees ordering to comply with certain animal killing rules as per Mongolian traditions.
- Decrees ordering to comply with certain rules forbidding washing clothing until completely worn out and forbidding bathing or wash garments in running water during thunder. The reasoning behind it can be explained by two factors. On one hand, it can be explained by the ritual fear of desecrating nature. On the other hand, there were some practical reasons, such as avoid being stricken by lightning when touching water during thunder. Initially, it was only forbidden to bathe and wash garment in water during thunder.

### **Finance and taxes**

Given the prevalence of the so-called natural economy, financial management tasks early on couldn't be easier. Officers and warriors were to look after their horses and food supplies on their own, whereas during marches Mongolian army would get food supplies by looting the defeated enemy.

However, as the Empire grew bigger and bigger, maintenance of the khan court and administrative institutions alike required establishment of a more or less constant payment system. In all probability, Yassa contained some fairly thorough payment regulations; however, Ata-Malik Juvayni doesn't say much on the matter. "Once a country submitted to the dominion (of Mongols), they would carry out census and appoint tax officers for tens, hundreds and thousands; they would also establish military draft, Yam service livestock fodder, and, of course, taxes".

Taxes could be paid both in cash and in kind. Labor duty of the population was also taken into account.

Military loot was an important source of income – even more so during the initial stages of the expansion of the Mongol Empire.

## C. Criminal law.

Main goal of the criminal law of Yassa was to establish peace and order in society and country. Armenian historian Malachia Ormanian describes it as follows: Yassa orders to “first off, love each other; secondly, not to commit adultery, not to steal, not to give false witness, not to be a traitor, and to show respect to old people and beggars. Whoever violates these commands is put to death.”

That said, Yassa seek to achieve perfection by imposing most severe sanctions.

### 1. Classification of crimes

Yassa classified crimes as follows: a) Crimes against religion, morality and established customs; b) Crimes against khan and state; c) Crimes against private life and freedom.

#### *A. Crimes against religion, morality and established customs.*

Such crimes include:

- Oppression of any of the existing churches or clergies
- Deliberate lies
- Ritualistic insults: water and ash desecration
- Killing livestock against the established Mongol custom
- Adultery
- Buggery

#### *B. Crimes against khan and state.*

Violation of the serfdom law was considered the most grievous one, especially when committed by an officer.

The same goes for the order whereby no subject of the empire may take a Mongol for servant or slave. At first glance one may think that this one should belong to the next section (crimes against private freedom). However, the true motive behind this decree was to not let people escape to the private sector from the government service.

Some other violations of the type:

- Power abuse by military and civil officers alike, especially among governors.
- Violation of the military discipline and Yassa in general.

#### *C. Crimes against private life and freedom.*

Only one of the survived Yassa fragments mentions murder. It mentions murder regarding specific groups of people – Muslims and Chinese. All other violations of private persons fall in the category of crimes against property. Their main types are as follows:

- Stealing or adoption of someone else’s slave or captive
- Horse theft and cattle raiding
- Fraudulent bankruptcy.

## **2. Punitive measures.**

The law reads as follows: “Children shall respect their parents, juniors shall respect seniors, a wife shall listen to her husband, a servant shall obey to his steward – otherwise they shall be severely punished. Whoever debauches somebody else’s wife shall be put to death. Same goes for men having sex with men.”

Genghis Khan established a social order in such a way so as to strengthen dominion of the Mongol Empire and adopted a strict law for all Mongol nomads. It reads as follows: “Those leaving home by deceit (as if for the military training) and secretly avoiding taxes shall be reported to the government and punished, so as to stop that shameful kind of behavior dead in its tracks.” An honored lawyer O. Lkhamsuran said as follows: “In Genghis Khan era this criminal law became even more concrete and detailed.”

Let’s cite clauses of that law whereby its violators were to be put to death: whoever takes goods (on credit) and becomes bankrupt, then again takes goods and again becomes bankrupt, then takes goods again and yet again becomes bankrupt is to be put to death after the third time; whoever intentionally lies, or practices sorcery, or spies upon the behavior of others, or intervenes between the two parties in a quarrel to help the one against the other is also to be put to death. A killer of a Mongolian, a coward, a liar, an adulterer (whether married or not), a sodomite, a thief, a receiver of stolen goods, a robber, a perjurer, a spy, a traitor, a wizard, anyone who disrespects old people and beggars, anybody addicted to vice, without regard to their age or title, is to be put to death – everything in here is strict and clear. At first glance, such clauses may seem too harsh, but when considering the conditions of those days it is quite the opposite and there was no better punishment than death. Harsh as they were, those laws improved social order and daily life of Mongols; everybody was abiding by that law.

A diplomat Ming Hung didn’t notice in Mongolia any internal conflicts or struggles during the Genghis Khan rule. An Arabic writer once wrote: “There was no horse theft in Mongolia”. An Italian ambassador John of Plano Carpini wrote, “In Mongolia they don’t have any domestic conflicts or struggle whatsoever, there are no instances of killed people, everybody is treating each other in a stunningly peaceful and delicate manner, there are hardly ever any affairs or proceedings, since there are no thieves or outlaws, all chests and belongings are kept unsecured. Every now and then some cattle get lost, but then the founder would keep an eye on those cattle.”

Let’s take into consideration the following cluster of crimes against property under the Mongolian common law. Shikhikhutug (Genghis Khan’s contemporary) was appointed chief judge who was to “punish for theft across Mongolia, enforce laws, kill those who had to be killed and punish those who had to be punished”. Under that decree Shikhikhutug was also to “punish for theft across the country and eliminate lies”. His duties also included property distribution and resolution of civilian property matters.



Mr. Shikhikhutug himself was a living proof of the legal apparatus. Let's cite one document. When in 1216 Mongols attacked the "Golden State" and captured its capital, Jundu, minister Khada greeted Shikhikhutuga with a special gift, when the latter came to make a list of property and goods of the captured city. To which action Shikhikhutug made the following remark: "Jundu used to belong to the "Golden State", but now it belongs to Genghis Khan. Mr. Minister, are you meaning to tell me that you're bribing me with the property of our khan?" and didn't accept the gift.

As far as humanity and justice of the chief judge of Mongolia is concerned, the following example may be brought up: "He strictly prohibited to use threats and intimidation during interrogation. If a testimony was given under pressure, such testimony was considered ineffective". He warned every defendant that "do not lie under pressure". In that respect Mongolian law of justice was much more humane and just when compared with the-then ideologically biased Sharia law (Islam), Law of Christ and Taoism. The first legislators of the time put in every effort to make legislation as unbiased and as independent as possible. The first prominent ruler of the Mongolian Law – Shikhikhutug – was chief judge of Mongolia for 46 years from 1206 to 1252.

According to William of Rubruck, "Grand thieves were put to death. Petty thieves, on the other hand, could go unpunished unless they were caught red-handed". These clauses support the belief that during the period in question thievery was a big problem. For instance, 53<sup>rd</sup> fragment reads, "If a stolen horse is not an important one, its thief shall be punished with nothing more than lashes". Marco Polo describes it in his notes in detail: "If someone stole something they shall pay the price of that thing. Punishment depended on the type of the crime. For instance 'Number of lashes ranged from 7 to 147'".

Property of the deceased was to be inherited by their children and could not be transferred to the government ownership. Russian scholar P.S. Palma wrote about the punitive measures, "If a woman tells her master that somebody's punishment is too severe, then such woman's opinion shall be respected and such man's punishment shall be mitigated."

That said, the new Mongol government had a special approach to the rights of children and women; it didn't discriminate them and sometimes women were to be respected more than men.

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Mongol khans were huge advocates of trade and prohibited unfair trade that could take advantage of ordinary citizens and be detrimental to their lives. They were even stricter and drove from Mongolia those who tried selling crap passing it off as luxury. Rich merchants were charged customs duties according to their income. Legal protection was a cornerstone of the Mongolian system.

Based on the analysis of the common law and legal regulations the following types of main criminal offences can be singled out: crimes against the state, crimes against religion and its reps, crimes of officials, crimes against public, crimes against person, and crimes against property.

Crimes against the state were as follows: insult of the khan-descendant, raising no alarm after noticing an enemy army, leaving a knyaz alone in the battlefield, turning up at war without full armor, coming to the military training more than three days late. Some laws established criminal liability for desertion. For instance, “if a khan-descendant escapes during the battle than such a wuss shall pay 1,000 horses and 100 camels. A common man who escapes the battlefield shall pay four horses.”

It was forbidden to kill prisoners of war. Anybody who did that was to pay one camel. Anybody who saves khan in the battle becomes a champion, whereas anybody who abandons khan during the battle shall be put to death.

Crimes against the religion and its reps were described in the “Monk law” in 1617 and “Religion law” in 1620s. Those regulations are a proof of the spreading and growing “yellow faith” (Lamaism). For instance, any khan-descendant who desecrates a temple was charged with a criminal offence under the “Law of seven Hosuns”, whereas the same offence by a common man resulted in death penalty. Whoever insulted high-ranking Lamaism figures was to pay a big penalty.

Whoever refused a night’s lodging to a wayfarer was to pay a penalty of one sheep; whoever drank water or used it to give it to their resident horse instead of sharing it with the thirsty person, was to give away their horse or cow – all that was considered a crime against public. Crimes against person were, above all, homicides. Yassa doesn’t differentiate homicide punishments for different clans. According to E.I. Kychanov, in the traditional Chinese law “when investigating murder cases there was a special emphasis on who the murderer was and who was the victim, their blood and social relation. There was no generally accepted single value of the human life.”

Crimes against person included injuries such as a missing eye or a broken hand. The Great Law of 1620 gives a more detailed description: “If anyone breaks a hand and the injured person is still capable of functioning, the guilty person shall pay 27 horses. However, if the injured person becomes incapacitated, the guilty person shall pay as many Andzas as he would for blinding a person. For each missing tooth the guilty person shall pay nine

horses. For each broken index or middle finger, a guilty person shall pay 27 horses, for every other broken finger such guilty person shall pay nine horses.”

Back then verbal and physical abuse seems to have been a common thing throughout Mongolia. As a law researcher Leonid Mamut once said: “Feudal law willingly disregards individuals of the society, but readily takes into account their social position in the hierarchy.”

For insulting Tabunang one had to pay a penalty of nine horses, for insulting a teacher one had to pay 27 horses – which, according to researchers of Mongolia, has to do with worshipping of teachers in Lamaism.

Common law regulations provided a detailed description of the punitive system based not only on the injured person, but also on the type of weapon used. For instance, injury inflicted by a piercing weapon resulted in a penalty of 27 horses. A thrown stone or a stroke with a stick resulted in a penalty of nine horses, whereas an injury from a fist or a lash resulted in a penalty of five horses.

Top figures were also criminally liable. Therefore, if “khan insults a junior he shall pay eight horses and one camel. If a private insults his officer he shall pay 27 horses and three camels.” If a common man insulted another common man he had to pay 27 horses and a camel.

As was mentioned above, Mongolia was known for many property crimes. A collective theft was also a subject to punishment – first and foremost, the instigator. Cattle were the most popular theft subject for they were the main wealth of nomads. For each stolen mustang or a camel the thief was to pay 90 horses. For each stolen feeding camel a thief was to pay 108 horses. Anybody who had infiltrated the herd but didn’t steal anything was to pay 54 horses. Those not hindering during the cattle raiding were also punished. Connivance was also subject to penalty and such person was considered an accomplice.

Analysis of the legal sources indicates that theft punishment could depend not so much on the rank of the perpetrator, as much on their gender. It reads: “If an officer commits a theft, such officer shall pay 90 horses when it’s a female and 72 horses when it’s a male.”

Everybody without exception was liable for harboring a thief. If that was a Noyan, he was detained, if it was a minor official – he was removed from his office. Anybody who assisted to catch a thief was awarded with a sheep.

Given that Mongols had a steppe life, fire was a disaster. That is why arson was severely punished – an arsonist was to reimburse the burnt property and to pay five horses on top.

The said information is clear evidence that the criminal law of Mongolia of the period in question was of a specific, case-by-case nature. Later on a lot of those laws constituted a basis for the new legislation.

Let’s recap: Genghis Khan laws put to death everyone who committed a murder, adultery or infidelity, theft, robbery, buyout of stolen goods, harboring of the runaway slave,

sorcery against the close ones, three-time bankruptcy, loss of a personal weapon during a march or battle. Abandonment of the brother-in-arms was considered a felony. Felons were generally put to death.

#### **D. Private law.**

Our info on the Mongol's private law is scarce. It's not that Yassa didn't have it, it's just that matter of the private law were incorporated in the common law of Yassa.

##### *a. Family law*

According to Petit Delacroix's compilation Genghis Khan adopted a law whereby "a man had to pay for his bride and marriage between the first and second degrees of kinship was forbidden. A man could marry two sisters, or have several concubines."

According to Ryazanovsky "after the death of his father, a son may have a full disposition of the father's wives, all except his mother."

Among Tatars "women are to look after the property, go shopping and trade in any form or shape. Men shall only hunt and wage war."

"Children born of a concubine are to be considered as legitimate, and receive their share of the heritage according to the disposition of it made by the father."

##### *b. Inheritance law.*

Inheritance law seems to have been similar to the common law. The distribution of property is to be carried out on the basis of the senior son receiving more than the junior, the younger son inheriting the household of the father.

Seniority of children depended on the rank of their mother. As was mentioned above, children born of a concubine were to be considered as legitimate, and receive their share of the heritage according to the disposition of it made by the father. The reference to a father's disposition is the first step to the inheritance by the will and testament.

Khan was not to interfere in the inheritance relations even when the deceased had no relatives.

## **E. Trade law.**

It is a well-known fact that trade was very important to Genghis Khan. Therefore, one of his key endeavors was to ensure safety of the trade routes.

Taking that into account, presumably, Yassa had more or less detailed trade regulations.

“Whoever takes goods (on credit) and becomes bankrupt, then again takes goods and again becomes bankrupt, then takes goods again and yet again becomes bankrupt is to be put to death after the third time.”

## **F. Judicial law.**

Khan-descendants were subject to the supreme court of justice for khans that was constituted of the clan elders. If a khan-descendant breached Yassa he was to be visited by the clan elders twice. If he violated Yassa for the third time, he was to be exiled to remote wilderness. If he did not repent after that, he would be imprisoned and kept there until he did. If he went berserk, the entire clan assembly was to decide as to what to do about it.

## **G. Law strengthening. Subsidiary legislation.**

According to Genghis Khan, the corpus of law adopted by him was to be effective for a century. In his opinion, any amendments to Yassa would inevitably lead to the collapse of Mongolia. Genghis Khan ordered his older son Chagatai to see that the Yassa was observed.

Each new khan – whether he was to rule the entire empire or be confined to his nomad camp – had to acknowledge Yassa prior to his ruling. Genghis Khan descendants were to gather annually along with top officers to make sure that not a single khan or knyaz has violated Yassa in the period. Whoever was guilty of breaching Yassa was to be dethroned. “Whosoever breaches Yassa, shall be beheaded,” read the order of the first khan of the Golden Horde.

Corpus of strict laws, however, did not preclude further law-making by the Genghis Khan successors. However, such laws would only have a subsidiary effect to meet needs of local nomad camps on the basis of the unshakable Yassa. In that fashion Golden Horde khans have issued a fair number of decrees and regulations, some of which were known as yarlyks. Same goes for the yarlyks for Russian church. These yarlyks have direct references to the Great Yassa as the main source of the indicated khan capacities.

Therefore, one should differentiate between the Great Yassa and the local ones for nomad camps. Despite the gradual improvement of those local laws, the Great Yassa was considered the ultimate law in many nomad camps that were once part of the Mongol Empire long after its collapse.

## Final analysis

Up until now Yassa has been considered a mere codification of the norms of the common law of the Mongol tribes. But the text above proves the opposite.

Everything above is a clear proof that Yassa goal was not to codify norms of the common law, but to create new legislative norms in line with the need of the emerging Empire that used the previous tribal state as a starting point.

Yassa doesn't touch upon most of the matters of the so-called common law for either tribes or clans. That was not its purpose. Yassa almost does not interfere in the family or clan life and in that respect it does not codify, but supports – silently, for the most part – the norms in place. In a number of other cases – take criminal law, for instance – Yassa, conversely, openly abolishes previous norms.

Lastly, in most cases Yassa creates new legislative norms, which was necessary for adjusting khan's legislation to the once again emerging demands and needs of the growing empire.

The main goal of Genghis Khan when writing Yassa was, therefore, to create a new corpus of laws – khan's law / imperial law that was to be adopted as an addition to the common law in place. As it is the new khan's law in many respects was the result of overlapping new concepts of the khan emperor with the old concepts of the khan votchinnik (an owner of votchina) and the tribe elder. However, to a certain degree Yassa still views the state as khan's nomad camp / votchina.

On the other hand, though, Yassa contains an all-new imperial idea. Both Genghis Khan and his close ones were purposefully willing to turn Mongolia into a global empire. This aspiration shines through in every clause of Yassa.

What was the basis for the Genghis Khan's imperial state and imperial law? It is very likely that one of the sources was Chinese legislation.

On the other hand, Christianity could also have an impact on Yassa. It should be borne in mind that the first Yassa edition was adopted by Genghis Khan soon after his victory over Naimans and Keraites who were some hardcore Christians. It is a known fact that as a result of incorporating Naimans, Keraites and, later on, Uyghurs in Mongolia, Christianity became an important part of the court of Genghis Khan and his successors. Some of the high-ranking officials of the emerging empire were Christians as well. One would think that it was those officials who preached Christianity into Yassa.

However, when talking about the Yassa input, it would be a mistake to forget about the personality of the Genghis Khan himself. It should be noted that Genghis Khan was not only an ingenious military leader, but also a prominent government leader and a creator of the new imperial law.

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