

**CHINGGIS KHAN'S GREAT YASA IN THE MONGOL EMPIRE  
AND CHINGGISID STATES OF THE 13<sup>TH</sup>–14<sup>TH</sup> CENTURIES:  
LEGAL CODE OR IDEAL “LAW AND ORDER”? \***

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**Research objective** of the article is clarifying of the nature of the Great Yasa of Chinggis Khan: was it legal code or set of specific edicts, regulations and principles? **Research materials** include Arabian and Persian historical sources which already were used by another researchers of the Great Yasa (D. Ayalon, D.O. Morgan), as well as new sources on the history of the Mongol Empire, the Golden Horde, Yuan Empire, Chaghataid state recently introduced into scholarly circulation. **Research results** of the article consist in getting of arguments that the Great Yasa, in fact, was a set of specific principles and rules established by Chinggis Khan, and their observance provided a harmony in the Mongol Empire and the states of Chinggisids, i.e. the Great Yasa was a kind of “law and order” but not a legal code. **Research novelty** of the article is represented by analysis of the level of the legal development of the Mongols of the 13<sup>th</sup>–14<sup>th</sup> cc. when they didn't need a special codification to regulate their legal relations, that's why no one authentic source mentioned the Great Yasa as code of laws and it is characterized in this way only by representatives of the “written legal culture” (European, Caucasus, Arabian, etc.).

**Keywords:** Great Yasa, Chinggis Khan, Mongol Empire, Golden Horde, Ilkhanate, imperial legislation legal codification, customary law.

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The law of the Mongol Empire is quite insufficiently explored aspect of history of this state because of absence of legal sources which could allow both to have an authentic view of Mongol imperial legal system, and to analyze system of legal sources, principles and regulations. Nevertheless during the ages researchers attempt to study different aspects and problems of law of the Mongol Empire and one of the most attractive subject for studying is the Great Yasa (“Их Засар” in Mongolian) of Chinggis Khan.

It's no secret that text of the Great Yasa (in general or partially) didn't survive to our days and there are not numerous mentioning of it in memoirs of foreign contemporaries and historical chronicles of the 13<sup>th</sup>–15<sup>th</sup> cc.: Arabic (al-Umari, Ibn Khaldun, al-Maqrizi), Persian (Juvaini, Rashid al-Din, Wassaf, Khafiz Abru, Mirkhond), Armenian (Vardan the Great, Grigor Aknertsi), Near Eastern (Gregory

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Abu-l-Faradj), Byzantine (Georgius Pachymeres) and Western European authors (John of Plano Carpini, Benedict the Pole, William of Rubruck, Jean de Joinville) as well as in very small in number official acts: Chinese legal codes of Yüan Empire and Russian translations of *yarliks* of khans of the Golden Horde. These sources contain some single notes on the Great Yasa and several regulations which, as informers (and later researchers) believe, are parts of the Yasa.

However, since the beginning of the 18<sup>th</sup> c. scientists try to study the Great Yasa as global legal codification, to reconstruct its structure and specific regulations. In 1710 French orientalist F. Petis de la Croix was the first who in his work about Chinggis Khan fixed some regulations which, to his opinion, were a part of the Great Yasa [30, p. 99–110]. Since his time a lot of scientists dealt with above mentioned sources to study the Great Yasa. It's enough to mention the authors of the most important works: I. Berezin [9], V. Ryazanovsky [35], A. Poliak [32], G. Vernadsky [44], E. Kychanov [23; 24], T. Skrynnikova [22; 37], I. de Rachewiltz [34], D. Aigle [1; 2], S. Tserenbaltav and Ts. Minzhin [25; 43], etc.

It's interesting to note that the less information about the Yasa used by authors, the more original hypothesis are made by researchers. For instance, E. Khara-Davan in 1920s supposed that the Great Yasa included also biliks of Chinggis Khan [19]; G. Vernadsky in 1930s supposed the presence in the Great Yasa of some chapters, including state and administrative law, criminal law, private law and supplementary law [44, p. 344–359]; modern Mongolian scholar B. Sumyabaatar considers that military regulations mentioned in the letter of Khubilay to Korean van (his vassal) of 1280 are also to be a part of Yasa [38]; St. Petersburg author A. Yurchenko refers some everyday rituals and prohibitions (“taboos”) of Mongols to special “chapter” of Yasa [45; 46, p. 107–144]; at last, one more Mongolian author, N. Nyam-Osor, “reconstructed” the structure of the Great Yasa as a global code with two parts, and about 15 chapters, and 118 regulations [28]!

There are two different views on the Great Yasa among scholars. Some of them consider the Yasa as codification of the ancient Turkic and Mongol legal customs (E. Kychanov, T. Skrynnikova, I. de Rachewiltz), their opponents suppose it was quite new imperial legislation (G. Vernadsky, L. Gumilev [15, p. 302–303] and others). Nevertheless, all of them believe that Yasa was codified legal act.

Only two researchers risked to call in question the existence of the Great Yasa as legal code. D. Ayalon in 1970s paid attention to secondary character of the most part of sources about Yasa used by scientists and found that the only primary source was the *History of the World Conqueror* by Ata-Malik Juvaini (who wrote about the Great Book of Yasa, examples of which saved in treasuries of the most powerful Chinggisids) [5, p. 105–106, 139]. He also noted the polysemy of the term “yasa” (not only as “law”, “regulation”, but also as “power”, “rule”, “order”, etc.) [5, p. 138]. However, he remained within the traditional paradigm and considered the Yasa as legal act or, at least, set of acts [5, p. 127].

More drastic view on the Great Yasa was offered by D. Morgan in 1986: he found that mentions of Yasa in the Mongol and Persian sources of the 13<sup>th</sup>–14<sup>th</sup> cc. didn't give a reason to see it as a legal code and, in fact, we should talk about separate acts which even were not united in any codifications [26, p. 164, 168, 170]. To D. Morgan, it makes sense to equate the Great Book of Yasa mentioned by foreign authors with another legal monument – *Kok Defter Bichig* (The Blue Inventory) –

the docket, beginning of which also dated in the *Secret History of Mongols* by 1206 (traditionally considered as a year when the Great Yasa was created) [26, p. 173–176]<sup>1</sup>.

The version of D. Morgan caused the discussion among researchers but as both sides based only on different interpretations of the same sources discussion reached a deadlock. For example, I. de Rachewiltz blamed D. Morgan in lack of knowledge of Chinese sources in which Yasa mentioned just as a code [34, p. 93–94]. In his turn, D. Morgan answered that information from these sources didn't convince in existence of the Mongol legal code [27, p. 297–302]. And we should agree with him as, for example, the Great Yasa in the *Yüan Shih* (“Da Jasa” in Chinese) also has Chinese equivalent “Da fa-lin” (or “Great laws and orders”) [20, p. 163, 268, n. 5]. So, there are no mentions about codifications but only about collection (?) of official legal regulations.

However, in this paper we are intended to analyze the arguments of D. Ayalon and especially D. Morgan using the historical and legal approach and to examine the using of the term “Yasa” in sources of different states (from Mongolia and China to Mamluke Egypt and Bukhara Khanate and different epochs (from 13<sup>th</sup> to 18<sup>th</sup> cc.) with taking into account information about Chinggis Khan's and his successors' legislative activity (including this one which was not correlated with the Great Yasa).

Rejection by D. Morgan to recognize Yasa as a codified legal act, nevertheless, doesn't contradict to facts of references to regulations of Yasa (or yasas?) in different sources. For example, there are three references to Yasa in the Chinese legal code *Yüan chao-dan'-chan* (c. 1320): death for attempt to kill the member of khan's family, prohibition for messengers to claim horses and food at stations excessively and, at last, death for sorcery [33] – all these norms we can find in another sources, including reports of contemporaries and official acts (*yarliks* of khans). Mentioned in *yarlik* of 1269 by Mengu-Timur, first khan of the Golden Horde, accusation according to “the Great Yasa” for persons attempted to claim taxes or duties from the Russian Orthodox church [11, p. 468], also based, in particular, on *yarlik* of Chinggis Khan of 1223 [29, p. 375–376] and also mentioned by Juvaini as one of Chinggis Khan's yasas.

Some mentions of Yasa in Persian sources also give us reason to say that the general term had reference to specific regulations. For example, according to Juvaini, in 1246 Temuge Otchigin, brother of Chinggis Khan, was “put to death in accordance with the yasa” [10, p. 255; see also: 40, p. 387]. John of Plano Carpini, ambassador of the Pope to the Mongol Empire, told us about one of Chinggis khan yasas: each pretender for the throne should be killed if he tried to seize the throne without elections by *kurultai* [16, p. 63]; as we know, Temuge was accused just of such crime.

Rather interesting subject was researched by D. Ayalon: influence of Yasa on legal history of another states, especially on the Mamluk sultanate in Egypt. A.N. Poliak and D. Ayalon stated that Mamluks assimilated a lot of principles of Yasa but transformed them into own law “siyasa” which (in contrast to Yasa) were not in conflict with the norms of Shariat [7, p. 116–120; 32, p. 862]. In our opinion, there is also a contradiction: to eliminate such conflict it was necessary to clarify it

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<sup>1</sup> Already D. Ayalon noticed that the Great Yasa was not mentioned in the *Secret History of Mongols* [5, p. 136].

– for it Mamluks should know the specific regulations of Yasa, accept those which were concordant with Shariat and reject discordant ones. Besides that, it's interesting to remind the letter of Mamluk sultan Baybars to ilkhan of Persia in which Baybars stated that their (Mamluk) Yasa, was stronger than one of Mongols [7, p. 129–130]. Undoubtedly, to make such statement Mamluks should have criteria for this comparison!

Nevertheless, we cannot connect some mentions of Yasa in sources with specific regulations, *yasas* or *yarliks*. So, in Persian chronicles we can find some facts of "putting to yasa" as punishment in different forms (from corporal punishments to death penalty) [see e.g.: 39, p. 38, 56, 57, 102, 123, 147, 176, 182, 199, 233, 261]. We suppose, in these cases penalties were sequence of encroachment on law and order. In Russian official documents since 15<sup>th</sup> to 19<sup>th</sup> cc. we can find the term *yasak* as a form of taxation: to our mind, it could be treated as tax in accordance with existing legislation (*yasa* in Turkic and Mongol tradition).

Then, it's interesting to note the using of term *yasa* in later historical and legal tradition – in khanates of Central Asia, for example in Bukhara of the 17<sup>th</sup>–18<sup>th</sup> cc. Some medieval historians and modern specialists mentioned using the principles of Yasa at khans' court [12, p. 59; 18, p. 91–93] as well as in everyday life of Uzbeks: observance of Yasa principles during feasts and banquets [see: 8; 14]. We don't know specific norms of Yasa for regulation of such actions, although strong regulation of feasts, etc. are mentioned in sources a lot of times beginning from the *Secret History of Mongols*.

On the base of research we found that if information of historical sources about Yasa doesn't give a reason to see the Yasa just as a codified legal act (here we agree with D. Morgan), at the same time we shouldn't consider it only as "law and order": of course, there were references in the most part of sources to certain acts and regulations of Chinggis Khan's legislation. So, the Yasa, in our mind, could be treated in two meanings or senses: in narrow sense it was a series of Chinggis Khan's and his successors' laws and official acts, and in wide sense – law and order existed due to realization and observance of these regulations.

The first (narrow) meaning allows us to talk about specific legal regulations and legal relations regulated by these regulations in society of the Mongol Empire. Some of these legal acts named *yasas* which were issued not only by Chinggis Khan, but also his successors (so, here we are sharing opinion of I. de Rachewiltz [34, p. 96]). We can confidently state (as a result of analysis of known legal regulations and legal principles of the Mongol Empire) what all these acts and relations laid in the field of "public law": status of authorities, territorial division, army, taxes, etc. Private life of different peoples and regions in the Empire regulated by their own law (*yusun*, *adapt*, etc.) [see e.g.: 21, p. 55].

The second (wide) treatment of Yasa makes us to recall another Turkic-Mongol legal category – *törü*. Some researchers already analyzed the information of sources on *törü* (like T. Skrynnikova [36; 37, p. 54–59], V. Trepavlov [41; 42, p. 38–41], C. Humphrey and A. Khurelbator [17]). The absence of enough data makes *törü* the very mysterious source of law of the Turks and Mongols. But most of researchers agree that it was a set of legal principles stated by Heaven (*Tengri*) to provide harmony and truth among nomadic peoples – like Ancient Egyptian *maat* or Indian *dharma* [see e.g.: 13, p. 581], so it was a kind of law and order but only on a base of regulations stated by *Tengri*, whereas Yasa was stated by

Chinggis Khan and other khans, his successors. Some authors stated that Yasa became something like “substitute” for *törü*, but in the special research we found that these legal categories were used in some sources at the same time [31, p. 531]. So there were categories of the same level and form (series of un-unified principles and regulations), and only their origin was different.

But, in this case, what was the reason of mentioning the code (or the book) of Yasa in historical sources? This concept of Yasa began to form already in the 13<sup>th</sup> c. – in works of foreign contemporaries and even official acts (*yarliks* of khans).

To our mind, D. Ayalon and D. Morgan came to answer rather closely but didn't formulate it once at all. Who were the authors of information on the Great Yasa? They were Arabs, Persians, Armenians, Byzantines, Chinese, Russians, Western Europeans (Italians, French, etc.) or, in other word, representatives of “written legal culture”. Since ancient times these nations and states had traditions of codification the law in different formats (from barbaric “leges” to Codex of Justinian, one of Smbat Sparapet, codifications of French legal customs, Islamic law, etc.). Of course, it was, in fact, impossible for them to suppose that such great empire as the Mongol one could be ruled without substantial codification. Moreover, image of the founder of empire, as a rule, always was connected with creation of codification (Clovis in Merovingian France, Justinian in Byzantium, Napoleon Bonaparte in France, etc.); and even in reports of Franciscans on their mission to the Mongol Empire (John of Plano Carpini and Benedict the Pole) Chinggis Khan was mentioned as a founder of the Mongol law [3, p. 116]. We consider that certain legal regulations used by the Mongols to provide “law and order” (Yasa in wide sense) were misinterpreted by foreign contemporaries as integrated codification. The absence of information about structure and most part of content of the Great Yasa they explained by secrecy of regulations – that became one more myth about Yasa. Already D. Morgan ironically wrote about “inaccessibility” of Yasa for its addressees – subjects of Mongol khans who had to observe these regulations [26, p. 169]. St. Petersburg orientalist A. Alekseev attempted to explain this strange fact: in his opinion, firstly Yasa regulated only relations among the Chinggisids and was closed for others, but then its regulations were distributed for wider circle of addressees and it became more accessible and known [4, p. 39]. But this hypothesis contradicts as to stereotype of proclamation of Yasa at the *kurultai* of 1206 [40, p. 186], so to information of later Arabic historians: al-Maqrizi in the 15<sup>th</sup> c. stated that Yasa still was secret and closed for wide use (he pretended to get information about it from certain traveler, but D. Ayalon argued that this man was “invented” by al-Maqrizi, and information on the Great Yasa, in fact, was got from the work of al-Umari, who, in his turn, got it from the work of Juvaini) [5, p. 100–105].

In fact, the Mongols of Chinggis Khan's epoch didn't need a global codification, at the same time it was not possible to create the universal legal code which could regulate all field of relation among a lot of imperial subjects of different nations, languages, cultures, social and economic structures. Chinggis Khan excellently understood such situation, that's why he limited his legislative activity by issuing of acts of imperial level (organizing of power structure, soldering, relations with vassal states, tax policy, etc.) and didn't attempt to regulate the private life of his numerous subjects.

But it was not the only source of creation of stereotype about Yasa as codified act. Another one was activity of the Chinggisids themselves. They used regulations

of Chinggis Khan to reach their own, political, goals and didn't hesitate to make legal fictions and even falsifications on this way. For example, according to Rashid al-Din, in 1235 Ögedei Khan, son and successor of Chinggis Khan, made one kurultai as he "wanted to assemble once again all the sons, relatives, and amirs and make them listen again to the yasa and ordinances" [40, p. 320]. It's very strange to call princes for listening regulations which (according to Juvaini) each of them had in own treasury [10, p. 25]. No doubts that Ögedei decided to inform them about some new regulations and orders and it was possible, that he could ascribe them to Chinggis Khan to make these regulations more strong and obligatory. The same actions were made later by other Mongol rulers. So, Qaidu, grandson of Ögedei Khan, stated that "Yasa-nameh" (The Book of Yasa) contained a regulation on succeeding the throne only by Ögedei's branch and, consequently, his rival Khubilay (son of Tului, another son of Chinggis Khan) was considered as a usurper [26, p. 170]. Persian ilkhans (also descendants of Tului), on the contrary, stated that their branch had all rights for the throne as they punctually observed the Yasa [6, p. 157–159]. As we can see, such opposite references to the "Book of Yasa" give us reason to say, that it didn't exist in fact. One of the later official mentions of Yasa is presented in Khanate of Bukhara at the beginning of the 16<sup>th</sup> c.: Muhammad Shaybani Khan didn't find convenient the court decision according to Islamic law and ordered to "do it in accordance with the Yasa of Chinggis Khan" [12, p. 59; 18, p. 93]. But the case was connected with hereditary relations, and we already mentioned, Chinggis Khan didn't extend his regulations for private relations! We suppose, in this case Yasa also was treated by khan as codification to be an effective alternative to Islamic law also based on written sources.

Thus, descendants of Chinggis Khan, to achieve their political goals could participate in creation of myth about the Great Yasa as a codified act which was "for their eyes only" and couldn't be changed since times of Chinggis Khan.

So, we should to appreciate a legislative activity of Chinggis Khan at its true value but not to arrogate to him the creation of the legal code which really didn't exist. This supposition is confirmed by the fact that Mongol legal codifications of the 16<sup>th</sup>–18<sup>th</sup> cc. (*Code of Altan Khan, Eighteen laws of Khalkha, Ik Tsaaz, Khalkha Jirum*) didn't contain any references to the Great Yasa, so they were created not by the example of any codified act of Chinggis Khan and his successors.

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**ВЕЛИКАЯ ЯСА ЧИНГИЗ-ХАНА В МОНГОЛЬСКОЙ ИМПЕРИИ  
И ГОСУДАРСТВАХ ЧИНГИЗИДОВ XIII–XIV ВВ.:  
СВОД ЗАКОНОВ ИЛИ «ЗАКОН И ПОРЯДОК»?**

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**Цель исследования:** великая Яса Чингиз-хана в течение нескольких веков (XVIII – начало XXI) исследовалась гораздо чаще и подробнее других источников права Монгольской империи и государств Чингизидов. При этом исследователей не смущало, что не сохранилось никаких источников монгольского происхождения, которые бы содержали нормы и положения Ясы. Вынужденные опираться исклю-

чительно на сведения о Ясе иностранных авторов (арабских, персидских, кавказских, западноевропейских), исследователи позволяли себе довольно разнообразные предположения о ее форме и содержании, структуре, составных частях и пр.

В целом в науке утвердилось представление о Великой Ясе как о всеобъемлющем своде законов Монгольской империи, созданном Чингиз-ханом и обладавшем высшей юридической силой во всех государствах Чингизидов. Различия проявлялись лишь в том, что одни авторы считали Ясу записью обычного права, тогда как другие утверждали, что это было принципиально новое законодательство, разработанное Чингиз-ханом и его сподвижниками.

Это устоявшееся мнение подверглось сомнению лишь в 1970–1980-е гг., когда сначала израильский ученый Д. Айалон, а затем американский исследователь Д. Морган впервые обратили внимание, что источники не дают оснований считать Великую Ясу именно единым кодифицированным документом, и она была, скорее, совокупностью правовых актов, издававшихся самим Чингиз-ханом и его преемниками – монгольскими ханами. Несмотря на убедительные доводы этих авторов, тем не менее, многие исследователи истории тюрко-монгольских государств, их политического и правового развития продолжали (и продолжают) считать Ясу сводом законов, регулировавшим практически все сферы правовой жизни населения Монгольской империи и государств – ее преемников.

**Материалы исследования:** в статье предпринимается попытка развить выводы Д. Айалона и Д. Моргана с привлечением дополнительных источников, содержащих сообщения о Ясе. Упомянутые исследователи опирались преимущественно на арабские и персидские источники о Государстве ильханов, Мамлюкском султанате в Египте и т.п., автор же привлекает источники о Монгольской империи и Золотой Орде, империи Юань и Чагатайском улусе, в т.ч. и введенные в научный оборот уже после выхода в свет работ Д. Айалона и Д. Моргана.

**Результаты и научная новизна:** автор статьи приходит к выводу, что термин «Великая Яса» означал даже не совокупность норм и правил поведения, а своего рода «правопорядок», т.е. состояние законности, достигаемое соблюдением соответствующих норм. Об этом свидетельствует использование термина «яса» в источниках XIII–XIV вв. в самых разных значениях, объединяемые только одним критерием – соблюдение законно установленных правовых норм и принципов.

Также автор пытается ответить на вопрос, на который не дали ответа Д. Айалон и Д. Морган – почему же в интерпретации иностранных информаторов Яса представлена как свод законов Монгольской империи, хотя на самом деле таковым не являлась?

**Ключевые слова:** Великая Яса, Чингиз-хан, Монгольская империя, Золотая Орда, Государство ильханов, имперские кодификации, обычное право.

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