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# The *Quriltai* as a Legal Institution in the Mongol Empire

By

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## Introduction

In order to fully appreciate the ways in which Mongol law influenced legal administration in the lands conquered by Chinggis Khan and ruled by his successors, it is vital to understand the nature of Mongol law itself. As well as deliberating on the full breadth of Mongol law, it is also fruitful to focus on how Mongols practised law, in other words to understand the procedural law of the Mongols. One of the unfortunate results of an earlier emphasis on the so-called “Great Yasa” of the Mongols, a law code – or evolving body of laws – supposedly promulgated by Chinggis Khan and/or his successors,<sup>1</sup> has been a tendency to study the substantive laws on which some of the sources put much emphasis, rather than procedural laws. This article will consider one institution important to Mongol legal procedure, namely the *quriltai*.

The procedure of legal cases is usually associated not with the *quriltai* but with the institution of the *jarju* (known in the Persian sources as *yārghū*), meaning ‘judgment, arbitration’ from *jarjula-* ‘to judge, arbitrate.’<sup>2</sup> This institution is mentioned in the *Secret History of the Mongols*, which describes how Chinggis Khan appointed his half-brother Belgütei, and in 1206 his foster-son Shigi Qutuqu, as *jarjučis* (judges) to deal with disputes; further *jarjučis* were appointed later.<sup>3</sup> However, this article will point out that the *jarju* is not the only Mongol institution important for understanding legal procedure among the Mongols. The *quriltai*, though usually seen as an institution of governance, shares some similarities with the *jarju*, and can likewise be characterised as a legal institution. Though the extant sources fail to describe it explicitly as such, they were nearly all written by people from sedentary cultures who may have lacked profound insight into Mongol law.

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1 On the “Great Yasa”, see Morgan, “The ‘Great Yasa’ of Chingiz Khan and Mongol Law in the Ilkhanate”, pp. 163–76; Rachewiltz, “Some Reflections on Činggis Qan’s Jasaγ”, pp. 91–104; Morgan, “The ‘Great Yasa of Chinggis Khan’ Revisited”, pp. 291–308; Aigle, “Le grand Jasaq de Gengis-Khan, l’Empire, la culture mongole et la Šari‘a”, pp. 31–79.

2 Rachewiltz, *Secret History of the Mongols*, p. 771; see Doerfer, *Türkische und mongolische Elemente im Neupersischen*, nos. 1784 یارغو (*yārghū*) and 1785 یارغوچی (*yārghūčī*), vol. 4, pp. 58–66.

3 *Secret History of the Mongols*, § 203, pp. 134–6, § 154, pp. 77–8.

The one significant historical source written by a Mongol (or Mongols) from an indigenous point of view, the *Secret History of the Mongols*, presents the family history of Chinggis Khan but does not discuss laws in a systematic way, since there was much that was taken for granted and did not apparently require explanation.

Analysing the legal aspect of the *quriltai* is important because it allows us to recapture the flexibility inherent in Mongol legal thinking. This is because a feature of *quriltai*s was the requirement for all concerned parties to be present and for decisions to be taken in a collegial manner; it was full attendance at a *quriltai* which guaranteed the legitimacy of its decisions. The fact that attendance is linked with legitimacy indicates that the *quriltai* could potentially be a mechanism for change within Mongol law, by allowing changes to be made through the consensus of the leaders. As Denise Aigle and others have pointed out,<sup>4</sup> the attitude of the Mongol khans to legal matters in practice showed a flexibility which is hard to reconcile with an attachment to Mongol substantive laws as the only or the main element of Mongol legal culture. Seeing the *quriltai* as a legal institution, and the tradition of collegial decision-making as an element of Mongol legal culture, allows us to better explain the actions of the Mongol khans. Far from being a new development, flexibility in legal matters had its roots in the legal traditions of the Mongolian steppe.

### The *quriltai*

A *qurilta* / *quriltai*<sup>5</sup> can be seen as a type of “ritualized consultation”<sup>6</sup> which was present at various times in Inner Asian history. As Fletcher points out, the *quriltai* was not a regular feature of nomadic existence<sup>7</sup> but, once a supratribal polity emerged, it is hardly surprising that such an institution existed in order to further the aims of the polity. In the Mongol case, the *quriltai* may be a more formal version of the *yeke eye* (lit. ‘great agreement’ or ‘great consultation’),<sup>8</sup> mentioned in the *Secret History* in connection with the Mongols’ defeat of the Tatars, and the need to decide what to do with the defeated Tatars.

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4 Aigle, *Loi mongole vs loi islamique?*, p. 994; Lapidus, *A History of Islamic Societies*, p. 278; Jackson, “Chagatayid Dynasty”, pp. 343–4; Lane, *Early Mongol Rule*, p. 120.

5 On the etymology of *quriltai*, see Doerfer, *Türkische und mongolische Elemente im Neupersischen*, no. 305, قوريلتاي (*qūriltāi*), vol. 1, pp. 435–7; Rachewiltz, *Secret History of the Mongols*, p. 1039. The form *quriltai* gained prominence in the Persian sources from the Western Mongol empire.

6 Bogatyrev uses this term in his dissertation, Bogatyrev, *The Sovereign and his Counselors: Ritualized Consultations in Muscovite Political Culture, 1350s–1570s*, Helsinki, 2000, pp. 13, 78.

7 Endicott-West, “Imperial Governance”, p. 531; Fletcher, “Ecological and Social Perspectives”, pp. 14, 20–21, 26; Di Cosmo, “Periodization”, p. 19.

8 Rachewiltz, *Secret History of the Mongols*, p. 1039; Mostaert, *Dictionnaire Ordos*, vol.1, pp. 231–232; Lessing, *Mongolian-English Dictionary*, p. 304; Rachewiltz, *Secret History of the Mongols*, p. 1039.

The *quriltai* was a large gathering of people coming from distant places, which could last for many weeks. At its centre was the discussion of pressing issues by members of Chinggis Khan's family, imperial sons-in-law, captains of the army and others;<sup>9</sup> a notable feature of the *quriltai* is the participation of women.<sup>10</sup> The discussions were accompanied by feasting and drinking<sup>11</sup> and the wearing of elaborate robes.<sup>12</sup> The *quriltai* was an institution suited to and partially reflecting the reality of the Mongols' nomadic existence. "In a pastoral nomadic economy and society in which a wide dispersal of people and herds was ecologically necessary, it is not surprising to find the existence of a consultative institution which brought together people from great distances."<sup>13</sup> It served the practical function of bringing leaders together<sup>14</sup> to allow important decisions to be made, usually through creating consensus through discussion;<sup>15</sup> it fostered unity among the participants and reinforced or clarified relations of superiority or inferiority.<sup>16</sup> It sometimes contained extremely important ritual elements, such as the seating of the khan on a throne, the removing of belts and hats in order to salute the new ruler,<sup>17</sup> or an elaborate and expensive redistribution of goods with the aim of promoting loyalty.<sup>18</sup>

Given the nature of steppe life, it should not be considered surprising that the methods of the *quriltai* were mostly discussion and persuasion. Any coercive power within Mongol society was very limited, because of the ever-present possibility of flight, though social exclusion was possible and sometimes practiced. For example, after Temüjin's (the future Chinggis Khan's) father was murdered and his family was no longer considered sufficiently powerful,<sup>19</sup> Chinggis's mother and her children were abandoned by the clan. Armed punitive action, often for the sake of vengeance, was also a means of coercion. However, coercive power was limited and

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9 Atwood, *Encyclopedia of Mongolia and the Mongol empire*, 'quriltai', p. 462; Atwood, "Titles, appanages, marriages, and officials", p. 229.

10 Franke, "Women under the Dynasties of Conquest", p. 36; Sela, *Ritual and Authority in Central Asia*, p. 56.

11 Carpini/Dawson, p. 62

12 Carpini/Dawson, p. 61; Atwood, *Encyclopedia*, 'clothing and dress', p. 113; Allsen, *Commodity and Exchange*, pp. 19–22.

13 Endicott-West, "Imperial Governance", p. 526.

14 The word *quriltai* comes from *quri-* "to gather, assemble", Rachewiltz, *Secret History of the Mongols*, p. 1039.

15 In consultations with the sovereign in late medieval and modern Russia, the main goal was to seek consensus, Bogatyrev, *The Sovereign and his Counselors*, p. 78.

16 Heuschert, *Die Gesetzgebung*, p. 129.

17 For the ritual elements in *quriltai*s see Sela, *Ritual and Authority in Central Asia: the Khan's Inauguration Ceremony*, Bloomington, IN: Research Institute for Inner Asia Studies, Indiana University, 2003.

18 Bateman, "The 'Pax Mongolica' and the Ilkhans 1258–1335: The Problem of Extended Lines of Communication", PhD thesis, SOAS, University of London (forthcoming).

19 Holmgren, "Observations on Marriage and Inheritance Practices", pp. 132–5.

the *quriltai* was an institution that enabled many decisions to be made by consensus, thereby limiting the need for coercion.

### The *quriltai* as a legal institution

The definition of a *quriltai* as “a conference or council of princes and nobles at which a new ruler was acclaimed”<sup>20</sup> or which dealt with administrative and military concerns,<sup>21</sup> falls short of adequately describing this complex institution. It was in fact by its nature a legal institution. Institutions similar to the *quriltai* were characteristic of several Inner Asian societies or empires. The Xiongnu “held three annual assemblies, in the first, fifth, and ninth moons”,<sup>22</sup> at which they practiced ancestor worship, discussed tribal affairs and, at some assemblies, conducted a census. The Khitans used to convene to decide a new leader every three years, so they could cooperate in warfare.<sup>23</sup> The Jurchens also had assemblies, at which generals and common soldiers mixed, which involved both revelry and serious secret discussions.<sup>24</sup> These institutions were still used in part when the Liao and Jurchen were ruling China.<sup>25</sup> The Tangut also had a similar institution.<sup>26</sup> Some of these institutions which were similar to the *quriltai* have been recognized by historians as being legal in character. For example the *quriltai* at which the Oirat regulations were produced in 1640 is seen as an event with legal importance.<sup>27</sup> Assemblies of leading Mongols during the Qing dynasty known as *čiyulyan* were relatively formalized; there were fines for non-attendance, and written legislation was produced at them. Therefore, the *čiyulyan* is seen as a legal institution.<sup>28</sup> However, seeing only these later assemblies as legal in character displays a bias towards assemblies which produced written legal documents. It would be inconsistent to regard the *quriltais* as not legal in character, simply because no written legislation was produced there.

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20 Endicott-West, “Imperial Governance”, pp. 525–6.

21 *Ibid.*, p. 526.

22 *Ibid.*

23 *Ibid.*, pp. 527–8.

24 *Ibid.*, pp. 528–9.

25 *Ibid.*, pp. 529–30.

26 *Ibid.*, p. 530.

27 Aubin, “Some Characteristics of Penal Legislation among the Mongols”, p. 140; Aubin, “Les sanctions et les peines”, p. 263; Sneath, “Mapping and the Headless State: Rethinking National Populist Concepts of Mongolia”, pp. 44–47; Perdue, *China Marches West: the Qing Conquest of Central Eurasia*, pp. 107–8.

28 Heuschert, *Die Gesetzgebung*, p. 129 n. 96.

Regardless of whether any written legislation was produced there, other factors point to the legal nature of the *quriltai*.<sup>29</sup> Firstly, the full attendance by the political elite<sup>30</sup> was considered compulsory, their cooperation being needed in order to implement decisions. A fully plenary attendance at a *quriltai* was sometimes indicated by the phrase ‘*aqa* and *ini*,’ meaning literally ‘older and younger brothers’.<sup>31</sup> Secondly, the decisions were considered binding on all who had taken part. Moreover, there are many examples of decisions having already been taken, yet a *quriltai* was still considered necessary. This shows that the *quriltai* was needed to give these decisions their legitimacy and legal force. The principle function of a *quriltai* seems to have been in formally granting legitimacy to a new person or to new decisions.

As for attendance at *quriltais* being compulsory, this is demonstrated by the delays in holding *quriltais*, where one or the other of those whose presence was expected declined to come. For example, the *quriltai* for the enthronement of Güyük was delayed for three years because some of the princes refused to come.<sup>32</sup> In Möngke’s case, a *quriltai* was held despite the absence of many of the descendents of Čayatai and Ögödei, but it was lacking in legitimacy, and the attendants could fulfill little of the usual business of a *quriltai* except the enthronement itself, and simply decided to meet again later.<sup>33</sup> This shows that a refusal to attend by some affected the legitimacy of the *quriltai*. Of course, some real-world political and military conflicts played out partly through acceptance or refusal to attend *quriltais*. While it was difficult to coerce people to come, pressure could be applied, for example in the form of the threat of Menggeser, Möngke’s *jarγuči*, who decreed that the punishment for non-attendance and holding one’s own private festivities was decapitation; a law aimed at rivals for the position of *qa’an* who might have tried to hold their own *quriltais*.<sup>34</sup> This prefigures the law valid during the Qing dynasty, where non-attendance at a *čiyulyan* attracted a fine in livestock.<sup>35</sup> However difficult attendance was to enforce, it can be seen that the decisions made or confirmed at

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29 Some consider the “Great Yasa” as a document which was produced at a *quriltai*, or read at *quriltais*. However, David Morgan and Chogto have criticized these viewpoints on the basis of a close reading of the sources. Morgan, “The ‘Great “Yasa” of Chingiz Khan’ and Mongol Law in the Ilkhanate”, pp. 163–4; Chogt, *Chingisu Kan no hō*, p. 83.

30 These leaders would often be described as ‘tribal’ leaders, however, whether the word ‘tribe’ can adequately be used is currently being debated. See Sneath, *The Headless State*, New York: Columbia University Press, 2007; Atwood, “How the Mongols got a Word for Tribe – and What It Means”, 蒙古史研究 [*Studia Historica Mongolica*] 10, pp. 63–89.

31 Doerfer, *Türkische und mongolische Elemente im Neupersischen*, vol. 1, pp. 133–40; also Juvaynī, p. 220, Juvaynī/Boyle pp. 266.

32 Rashīd, pp. 802–5, Rashīd/Thackston, pp. 391–2.

33 Rashīd, pp. 824–6, Rashīd/Thackston, 402; see also Endicott-West, “Imperial Governance”, p. 526.

34 *Yuan Shi*, ch. 2, p. 33; ch. 124, p. 3055.

35 Heuschert, *Die Gesetzgebung*, p. 129 n. 96.

*quriltai* were only considered fully legally binding once a *quriltai* with all important participants had taken place.

Secondly, the decisions taken were binding; ‘dissenting opinions’ were not allowed and everyone who attended was bound to support the *quriltai*’s decisions.<sup>36</sup> It is because the decisions were binding that some tried so hard to avoid attending certain *quriltai*s, or felt betrayed if they attended and the outcome was not what they had anticipated. For example, when Batu called a *quriltai* following the death of the *qa’an* Güyük, Naqu, a son of Güyük, and Shiremün, a grandson of Ögödei, left representatives at the *quriltai* with instructions to agree with Batu’s decision. When they learned that Batu had helped enthroned Möngke however, a decision they had not expected, they protested vigorously.<sup>37</sup>

Moreover, the main reason for holding a *quriltai* was often to give legal force to decisions which, in fact had already been taken. Decisions about succession were often settled through military means or negotiation long before a *quriltai*,<sup>38</sup> yet a *quriltai* gave the decision its legitimacy and legal force. Various concrete actions during the *quriltai*, such as an enthronement or the distribution of gifts, helped give legitimacy to the decisions taken but even these actions would not be sufficient for legitimacy if the attendance were not as expected. All this shows that the *quriltai*s were a legal institution. The implications are very important: this shows that what Endicott-West describes as the “conciliar, deliberative style of decision-making [which] existed among the early thirteenth-century Mongols”<sup>39</sup> was not limited to administrative, but extended to legal matters. The conciliar (or consultative) decision-making style was part and parcel of Mongol legal culture, and even crucial to it. It was an integral part of the Mongol approach to law.

#### **Further legal aspects of the *quriltai*s**

Thus, the *quriltai* was an essentially legal institution which gave legitimacy to new decisions, despite the fact that its decisions were not necessarily recorded in writing. However, its legal aspect was not restricted to the legislative task of formally making decisions about succession to leadership, administrative or military matters. Rather, as Mansura Haidar has noted,<sup>40</sup> it also had a judicial function in that legal cases were often judged during *quriltai*s.

It should be noted that in Mongol culture, legal matters were not neatly separated from administrative / governmental matters; the absence of legal specialists in Mongol society is a well-known factor.<sup>41</sup> While in many cultures legal personnel, or

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36 Endicott-West, “Imperial Governance”, pp. 532–3.

37 Jackson, “Dissolution”, p. 203.

38 Endicott-West, “Imperial Governance”, p. 526; Fletcher, “Ecological and Social Perspectives”, p. 26.

39 Endicott-West, “Imperial Governance”, p. 526.

40 Haidar, *Medieval Central Asia*, pp. 102–3.

41 The only specialists were shamans, blacksmiths and bards. Allsen, *Commodity and Exchange*, p. 30.

court cases, are distinguished through special procedures, places, clothing and other markers, in Mongol culture, legal and administrative decisions were taken in remarkably similar contexts. This was because the same factor, namely the presence of all the concerned parties, and therefore the collegial nature of decision-making, gave legitimacy to both administrative and legal decisions.<sup>42</sup> Both types of decisions, legislative and judicial, were routinely taken at *quriltais*. In fact the *quriltais* usually consisted of two major parts: firstly revelry, banqueting and the presentation or exchange of gifts, and secondly government business of varying nature and scope, often including judicial trials. For example, the *quriltai* held in 1235 after Ögödei's return from campaign in China shows this two-fold division of the *quriltai*:

... all presented themselves, and he [Ögödei Qa'an] rewarded them with various shows of favour. For one full month he and his relatives banqueted, and, as was his custom, he gave away everything in the treasuries.

*When they were finished feasting and reveling*, they turned to serious matters of state and the military. Since some outlying areas had not been conquered, and rebellions were in progress in others, in order to deal with these matters he was going to assign one of his relatives to each and every corner [...].<sup>43</sup>

This pattern was typical of most *quriltais*. When a new khan was enthroned, he would gain legitimacy through the enthronement and acclamation as well as the distribution of presents in the presence of all interested parties; when he had been enthroned, still in the presence of the *aqqa* and *ini*, he would immediately start to exercise that legitimacy. While it was the newly enthroned khan who gave the final judgment in legal cases, the presence of the queens, princes, princesses and *amirs* [military commanders] was important. There may have been several motivations for exercising justice while they were still present: the desire to accomplish as much as possible while everybody was in one place, could be consulted if necessary, and reactions gauged; the desire to appear as an effective and forceful ruler; or the desire to strengthen unity by making an example of rebels.

It is not simply the judicial trials in the second part of *quriltais* that should be considered as legal in character. While these provide additional confirmation of the legal nature of *quriltais*, it is the whole *quriltai* that should be considered as legal in nature, because it is the fact of meeting together itself which gave legitimacy and legal force to all the decisions taken there. When Ögödei, Chinggis Khan's third son had been made *qa'an* in 1229, he sought to resolve disputes that had arisen since the death of Chinggis Khan. He resolved a dispute regarding a military campaign, taking

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42 This is not meant to imply that it was the only factor affecting the legitimacy of the proceedings, for example Thomas Allsen showed that a person who interrogated another always needed to be of the equal or higher status than the person being interrogated. Allsen, *Politics of Mongol Imperialism*, p. 30.

43 Rashīd, pp. 663–4, Rashīd/Thackston, p. 324, emphasis added.



a final decision on the matter, and “silenced all those who were speaking against the action.” He also gave a general ordinance pardoning any crimes preceding Ögödei’s enthronement.<sup>44</sup> The *quriltai* enthroning Güyük, probably because his election was more controversial than Ögödei’s,<sup>45</sup> involved more specifically getting rid of his rivals or enemies. It was shortly before this *quriltai* that Otchigin, Chinggis’ brother, had approached with an army, giving the impression that he aimed to become *qa’an*. A secretive trial was held at the *quriltai*: “Since the investigation was extremely sensitive, no one was allowed to attend the proceedings, with only Möngkä Qa’an and Orda making the investigation, and no one else allowed entry.”<sup>46</sup> The trial of Fatima Khatun, the confidante of the regent Töregene, also took place at this *quriltai* according to Rashīd al-Dīn<sup>47</sup> although the precise timing is difficult to establish; in any case the trial took place during Carpini’s stay at the *ordo* (Mongol camp), so at most about three months after Güyük’s enthronement.<sup>48</sup>

The second *quriltai* enthroning Möngke was even more replete with judicial activity.<sup>49</sup> Apparently during the *quriltai*, a plot against Möngke was discovered. However that may be, the ‘plotters’ were apprehended by an army and taken to the *ordo*, where they were feasted for three days and left with guards over them. “The next day Möngkä Qa’an went to Genghis Khan’s *ordu* and sat on a chair to conduct the trial of Shirāmūn and the princes himself.”<sup>50</sup> Širemūn’s *atabeg* [guardian], tortured with bastinado, confessed and committed suicide. The next day more *noyans* [officials]<sup>51</sup> and *amirs* [military commanders] were arrested, and finally 77 people were executed.<sup>52</sup> Then Būri and Yesūn Toqa, two grandsons of Čayatai, arrived, with very few soldiers. “Būri was sent to Batu under escort by emissaries so that after his guilt was proven he could be executed. Qara Hülägü conducted the trial of Toqashi Khatun [Yesūn Toqa’s wife] in Yesūn Toqa’s presence. He ordered her to be kicked to death, and thus relieved his breast of an old grudge.”<sup>53</sup> Qara Hülägü was made head of the *ulus* of Čayatai by Möngke.<sup>54</sup> “The wardens of court” were also sent to

44 Rashīd, p. 638, Rashīd/Thackston, p. 313.

45 Allsen, *Mongol Imperialism*, p. 20; Carpini/Dawson, p. 25.

46 Rashīd, p. 806, Rashīd/Thackston, p. 393; Juvaynī, p. 210, Juvaynī/Boyle, p. 255, Khvāndamīr, vol. 3, p. 56, Khvāndamīr/Thackston, p. 32. In fact Möngke was not yet Qa’an at this time.

47 Rashīd, p. 806, Rashīd/Thackston, 393.

48 Carpini/Dawson, p. 65; see also Juvaynī, pp. 200–201, Juvaynī/Boyle, pp. 244–6, Rashīd, pp. 802–3; Rashīd/Thackston, p. 391.

49 According to Khvāndamīr, the reported judicial activity took place when the majority of the attendants at the *quriltai* had left, as the ‘conspiracy’ was only discovered at that time. Khvāndamīr, vol. 3, p. 59, Khvāndamīr/Thackston, p. 32–33.

50 Rashīd, p. 834; Rashīd/Thackston, p. 406. In this article the spellings in quotations are preserved and may differ somewhat from those in the rest of the text; *ordu* = *ordo*.

51 Atwood, *Encyclopedia*, ‘noyan,’ p. 412; ‘social classes in the Mongol empire,’ p. 506.

52 Rashīd, p. 837, Rashīd/Thackston, p. 407.

53 Rashīd, p. 837, Rashīd/Thackston, p. 408.

54 Rashīd, pp. 806–7; Rashīd/Thackston, p. 393.

bring Qadaq, who had been Güyük's *atabeg* from childhood and dealt with administrative affairs while Güyük was *qa'an*,<sup>55</sup> and "although his guilt was clearer than Satan's infidelity, a trial was ordered. After he confessed to his crime, it was decreed that he be dispatched [...]."<sup>56</sup>

Möngke also summoned Oghul Qaimish, Güyüg's widow and her son, Khwaja, with a message that gave them hope they could be spared: "If you did not participate in this conspiracy, your welfare depends upon your coming directly to court."<sup>57</sup> Khwaja thought better of the temptation to harm the messenger, but his mother sent a message disputing Möngke's legitimacy. Then she was detained, taken to court and then to Sorqaghtani Beki's *ordo*, where she was tried by Menggeser and drowned in the river.<sup>58</sup> Meanwhile in the city of Beshbaliq, some Uyghurs were apparently plotting a massacre of Muslims. The new *qa'an*'s response allowed him to display his authority over all that happened in his empire:

A slave who was aware of the plot became Muslim and informed them. Their guilt was established, and after the Idiqt [leader of the Uyghurs] was brought in and tried, he confessed to his crime. It was ordered that he be taken to Beshbaligh and executed in the presence of all the people on a Friday after the prayer.<sup>59</sup>

Möngke also used the *quriltai* to launch judicial activities covering the whole realm under Mongol rule:

Since several trouble-makers remained in various corners, and it would have either taken too long or involved too much trouble to bring them in, the emperor dispatched Bala Yarghuchi and a group of liege men to Yesü Möngkä's armies to inquire about them and put to death all who had participated in the conspiracy. He also sent another commander on the same matter to Cathay.<sup>60</sup>

In terms of later *quriltais*, some also included trials. For example, the enthronement of Geikhatu was followed by several trials which took place after the main celebrations:

... they all enthroned him in the vicinity of Akhlat on Sunday the 24<sup>th</sup> of Rajab 690 [July 23, 1291] [...] When the banquets and celebrations were over, in early Sha'ban [early August 1291] all the amirs were arrested and trials were begun, for Gaikhatu wanted to have an investigation made of his

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55 Rashīd, p. 808; Rashīd/Thackston, pp. 394, 396.

56 Rashīd, pp. 837–8; Rashīd/Thackston, p. 408.

57 Rashīd, p. 838; Rashīd/Thackston, p. 408.

58 Rashīd, p. 839; Rashīd/Thackston, p. 409.

59 Rashīd, pp. 839–40; Rashīd/Thackston, p. 409.

60 Rashīd, p. 840, Rashīd/Thackston, p. 409.

brother Arghun Khan's death and the murders of the amirs and viziers [ministers].<sup>61</sup>

Meanwhile both Vaṣṣāf and the *Yuan Shi* imply that Ananda, the grandson of Qubilai who lost out to Qaishan (Wuzong) in the struggle for the position of *qa'an*, was condemned to death and executed after all the princes had assembled, though before the enthronement of Qaishan.<sup>62</sup> This took place in 1307.

It is also noteworthy that, in Köden's note to Töregene about why he was protecting Mahmud Yalavach and other officials from her, he contemplates the prospect of them being tried at a *quriltai*:

... Since they have sought refuge with us, to send them back would be unchivalrous. In the near future a *quriltai* will be held, and I will bring them there with me. In the presence of my relatives and the amirs an investigation into their crimes can be undertaken, and they can be punished accordingly.<sup>63</sup>

This raises the question of how a *quriltai* is different from the Mongol institution usually associated with legal trials, the *jarḡu* / *yarghu*. While the two terms have different semantic connotations, it nevertheless appears that either term could be used to describe the same series of events. For example, after the embarrassing defeat of the Mongols at the hands of the Egyptians in 1303, Ghazan held a *quriltai* in June 1303 at Ujan. According to Vaṣṣāf:

قوريلتای مبارک ساخت ... و امرا و لسكررا يارغو فرمود<sup>64</sup>

*Qūriltāy mubārāk sākht ... va amrā va luskar [lushkar]-ra yārghū farmūd.*

[Ghazan] held a blessed *quriltai* ... and ordered an inquiry (*yarghu*) of the amirs and army.

According to Rashīd al-Dīn however, the *quriltai*, by which he seems to mean the feasting and not meeting together as such, took place after the *yarghu*:

آغاز يارغو پرسیدن کردند ... عاقبة الامر غره ذی الحجه يرغو ها تمام شد ...  
انگاه در روز پنجشنبه دوم ذی الحجه آغاز طوی قوريلتای کردند<sup>65</sup>

*Aghāz yārghū pursīdan kardand ... 'āqibat al-āmr ghureh'i Zu al-Hijjah y[ā]rghū-hā tamām shud... angāh dar ruz panjshanbeh duvum Zu al-Hijjah aghāz ṭūy qūriltāy kardand.*

61 Rashīd, p. 1191; Rashīd/Thackston, p. 580.

62 Vaṣṣāf, p. 501; *Yuan Shi*, ch. 22, p. 478; but see also *Yuan Shi*, ch. 24, p. 2874.

63 Rashīd, p. 801, Rashīd/Thackston, p. 390.

64 Vaṣṣāf, p. 414.

65 Rashīd, p. 1315; Rashīd/Thackston, pp. 657–8.

First they held interrogations ... Finally in Zu al-Hijjah the *yarghus* were over ... Then on Thursday the second of Zu al-Hijjah they began the feast of the *quriltai*.

Finally, though Khvādamīr was writing two centuries later, his choice of terminology is also interesting. Like Vaṣṣāf, he speaks of a *quriltai* first, and he seems to regard the questioning as part of the *quriltai*. He writes that after Ghazan arrived in Ujan,

بعد از دو روز قوريلتای ساخت و قتاقتشاه نوئين و چوپان بيک و ساير سرداران را در موقف يرغو باز داشت و هر یک را علی اختلاف مراتبهم بچوب ياساق تادیب نموده<sup>66</sup>

*Ba'd az dū rūz qūriltāy sākht va Qutluqshāh Nū'in va Chūpān Btk va sāyīr sardārān-rā dar mauqef y[ā]rghū bāz dāsht va har yak-rā 'alā ikhtilāf bechūb yāsaq tādīb namūdeh.*

After two days he held a *quriltai* and restrained Qutluqshah Noyin and Chupan Beg and other generals at the site of the *yarghu* and every one of them was subjected to beating according to the degree [of their offence].

Khvādamīr also describes the trial of Arigh Böke, the brother whom Qubilai had vanquished, as a *quriltai*, but then speaks of “*yarghuchis*” and interrogation “in the manner of a *yarghu*”.<sup>67</sup> The overlap in the way these terms are used not only confirms the similarity of these institutions, but suggests that similar principles may underlie both the *quriltai* and the *jarju*. In other words, collegial decision-making should be seen as relevant not only for the *quriltai* but for Mongol legal culture more generally.

### The principle of collegiality

Since the *quriltais* were legal institutions, the principles underlying them can be seen as central features of Mongol legal culture. The most important of these principles is what can be termed the “principle of collegiality”<sup>68</sup> or “consultative tradition”,<sup>69</sup> which means in essence taking others and their views into account when making decisions. This, after all was the purpose of coming together in order to make decisions, rather than a leader making decisions by himself. How deeply this principle was rooted in Mongol culture can be seen from the way in which it is emphasized and praised in the *Secret History of the Mongols*, which was written for Mongols from a Mongol viewpoint. For example, Chinggis Khan, after having defeated the rival Tatars, held a council to decide what to do with them rather than

66 Khvādamīr, vol. 3, p. 156, Khvādamīr/Thackston, p. 88.

67 Khvādamīr, vol. 3, pp. 63–4, Khvādamīr/Thackston, p. 36.

68 Allsen, “The Rise of the Mongolian Empire”, p. 398.

69 Endicott-West, *Mongolian rule in China*, p. 54.

simply deciding himself.<sup>70</sup> Another example is the episode in which companions of Chinggis Khan dared to remonstrate with his decision about the fate of Daritai, an uncle of Chinggis Khan who had abandoned him for Chinggis' rivals, the Kereyids.<sup>71</sup>

The *Secret History* also contains an example of a secret trial that Chinggis Khan held which was interrupted by his mother. After hearing from the shaman Teb Tenggeri that his brother Qasar might be a threat to him,

On these words, Činggis Qa'an that very night rode off to seize Qasar. When he left, Gūčü and Kōkōčü informed the mother that he had gone to seize Qasar. When the mother heard this, straightaway – it was still night – she harnessed a white camel and set out in a black covered cart, traveling all night.

On her arrival at sunrise, Činggis Qa'an had tied up the opening of Qasar's sleeves, removed his hat and belt, and was interrogating him. Činggis Qa'an, surprised by the mother descending upon him, became afraid of her.<sup>72</sup>

Chinggis's mother then vehemently defended Qasar as her son whom she had breast-fed and Chinggis Khan "felt shame".<sup>73</sup> Although motherly sentiments were obviously important here, the episode is in line with the theme of the other two examples, and emphasizes the value of taking others into account when making important decisions. Therefore, the principle of collegiality underlying the *quriltai*s was deeply rooted in Mongol culture. It was partly a result of their nomadic way of life, where the difficulty in enforcing decisions meant that it was often better to seek consensus, but it was strengthened by the cultural value attached to it, as seen in the *Secret History*. As Ratchnevsky remarks, the collegial nature of legal trials was one element that worked to prevent gross injustice in Mongol legal trials.<sup>74</sup> In fact, the importance of collegiality in Mongol law has not been fully recognized so far. Laura Sabloff, a political anthropologist, remains to date the only scholar to have examined the consultative tradition as an element of Mongol legal culture, though her focus is on modern-day Mongolia.<sup>75</sup> She points out that the principle of collegiality may, through being celebrated in Mongols' historical memory, have influenced their transition to democracy after communism.<sup>76</sup> The parliament of Mongolia is fittingly

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70 *Secret History of the Mongols*, §154, pp. 76–7.

71 *Secret History of the Mongols*, §242, p. 167.

72 *Secret History of the Mongols*, §244, pp. 168–9.

73 *Secret History of the Mongols*, §244, p. 170.

74 Ratchnevsky, "Die Rechtsverhältnisse", p. 102.

75 Endicott-West also discusses the consultative tradition, but only in the context of political culture, and not as an integral element of Mongol legal culture. Endicott-West, *Mongolian Rule in China*, pp. 44, 49–50, 126.

76 Sabloff, "Genghis Khan, Father of Mongolian Democracy", pp. 91–119.

called *Ikh Khural* Их Хурал, or Great Assembly, a term derived from the same verb *quri-* as *quriltai*. Whatever the influence of the tradition of collegiality today, at the time of the Mongol empire it was of great importance.

### **Conclusion**

The legal nature of the *quriltai* can be seen from the fact that it gave legal force to decisions, whether these were about succession, military campaigns, or legal trials. Good attendance at a *quriltai* allowed the decisions taken to be perceived as legal as well as binding on all who had participated. Therefore, the *quriltai* and the principle of collegiality which underlay it are highly relevant to the study of Mongol law. Collegial decision-making, rather than being merely a political tradition, was an integral part of Mongol legal culture. Therefore, the way in which we view Mongol law needs to be revised. The concept of a 'Great Yasa' is inadequate for understanding Mongol law, not only because its contents are elusive, but also because substantive laws alone cannot characterize Mongol law. Rather, procedural law should not be overlooked, as the *quriltai* and the collegial decision-making underpinning it are valuable evidence of how the Mongols perceived legality and practiced law.

## References

### Primary sources

- Carpini, John of Plano, *History of the Mongols*, trans. by Cristopher Dawson, in: *The Mongol Mission*, New York: Sheed and Ward, 1955.
- Juvaynī, ‘Aṭā Malik ibn Muḥammad, *Ta’rīkh-i-Jahān-gushā*, ed. by Mīrzā Muḥammad Qazwīnī, London: Luzac, 1912, 3 vols.
- Juvaynī, ‘Aṭā Malik ibn Muḥammad, *The History of the World-Conqueror*, trans. by John Andrew Boyle, intro. by David Morgan, Manchester: Manchester University Press, 1958.
- Khvāndamīr, Ghiyās al-Dīn, *Tārīkh-i ḥabīb al-siyar fī akhbār afrād bashar*, Tihrān: Khayyām, 1974, 4 vols.
- Khvāndamīr, Ghiyās al-Dīn, *Habibu's-siyar, tome three: the Reign of the Mongol and the Turk*, trans. by Wheeler M. Thackston, Cambridge, MA: Department of Near Eastern Languages and Civilizations, Harvard University, 1994.
- Rashīd al-Dīn, *Jāmi’ al-Tavārīkh*, ed. by Muḥammad Roushān and Muṣṭafā Mūsavī, Tihrān: Nashr-i Alburz, 1994, 4 vols.
- Rashīd al-Dīn, *Rashiduddin Fazlullah's Jami'u't-tawarikh: Compendium of Chronicles*, trans. by Wheeler M. Thackston, Cambridge, MA: Department of Near Eastern Languages and Civilizations, Harvard University, 1998–9, 3 vols.
- Secret History of the Mongols, A Mongolian Epic Chronicle of the Thirteenth Century*, trans. and commentary by Igor de Rachewiltz, Leiden; Boston: Brill, 2004, 2 vols.
- Vaṣṣāf al-Ḥaḏrat, ‘Abd Allāh ibn Faḏl Allāh, *Kitāb-i Vaṣṣāf al-Ḥaḏrat*, Bumbāy: Muḥammad Mahdī Iṣfahānī, 1852/1853.
- Yuan Shi* 元史, ed. by Song Lian 宋濂, Beijing 北京: Zhonghua shu ju 中華書局, 1976, 15 vols, also available online at: <http://www.guoxue.com/shibu/24shi/yuanshi/yuasml.htm>, accessed 10<sup>th</sup> June 2013.

### Secondary sources

- Aigle, Denise, “Le grand Jasaq de Gengis-Khan, l’Empire, la culture mongole et la Sharī’a”, *Journal of the Economic and Social History of the Orient*, 47/1 (2004), pp. 31–79.
- Aigle, D., “Loi mongole vs loi islamique? Entre mythe et réalité”, *Annales. Histoire, Sciences Sociales*, 59/5–6 (Sep.–Dec., 2004), pp. 971–996.
- Allsen, Thomas T., *Politics of Mongol Imperialism: Centralization and Resource Mobilization in the Reign of the Grand Qan Möngke, 1251–59*, PhD Thesis, University of Minnesota, 1979.
- Allsen, T. T., *Mongol imperialism: the policies of the Grand Qan Möngke in China, Russia, and the Islamic Lands, 1251–1259*, Berkeley; London: University of California Press, 1987.
- Allsen, T. T., “The Rise of the Mongolian Empire and Mongolian Rule in North China”, in: *The Cambridge History of China, Volume 6: Alien Regimes and Border States, 907–1368*, ed. by Dennis C. Twitchett and Herbert Franke, Cambridge: Cambridge University Press, 1993, pp. 321–413.
- Allsen, T. T., *Commodity and Exchange in the Mongol Empire: a Cultural History of Islamic Textiles*, New York, Cambridge University Press, 1997.
- Atwood, Christopher P., “How the Mongols Got a Word for Tribe – and What It Means”, *Menggu shi yanjiu* 蒙古史研究/*Studia Historica Mongolica*, 10 (2010), pp. 63–89.
- Atwood, Christopher P., *Encyclopedia of Mongolia and the Mongol empire*, New York: Facts on File, 2004.

- Atwood, C. P., "Titles, Appanages, Marriages, and Officials: A Comparison of Political Forms in the Zünghar and Thirteenth Century Mongol Empires", in: *Imperial Statecraft: Political Forms and Techniques of Governance in Inner Asia, Sixth-Twentieth Centuries*, ed. by David Sneath, Bellingham: Western Washington University, 2006, pp. 207–242.
- Aubin, Françoise, "Les sanctions et les peines chez les Mongols", in: *Recueils de la Société Jean Bodin pour l'histoire comparative des institutions, LVIII, La Peine, Quatrième partie, Mondes non européens*, Bruxelles: De Boeck Université, 1991, pp. 242–293.
- Aubin, F., "Some Characteristics of Penal Legislation among the Mongols (13th–21st Centuries)", in: *Central Asian Law: An Historical Overview. A Festschrift for the Ninetieth Birthday of Herbert Franke*, ed. by Wallace Johnson and Irina F. Popova, Lawrence, KS: Society for Asian Legal History, 2004, pp. 119–151.
- Bateman, Gillian, "The 'Pax Mongolica' and the Ilkhans 1258–1335: The Problem of Extended Lines of Communication", PhD Thesis, SOAS, University of London (forthcoming).
- Bogatyrev, Sergei, *The Sovereign and his Counselors: Ritualized Consultations in Muscovite Political Culture, 1350s–1570s*, Helsinki, Finnish Academy of Science and Letters, 2000, online at <http://ethesis.helsinki.fi/julkaisut/hum/histo/vk/bogatyrev/thesover.pdf> (accessed 6 June 2013).
- Di Cosmo, Nicola, "State Formation and Periodization in Inner Asian History", *Journal of World History*, 10/1 (Spring 1999), pp. 1–40.
- Doerfer, Gerhard, *Türkische und mongolische Elemente im Neupersischen*, Wiesbaden: F. Steiner, 1963–1975, 4 vols.
- Endicott-West, Elizabeth, "Imperial Governance in Yuan Times", *Harvard Journal of Asiatic Studies*, 46/2 (1986), pp. 523–549.
- Endicott-West, E., *Mongolian Rule in China: Local Administration in the Yuan Dynasty*, Cambridge, MA: Harvard University Press, 1989.
- Fletcher, Joseph, "The Mongols: Ecological and Social Perspectives", in: *Harvard Journal of Asiatic Studies*, 46/1 (June 1986), pp. 11–50.
- Franke, Herbert, "Women under the Dynasties of Conquest", in *La donna nella Cina imperiale e nella Cina repubblicana*, ed. by Lionello Lanciotti, Firenze: Olschki, 1980, pp. 23–43, reprinted in Herbert Franke, *China under Mongol Rule*, Aldershot: Variorum, 1994.
- Haidar, Mansura, *Medieval Central Asia: Polity, Economy and Military Organization (fourteenth to sixteenth centuries)*, New Delhi: Manohar, 2004.
- Heuschert, Dorothea, *Die Gesetzgebung der Qing für die Mongolen im 17. Jahrhundert: anhand des Mongolischen Gesetzbuches aus der Kangxi-Zeit (1662–1722)*, Wiesbaden: Harrassowitz, 1998.
- Holmgren, Jennifer, "Observations on Marriage and Inheritance Practices in Early Mongol and Yuan Society, with Particular Reference to the Levirate", *Journal of Asian History* 20/2 (1986), pp. 127–192.
- Jackson, Peter, "The Dissolution of the Mongol Empire", *Central Asiatic Journal* 22 (1978), pp. 186–244.
- Jackson, P., "Chagatayid Dynasty", in: *Encyclopaedia Iranica*, vol. 5, Costa Mesa, CA: Mazda, 1992, pp. 343–347.
- Lane, George, *Early Mongol Rule in Thirteenth Century Iran: A Persian Renaissance*, New York: Routledge Curzon, 2003.



- Lapidus, Ira M., *A History of Islamic Societies*, second edition, Cambridge: Cambridge University Press, 2002.
- Lessing, Ferdinand D., *Mongolian-English Dictionary*, Berkeley, Los Angeles: University of California Press, 1960.
- Morgan, David O., "The 'Great Yasa' of Chingiz Khan and Mongol Law in the Ilkhanate", *Bulletin of the School of Oriental and African Studies* 49 (1986), pp. 163–76.
- Morgan, D. O., "The 'Great Yasa of Chinggis Khan' Revisited" in: *Mongols, Turks, and others: Eurasian nomads and the sedentary world*, ed. by Reuven Amitai and Michal Biran, Leiden; Boston: Brill, 2005, pp. 291–308.
- Mostaert, Antoine, *Dictionnaire Ordos*, Peking: Catholic University, 1941–44, 3 vols.
- Perdue, Peter C., *China Marches West: the Qing Conquest of Central Eurasia*, Cambridge, Mass., London: Belknap, 2005.
- Rachewiltz, Igor de, "Some Reflections on Činggis Qan's Jasaγ", *East Asian History* 6 (1993), pp. 91–104.
- Rachewiltz, I. de, *Secret History of the Mongols*, see *Secret History of the Mongols* in list of primary sources (*supra*).
- Ratchnevsky, Paul, "Die Rechtsverhältnisse bei den Mongolen im 12.–13. Jahrhundert", *Central Asiatic Journal* 31 (1987), pp. 64–110.
- Sabloff, Paula L. W., "Genghis Khan, Father of Mongolian Democracy", in: *Modern Mongolia: reclaiming Genghis Khan*, ed. by Paula L. Sabloff, Philadelphia: University of Pennsylvania Press, 2001, pp. 91–119, online at (accessed: 6 June 2013): <http://www.mongolianculture.com/PaulaL-Sabloff.htm>.
- Sela, Ron, *Ritual and authority in Central Asia: the Khan's inauguration ceremony*, Bloomington, IN: Research Institute for Inner Asia Studies, Indiana University, 2003.
- Sneath, David, *The Headless State*, New York: Columbia University Press, 2007.
- Sneath, D., "Mapping and the Headless State: Rethinking National Populist Concepts of Mongolia", in: *Mapping Mongolia: Situating Mongolia in the World from Geologic Time to the Present*, ed. by Paula L. Sabloff, Philadelphia: University of Pennsylvania Press, 2011, pp. 34–59.