

HISTORICAL AND SOCIAL ASPECTS OF SOME CHINGIS LAWS

It's the truth that by now thousands of studies have been made on Chingis (Çingiz) Khan's (1161-1227)¹ conquests and laws who is considered to be one of the most greatest rulers in the world history. Of course the interest for him is not in vain. Because within a 60-70 year life time -15-20 years of which is childhood- on an average in 40 years he justly achieved fame by conquering nearly 2/3 of the world.

Sometimes he is praised to the skies and sometimes he is tried to be condemned according to the point of view and the results of social event, but there is a truth that he is a man whose name never be forgotten for what he did and what he didn't.

In this research, rather than Chingis's life and political events he experienced, his laws, which were one of the social progresses of him that he fulfilled on his age, will be focused on. Today, when we look at to the works relating to Chingis Khan written in Turkish, it is not possible to say that there is much sources mentioning social matters. With this, there are some people's detailed investigations abroad like C.Alinge²; although there are serious criticisms, the most important one of them is B.Y.Vladimirtsov's work³. Studying period's other written sources and travellers' books carefully, top of them 'Mogolların Gizli Tarihi', he tried to get outcomes, and he made good use of other studies on this subject. Besides, from time to time, also in Türkiye, some detailed investigations are made about Chingis Laws' culturel and legal aspects. Among these we can regard some researchers like Z.V.Togan, B.Ögel, S.M.Arsal, A.İnan as important. There is one more point to be mentioned that there is not a collected text of Chingis Laws which are sometimes called Chingis's Custom⁴. We collect them from various written sources that tell about Chingis period. So, the primary document that we make good use of will be Tarih-i Cihangüşa, as most of the others do.

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¹ There are some confusions about Chingis Khan's birthday. Some written sources say 1155. See also, Reşideddin Fazlullah, **Camii't-tevarih**, Trans., A.Gölpınarlı, İstanbul (without any date) p.22.

² C.Alinge, **Moğol Kanunları**, Trans., Ç.Üçok, Ankara 1967, p.143-147.

³ B.Y.Vladimirtsov, **Moğolların İctimai Teşkilatı**, Trans., A.İnan, 2nd edition, Ankara 1987.

⁴ A.İnan, **Makaleler ve İncelemeler**, 2nd edition, Ankara 1987, p.642.

Here rather than criticising custom decrees, which are called Chingis and Mongol Laws and which have come to our age and actually took root after Chingis⁵, in a detailed way, we will try to look at to the reasons which helped these laws occur and to the historical backgrounds of them. Because, when it is said Chingis Laws, it is thought that they're written customs or laws created by Chingis but when we consider deeply we understand that the case is not so. So, while looking at the historical documents, it is possible to see that these laws occurred before so many times than Chingis Khan's age.

At first, it will be useful to look at to the age's features, in which Chingis took place, briefly. As it is known, the 12th century is a really great confusion for Middle Asia from historical aspect. Because of the absence of strong countries at this time (here, we are considering Asia's west part; especially the part for which we call Turkistan today, apart from this) a great number of small tribes can be seen obviously. Because, in Asia there are not governments that collect countries and communities in a central authority, similar to Hun, Kok Turk or partly Uighur, any more. Kitan, Tangut and Curcet were present formations but their presence was being ignored. We come across these countries at the time of Chingis but when we look at to the histories of Kitan and Tankut we see that they have never ever reached for a political formation in real terms and never ever advanced as a nation. And also at that time, at east, Mancu-Mongol originated Curcet Khanate's striving area was China and they had anyway became Chinese in a short time, they didn't deal sufficiently with their western kins and looked down on them.

Of course these political organisations and communities' social conditions are separate research subjects. But considering the frame that we tried to show above, it is an inevitable fact that it was fated for Chingis or someone else to rise from this frame. Because Middle Asia's Turk and Mongol nations had to find a savior for themselves. Especially Turks after being leader for thousands of years at Asia, became plaything for Chineses and Kitans and this situation was infuriating them secretly. Turks and Mongols had lived together for a lot of years and Mongols had lived for a long time under the Turkish management; for this reasons they came closer to Turks in terms of language and culture. There was no reason for not to gather around a new leader. Namely, historical conditions are formed anyhow. Considering all these facts, both Turks who are more crowded than Mongols in any case, and southern Onguts (Sha-to), and Uighurs at Turfan area didn't stay away from this. Everyone was looking forward to return to previous days. Onguts was one of the most warrior tribes of the area and they were tired of continual bloodshed and China's hypocritical

⁵ P.O.Morgan, 'The Great Yasa of Chingis Khan and Mongol Law in the Ilkhanate', **Bulletin of the Schools of Oriental and African Studies**, XLIX/1, London 1986, p.170.

political policies; also Uighurs didn't make it a problem to themselves to join Chingis Khan for their economical relations were failed because of Kitan and Tangut's pressure and their incompetences. Of course Chingis valued Turks sufficiently.

His greatest commander was a Tuva Turk who is called Subutay and Chingis appointed him to the head of his armies⁶. He formed his soldiers' combatant force with the other Turkish tribes, at the top of which was Onguts, and he left his children's and nation's education to Turkish teachers. He made good use of every literate person and he trusted especially his Uighur consultants⁷.

Now considering all of these facts, it can be easily understood why State of Chingis showed tendency to Turkish features and became Turk and Muslim in a short time after foundation.

The main reason of recording laws is of course to provide peace and obedience of everyone young and old in the country. Although customs are not written, everybody had to know and comply with them anyhow. But when we look at the State of Chingis's structure we see some differences. First of all, Borcigins, who were the founders of this dynasty, were very small in number. So, people who came from various parts of Asia constitute this federation; and most of them were unsupervised, dreamer and rebellious. These people, who couldn't adopt in communities they lived in and was the source of uneasiness, aimed to provide a new coming for themselves by gathering around Chingis Khan; but on all of their minds there was the dream of founding their own regions. In order to prevent these ideas and to put an end to this disorder the laws were recorded.

As we said before, these laws didn't occur suddenly. Of course they were living among Turkish public and families, Chingis nation did no more than putting these traditions and customs with these laws into practice. After mentioning all of this, now we can focus on the important articles of Chingis Laws and explain them.

Written sources say that the public rules, which are attributed to Chingis Khan, were scraped on metal tablets by Şiki-Kutuku who was a Turk and brought up by Chingis and his wife Börte since little ages. Chingis ordered Şiki-Kutuku in 1206 general assembly as: Classify the people who are dependent on

⁶ S.Gömeç "Türk Tarihinin Kahramanları: 34- Çelme ve Subutay" , **Orkun**, Number 93, İstanbul 2005.

⁷ B.Ögel, **Sino-Turcica**. Cengiz Han ve Çin'deki Hanedanın Türk Müşavirleri, Taipei 1964; S.Gömeç, "Türk Mogol Devletinin Kuruluşunun 800. Yılı", **Orkun**, Number 101, İstanbul 2006, p.33-34.

us; sever those who live in felt tents from those who live in wooden houses. Don't allow anyone to oppose openly to your words. Put thieves away from public, control the liars, kill the one who deserves death, punish the one who deserves punishment, then record all the decisions that are made about public to the Kok-Tepter⁸. This person being head judge takes his title from Turkish originated word 'Yargan'; as far as it is known also Bilge Khan's (716-734) brother Köl Tigin was appointed to both commandership of armies and head judge than linked with this he took the epithet of İnançu Apa Yargan⁹ Tarkan¹⁰. Therefore, every work was being fulfilled under the control of a Minister of Justice. Turkish directors didn't want to act unjustly or cruelly to anyone. Turkish Khan seeing himself as the shadow of the God on earth was ruler of not only Turkish Nation, but also mankind. For his reason, there is an attribution at the beginnings of the inscriptions saying that Turkish Khan is assigned to manage mankind¹¹. The Turkish Universe Sovereignty aims to make Turkish justice dominant over every part of the universe. Achievements and written sources reveal that this great state has some duties on earth as well. Namely, the duty of this warrior tribe was not only using sword and waging war. Its main duty was to the world in order in the name of God with the godgiven power and state. This is the world view which has lasted from the beginning of this Turkish

⁸ **Mogolların Gizli Tarihi**, Trans. A. Temür, 2nd edition, Ankara 1986 p.133-136; Alinge, **op.**, p.32; Morgan, **op.**, p.164; R.Grousset, **Bozkır İmparatorluğu**, Trans. R.Uzmen, İstanbul 1980, p.127; S.Gömeç, "Türk Tarihinin Kahramanları: 32- Çingiz Han" **Orkun**, Number 92, İstanbul 2005, p.35; M.D'ohsson, **Moğol Tarihi**, Pub. E.Kalan-Q.Şükürov, İstanbul 2006, p.133.

⁹ S.G.Clauson says "In 8th century, the head of the Tardus leaders on west is Köl İç Çor and the head of the Tölös leaders on east is Apa Tarkan." (S.G.Clauson- E.Tryjorski, "The inscription at Ikhe Khushotu", **Rocznik Orientalistyczny**, 34/1, Warszawa 1971, p.23-24). According to B.Ogel, in Kok Turk and Uighurs army is organised on 'clan order' as it is in Great Hun State. Above Şad who were commanders of army there were experienced and great commanders like Köl İç Çor and Apa Tarkan. They were als children of rulers. (B.Ogel, **Türk Kültürünün Gelişme Çağları**, 3rd edition, İstanbul 1988, p.646). But in written sources of China it is told that Tunyukuk's epithet was Apa Tarkan (A-pa-ta-kan) (M.T.Liu, **Die Chinesischen Nachrichten zur Geschichte der Ost-Turken (T'u-küe)**, I.Bush, Wiesbaden 1958, p.158; J.T.Chang, **T'ang Devrindeki Doğu Göktürkleri Hakkında Yeni Belgeler**, Doktrate Thesis, Taipei 1968, p.157) and he remained as Apa Tarkan from Kutlug's rebellion on, up to 697 at the latest and then he gained another epithet that was **Boyla Baga Tarkan** (M.Mori, "A-shih-te Yüan-chen ve Tunyuquq", **İslam Tetkikleri Enstitüsü Dergisi**, Volume 5, İstanbul 1973, p.90). As it is understood, Apa Tarkan matches with a duty like commandership of army. After Tunyukuk, probably İni İl Khan and then Köl Tigin became Apa Tarkan.

¹⁰ See also **Köl Tigin Inscription**, West side, 2: *İnançu Apa Yargan Tarkan atıg birtim*.

¹¹ See also **Köl Tigin İnscription**, East side, 1-2; **Bilge Khan Inscription**, East side, 1-3: *Üze Kök Tengri, asra yagız yer kılındukta ikin ara kişi oğlu kılınmış. Kişi oğlın ta üze eçüm apam Bumin Kagan, İstemi Kagan olurmuş.*

State to today¹². As we mentioned before, we know that at the age of Kok Turks Köl Tigin and at the age of Uighurs a Kirghiz was judge and minister of justice¹³. When we look at to the age of Chingis, we see that one of his four sons Jagatai (Çagatay) was assigned to the protector of laws. Jagatai, knowing customs and laws, from time to time had greater power than Ogedey whom he himself enthroned¹⁴. Furthermore, it is established that at old Turkish State, government consisted of nine ministers and one of them was responsible for justice¹⁵.

Famous statesman and historian Cüveyni says: “The great roll of papers in which laws were written was called ‘Great Law-Book’ and at the treasures of shahzadahs, who would probably be khan, one of them was present. At the works of Armenian historians which tell about Mongols who came from front Asia in 13th century we come across ‘Chingis Khan Prohibitions’ and we learn that Hülagu showed high respect to these laws¹⁶.”

According to this new construction, at first clan system is put in order. The people who live in tents and the people who live in wooden houses were established. Namely, nomads and settled people were separated. This is perhaps a population census in one way. All present folks are given to Chingis’s relatives service and recorded to “Kok Tepter”¹⁷. The same system was also present at Turkish nation. When we look at to the Kok Turk inscriptions we see that Bumın and İstemi brothers made a new arrangement after founding the state: After having been created blue sky above, dark earth below, mankind have been created between them. On top of mankind my ancestors Bumın and İstemi Khans sat; after sitting they managed Turkish nation and customs and put them in order while enemies were on all sides. By sending soldiers they make people on all sides dependent on them. They make people bow their heads and make them kneel down. They placed their nation up to Kadırkan Yış on east, and up to Temir Kapı on west. Between the two well-organised Kok Turks were settled. Bilge Khan was a brave khan. Of course his ministers were brave too. His

¹² O.Turan, **Türk Cihan Hakimiyeti Mefkuresi Tarihi**, Volume 1, İstanbul 1969, p.7; İ.Kafesoğlu, **Türk Milli Kültürü**, 2nd edition, İstanbul 1983, p.242; B.Ögel, **Türk Mitolojisi**, Ankara 1971, p.277; B.Ögel, **Türklerde Devlet Anlayışı**, Ankara 1982, p.357; Gömeç, **op**, p.67-68.

¹³ S.Gömeç **Uygur Türkleri Tarihi ve Kültürü**, 2nd edition, Ankara 2000, p.50.

¹⁴ Nizamüddin Şamî, **Zafernâme**, Trans., N.Lugal, Ankara 1949, p.10; W.Barthold, “Çagatay”, **İslam Ansiklopedisi**, Volume 3, 5th edition, İstanbul 1988, p.266; Gömeç, **op**, p.69-70.

¹⁵ Gömeç, **Kök Türk Tarihi**, p.91-94.

¹⁶ M.Dulaurier, “Ermeni Müverrihlerine Göre Moğollar”, Trans. M.K.Ayas, **Türkiyat Mecmuası**, Volume 2, İstanbul 1928, p.45; Ata Melik Alaaddin Cüveyni, **Tarih-i Cihan Güşa**, Trans., M.Öztürk, Volume 1, Ankara 1988, p.96.

¹⁷ **Gizli Tarih**, p.136,161-162.

leaders and nation were proper. He kept the state still and put the customs in order. Then he died¹⁸. A new organisation is fulfilled in the state. According to this, Bumın Khan was at the centre of the country, namely he remained at Orkun river basin as absolute leader, his brother Istemi Yabgu is assigned to manage On Ok (Tölös/ Ogur) on west¹⁹.

According to a decree of this law, noone could join or shelter another clan with his own will. The one who behaves against this decree and change his place was killed in the presence of everybody. The people who tried to save him was sentenced to major punishments. Even princes having been reluctant in front of this law, couldn't save anyone from another tribe. And they couldn't mediate for their salvation²⁰.

One of the laws of Chingis is about army and troops of guardsmen. Here, it is seen that a selected force for private works and the ruler's security, was created²¹. Army was put in order in system of ten and commanders were assigned as head of each unit. This method has being used since the age of Motun by Turks. When we look at to the inscriptions of the age of Kok Turks and Uighurs we see that every unit has a president and Mongols derived this from Turks²². Like this, written sources say that private guards which were created by Chingis Khan were originally constituted by Turks who are called 'Börüler' hundred years ago²³.

And also we know that in old Turkish nation, in peace time especially people who knows to use weapons had to join the drive in one way as exercises of war of our age. These drives were fulfilled from time to time by famous commanders both getting the nation always ready for war and getting the meat they need in winter. It was impossible to hunt haphazardly. At Chingis nation, which reigned Asia after Uighurs, this system continued and it became a law. With the law, a lot of subjects like how hunters would hunt, which strategy they would obey, are recorded down. This project was taken so seriously that there were decrees like "those who don't fulfill their duty or neglect it would be punished cruelly." Hunting was strictly forbidden between march and december for it is the period of young animals. As far as we learned from Cüveyni, wild animals hunting was fulfilled by the permission of a commander who is

¹⁸ See also, **Köl Tigin Inscription**, east side, 1-4; **Bilge Khan Inscription**, east side , 1-5.

¹⁹ Gömeç, **op**, p.12.

²⁰ Cüveyni, **op**, p.101; Alinge, **op**, p.145.

²¹ **Gizli Tarih**, p.134; S.Gömeç, "Keşik Kelimesi", **Prof.Dr.Mehmet Saray'a Armağan, Türk Dünyasına Bakışlar**, İstanbul 2002.

²² S.Gömeç, "7 ve 8. Yüzyıl Yazıtlarına Göre Türklerde Ordu", **Türk Dünyası Tarih Dergisi**, Number 141, İstanbul 1988.

²³ Gömeç, "Keşik...", p.308.

responsible for this. There were rules about how hunters would form a line or how they would encircle the hunting animal. Before the drive, people was send to the hunting area to learn the number of hunting animals and hunters were trained undoubtedly. Commanders and soldiers were encouraged to interest in hunting in their leisure times²⁴.

The folk, who was always ready for war at peace times, was obliged to do their military services in army at the case of mobilisation and they had to serve the army's needs. For this reason there were things which each clan and group of nomads had to provide²⁵. From the time of Hun State, the duties of Turkish clans and group of nomads after war and before war were designated by laws. Moreover, we witness the constitution of fief system which passed to advanced ages by inheritance. For instance, in Tabgac from the date of 421 everyone who had 100 sheeps had to give a horse for war and in Khazars those who was responsible for clan had to send fixed number of cavalrymen to the state army when it is necessary²⁶. All of these were fulfilled in nation connected with order-command series.

Perhaps, a law also related to country safety was setting up stages on definite places of state and serving their needs²⁷. These were in one respect communication centres. We also know that this system was present at Turks hundred years ago and took place at inscriptions as well. On famous Tunyukuk inscription, we come across these statements about the war with Turgis in 710: *Üç körüg kişi ketli. Sabı bir: "Kagan sü taşıkdı. On Ok Süsi kalısız taşıkdı" tir. "Yarış Yazıda tirilelim" timiş. Ol sabıg işidip kagangaru ol sabıg itdim. Kanta yan sabıg yana ketli: "Oluring" tiyin timiş. "Yelme kargu edgüti urgıl basıtma" timiş*²⁸. As it is understood from the statements above, old Turks say 'kargu' for this kind of watchtowers and stages.

²⁴ Cüveyni, **op**, p.97.

²⁵ Cüveyni, **op**, p.99.

²⁶ W.Eberhard, "Tobaların Hayvancılığı", **Bellekten**, Volume 9, Ankara 1945, p.492; S.G.Klyaştorıny-T.İ.Sultanov, **Türkün Üçbin Yılı**, Trans., A.Batur, İstanbul 2003, p.71; M.I.Artamonov, **Hazar Tarihi**, Trans., A.Batur, İstanbul 2004, p.514.

²⁷ Cüveyni, **op**, p.101.

²⁸ See also **Tunyukuk Inscription**, 1st Stone, North side, 9-10 "At that moment, Tunyukuk heard the news that forces of On Ok came to Yarış Yazı, talked about the condition to Kapgan. Kapgan ordered him not to attempt anything, to be careful for army's not to be raided and to keep still. At the time he send this message to Tunyukuk, he also send a message to Apa Tarkan, namely İni İl Khan, and said "if Tunyukuk talks about marching the army, do not listen to him." Tunyukuk learned Kapgan's sayings through his spies. And ignoring Kapgan, ordered the soldiers to march. Altun Yış and İrtiş Ögüz was passed with difficulty. Kok Turk army reached Bolçu while it was dawning. Reconnaissance patrols informed that Turgis army gatered at Yarış Yazı.

From the point of view of Turks, there were not any difference between leader and servant at the time of war. Everybody had to work for continuance of the state and nation. When we look at to the Chingis laws, it is seen that the situation at the beginning was the same as it is in Turks. Namely, prince and an ordinary shepherd was equal in the presence of laws. But we see that this method had changed after a time. Various ranks had been given to those who came from Chingis's generation and to those who helped him with his conquests and these people were exempted from maximum nine crimes and they benefited from some privileges in their life times²⁹. But, in the Turkish State Organisation there is a charismatic constitution which comes from God to downwards, and in the presence of custom, everybody is equal.

One of the most important decrees of the laws is that; statesmen and shahzadahs could not clad in flamboyant garments³⁰. In Turkish State, there have never been privileged classes. Especially foreigners were surprised to see commanders and soldiers, leaders and servants eat at the same table, they were surprised even to see them talking to each other. Whereas, according to old Turkish thought, everyone is equal for God created them. One can only be superior to the other for his virtue. With Islam, good manners take place of virtue, and Yusuf Has Hacib says in Kutadgu Bilig: "Teach your son the whole virtues perfectly; because in future he gains goods with this virtue"³¹. But as time passes, Mongol leaders abused this decree of Chingis laws for their own profits. Of course, this situation caused the collapse of government system and the growing up the gap between public and managers. And they lost their personalities too much to preserve Turk-Mongol strenght. They loosened up too much with excessive joy, fun and courtly life. Because of women and Chinese statesmen around, they lost their interest in world and didn't understand what's going on.

Furthermore, at advanced times, it is understod that laws dealing only with Mongol's social character and not fitting to Turkish customs and traditions, went into effect. One of them is about marriage. In Mongol society, beautiful girls of an area were collected and they became slaves of managers and they didn't have any right. Men had taken as many women as they could manage. But those who took part in adultery was being killed³². In Turkish society, family, being a family, women and honor were highly important subjects. A women can never be sold or bought like a good. One of the reasons of the continuity of Turkish society till now is her considering women and family as important.

²⁹ **Gizli Tarih**, p.135; Cüveyni, **op**, p.100.

³⁰ Cüveyni, **op**, p.96.

³¹ B.Ögel, **Türklerde Devlet Anlayışı**, Ankara 1982, p.282.

³² Cüveyni, **op**, p.101; Alinge, **op**, p.144.

When we look from the religious aspect we see that Mongols appropriated Turks' mono-theist belief. This situation affected Mongol laws and mono-theist belief was laid down as a condition. Besides, it was decided not to make a discrimination between religions. Cüveyni says "Chingis didn't make a distinction between people for their religions because he believed in 'Kok Tengri'. He behaves good to the scholars, no matter which faith they believed. He regard this as a duty in front of Holy God." Chingis Khan didn't use the method of threat or fright, as the other powerful rulers did, in order to make people accept something; his the hardest word or writing for to make someone obey is as Tarih-i Cihangüşa says " We don't know what will happen, only God knows"³³. Here there might be exaggeration of Cüveyni. But, noone can claim that Chigiz Khan doesn't believe in God or doesn't take the scholars seriously. As it is known, Turks believed one God as the creator of sky and earth. Also it is known that in old Turks there were religious men and shamans who prophesies future, prepares cures for what is troubling the public and acts as a public physician in one way. But in time, also with the effect of the other religions, there had been some changes in this religious mind and these men began to abuse the folk³⁴. In order to prevent this abuse this kind of prohibitions were came into force. Besides, not pissing to the water or spitting on it took place in the laws. Of course these took place in the law as a result of social events. Life source water is an inevitable food not only for people but also for the whole livings, for this reason water sources had to be protected and must not be polluted for human health.

There were decrees in the law about inheritance³⁵. This is also not a situation that appeared in Mongols. We know that in old Turks goods were common and when the time comes the one who left the home took his share. The words 'evlenme' and 'evlendirme', which are used for the word 'izdivaç' in Turkish, meant to have a house by leaving family home.

The punishment of theft was very hard as it is in Turkish nation. For instance, the punishment of stealing a horse was death or club stroke for 700 times. The things like lying and fortune telling was forbidden. To side with someone at the quarreling time was being punished with death penalty at some conditions³⁶. There is no need to focus on law decrees which are not linked to our subject directly like slaughtering animals because of wrong thought and

³³ Cüveyni, **op**, p.96.

³⁴ S.Gömeç, "Şamanizm ve Eski Türk Dini", **PÜ.Eğitim Fakültesi Dergisi**. Number 4. Denizli 1998, p.47.

³⁵ Cüveyni, **op**, p.101; Alinge, **op**, p.144.

³⁶ **Gizli Tarih**, p.136.

beliefs which came into being in time with philosophical and natural religions, and jumping over the fire and a boiling meal.

As a result, we can say that: these public rules which is known as Chingis Laws by the people in all over the world and scientists, didn't come into being suddenly at the age of Chingis. These were the matters which couldn't be created by Mongols who were behind in progress. Therefore there must be a nation who affected them that is Turks. Yet, when we look at to the written sources, it is seen that these laws have been living in Turkish nation as custom rules for thousands of years.

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