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GREAT YASSY – A WRITTEN LEGAL DOCUMENT OF NOMADIC PEOPLE

Abstract. In the given article the questions connected with the history of rights are observed. The ancient norms leading their beginning from the well-known Yassy Chingizkhan were put on the basis of legal regulations. Yassy is a an arch of ancient customs and rights of Mongolian and Turkic people.

Keywords: legal regulations, law, Yassy, main idea, unity, nomadic people, “Zheti Zhargy Tauke Khana”, history.

The history of the people, the state is inextricably linked with the history of law. The effectiveness of any state – legal system is determined by the extent to which its norms correspond to the customs and traditions of the people, moreover, each people has its own “traditional” or customary law. Customary law over a long historical period was a universal regulator of social and legal relations, it was based on the mentality of the people, and acted as a measure of social necessity. Customary national law was more prevalent in oral character. Some customary legal systems were written. Since ancient times, Turkic people have had statehood. There were all kinds of states – small and large. But there were times when, by the will of circumstances and political considerations, many Turkic states united in the kaganates or in the empire. Any statehood or empire was based on the rule of law. The Turkic states in ancient and Middle Ages relied on the laws of Turkic customary law.

In the Middle Ages, beginning from the 11th century, some Turkic rulers proclaimed new religions to the rank of official state religion, respectively, new laws were introduced in these states. Such a ruling

elite ignored ordinary Turkic law, ignored the continuity of customary law and legislative innovation, thereby creating a disconnection of the people from their real rights. Since the alien law did not correspond to the mentality of the people, its traditions and domestic legal relations, the ruling elite enforced these rights with the help of state coercion. Therefore, in these states there was a constant internal struggle between supporters of ordinary Turkic and alien law. Traditions say that the basis of usual-legal standards was laid down by ancient norms, originating from the famous Yassy of the founder of Khan’s the empire, adopted at the beginning of the 13th century and the basis of customary law of many nomadic people [1, 151].

In 1206 Companions of Temujin at the general meeting Kurultai with full unanimity proclaimed him as Chingizkhan, the emperor, absolute, autocratic. He was raised on a felt above the heads of a crowd of associates in accordance with ancient nomadic customs and all expressed loudly their agreement to obey him. Chingizkhan vowed to abide by laws and obey them. These laws were called Yassy or

Tura – two Turkic words, of which the first means “code”, the second – “custom”, customary law, charter.

Companions of Temujin voluntarily adopted the laws of Yassy. In obedience to the khan and the laws of Yassy, they saw the highest goal of their life. They did not submit to the arbitrariness of the khan, but to the laws to which the khan himself obeyed. Chingizkhan all his life remained the exact executor of this fair law, in which the ancient customs of the Turks and Mongols were encoded.

According to the accepted order, the khan had the right to demand compliance with the law, but without violating it. Yassy was divided into two large sections:

1. *Bilik – a collection of “Sayings” of Chingizkhan himself, which contained the thoughts, instructions and decisions of the legislator, both general, theoretical in nature, and expressed regarding various specific cases;*

2. *Actually, “Yassy” is a set of encoded ancient customs and rights.*

The legal content of the Great Yassy became the normative life of the Mongolian and Turkic people and regulated all aspects of public life, including the criminal liability of the appropriate punishment and execution. Yassy prescribed tolerance in matters of religion, reverence for temples, holy places, clergy and elders, as well as mercy for the poor, etc.

In Yassy, the death penalty persecuted those who dared to call themselves khan, not being elected as special kurultai. Death threatened those who were convicted of deceit, betrayal of perjury, as well as the non-return of weapons accidentally lost by the owner in a campaign or in battle. The laws protected women and were very strict in relation to violators of their rights: rape of a married woman was punishable by death, the seducer of the girl should immediately marry her. Rape was considered the most serious crime. The punishment for serious crimes was the death penalty; corporal punishment, fines, or exile to remote places relied on minor crimes.

The main idea of Yasa can be expressed in one word – unity. Only with its adoption did the Mongols feel for the first time that they were one people.

The Great Yassy Chingizkhan instilled in the Mongols perseverance, solidarity, discipline, the ability to subordinate their emotional impulses (fear, greed) in the name of a lofty goal – victory, the achievement of the common good. If the laws were followed, all the duties of a citizen were fulfilled, then, if necessary, the whole power of the Horde came to its defense.

The most detailed information about the decisions of the “Yassy” we find from the Persian historian of the 13th century Juvaini. According to Juvaini, Chingizkhan “Yassy” was written in Uyghur scrolls (tumar) and was called the “Great Book of Yassy.” These scrolls were kept by reputable princes – experts on the Yassy; upon the accession of the new khan to the throne, these scrolls were brought to discuss state affairs and their decisions, and on their basis affairs were completed. “Yassy” was not preserved in the original and is known only in passages and abbreviations of Juvaini, Rashid ad – Dina, Ibn Batuta, Makrizi, etc.

In historical literature there are different opinions on the name of the law Great Yassy, In particular, V.A. Ryzanovsky, who was engaged in the study of the Great Yassy, wrote: “The word Yassy means a ban, a charter, a law ... The Great Yassy represents a written legislative monument published by Chingizkhan” [2, 4].

Academician B. Ya. Vladimirtsov emphasized “that according to usual legal standards, one can make an attempt to describe the evolution of Mongols’ the social system, carefully justify each step with appropriate texts” [3, 3].

The Mongols really looked at Yassy as the gospel or the Quran. It should also be noted that Chingizkhan’s decree was mandatory not only for all the inhabitants of the empire, but also for the khans themselves. But the “Yassy” were violated by both the inhabitants of the empire and for the khans themselves. This was due to the fact that the “Yassy” of Chingizkhan regulated only the norms of nomadic life. In most countries conquered by the Mongols, particularly in Central Asia and Iran, where their legal traditions had existed since ancient times, it was extremely difficult to subjugate the population to the new law.

Chingizkhan ordered: “If someone from our Uruga violates Yassy, which is approved, once, let him be spoken. If he violates it twice, let him be punished according to the bilik, and for the third time let him be sent to the distant locality Baljin – Kuldzhur. After he goes down there and returns back, he will come to his senses. If he is not corrected, then let him determine the shackles and the dungeon. If he leaves there, having learned the adab (norms of behavior), and becomes rational, all the better, otherwise let all his close and distant relatives gather, take advice and decide what to do with him” [4, 227].

It should also be noted that every nation that refuses to recognize the supreme authority of the great khan was regarded as rebellious.

Great Yassy – an ancient codified customary law entered the flesh and blood of many nomadic people, different in their ethnicity, but similar in type of activity. Having arisen on the basis of the tribal customs of the Mongolian military tribal squads, customary law served for several centuries for both Kazakhs and Kalmyks.

The main provisions of oral law are the same everywhere, the details varied in time and space [5, 22].

Therefore, Chingizkhan confirmed the importance and recognized strength of a number of ancient norms at the beginning of the XVI century according to series of court decisions. This act entered the history as the “Establishment of Kasym Khan”, or (“Kasym khannyn kaska zholy”). These Codes are found in biys’ judicial decisions of the 19th century. When confirming the power of the ancients, usual – legal standards. A similar legal establishment is

attributed to Yesim Khan, who lived at the end of the XVI – beginning of the XVII centuries. It entered the history as “Code of Yesim Khan”, “Yesim khannyn yeski zholy” (Yesim khan’s old path). Thus, the legal system of the Kazakh nomadic society at the end of the XVI – beginning of the XVII centuries was made up by the norms of rights codified by Kasym Khan and Yesim Khan.

Subsequently, as history testifies, a significant codification of customs was adopted by a famous Khan Tauke.

According to a tradition Chingizkhan gathered seven biys in the Kul-Tobe tract, including the famous Tole bi. They combined the old customs of Kasim and Yesim khans, into the new customs of the “Zheti Zhargy”, which were not recorded in writing, the compilers wrote them in the form of short sayings and proverbs, in which a significant part was brought to this day.

Tauke Khan’s “Zheti Zhargy” became the basis of customs that regulated the legal relations of Kirghiz people of Malaya Orda.

Remaining basically unchanged, the Tauke Khan Code provided the same types of punishment as the famous Chingizkhan Yassy.

The laws of Tauke Khan regulated all aspects of Kazakh nomadic society’s life at the end of the XVII – beginning of the XVIII centuries and served as the basis of the usual-legal system for subsequent centuries.

The superiority of Chingizkhan yassy’s laws and ordinary rights of nomadic people are observed in the article.

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