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Medieval Quibbling: *Yāsā* as Legal Concept between Mongols, Mamluks, and Ottomans

INTRODUCTION

I first met Reuven Amitai over twenty years ago—at a time when we still had cold winters in Germany—at a conference at the Marksburg in Braubach, a romantic thirteenth century castle high above the Rhine river. I had known the place since childhood, as I had visited it with my grandfather more than once. It was an unlikely setting to encounter Israeli scholars, but the European Castle Institute had invited international experts on Crusader castles and towns to this medieval town while it snowed quite heavily outside.

I was thrilled to meet one of the great scholars of Mamluk Studies, and it turned out that he knew about me, though I had just published my thesis on the Syrian Palestinian coast in Mamluk times after the expulsion of the Crusaders. We had a good time there, as Reuven is a very lively and straightforward person as long as you do not criticize the works of David Ayalon too much. I remember as well that during Reuven's presentation on Mamluk epigraphy in Palestine I heard for the first time the English phrase "without further ado." It has stayed with me since. After this remarkable encounter I was thankful that he invited me to Israel several times to give talks. That meant a lot to me as a young German, given the atrocities committed toward Jews in the twentieth century. But unease was never felt among Mamlukists and when we moved to our new house in Marburg, Reuven presented me with a Hebrew Hamza amulet to protect it; so far the house is still standing, so it worked. I am thankful to have met and to know Reuven Amitai.

Now, without further ado, I will switch to the actual topic of the paper: the colorful history of the *yāsā* across the centuries and regions of the Middle East. Why write another article on the impact of Mongol *yāsā* in the Mamluk realm? Much has been written about it already.¹ We have a pretty good idea of how the

¹To name just a few remarkable articles on the topic: David O. Morgan, "The 'Great "yāsā" of Chingiz Khan' and Mongol Law in the İlkhānate," *Bulletin of the School of Oriental and African Studies* 49 (1986): 163–76; idem, "The 'Great Yasa of Chingiz Khan' Revisited," in *Mongols, Turks, and Others: Eurasian Nomads and the Sedentary World*, ed. Reuven Amitai and Michal Biran (Leiden, 2005), 291–308; Robert Irwin, "What the Partridge Told the Eagle: A Neglected Arabic Source on Chingiz Khan and the Early History of the Mongols," in *The Mongol Empire and its Legacy*, ed. Reuven Amitai-Preiss and David Morgan (Leiden, 1999), 5–11; David Ayalon, "The Great Yāsa of Chingiz Khān: A Reexamination," *Studia Islamica* 33 (1971): 97–140; 34 (1971): 151–80; 36 (1972): 113–58;



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DOI: [10.6082/qcpf-dv68](https://doi.org/10.6082/qcpf-dv68). (<https://doi.org/10.6082/qcpf-dv68>)

DOI of Vol. XXVII: [10.6082/msr27](https://doi.org/10.6082/msr27). See <https://doi.org/10.6082/msr2024> to download the full volume or individual articles. This work is made available under a Creative Commons Attribution 4.0 International license (CC-BY). See <http://mamluk.uchicago.edu/msr.html> for more information about copyright and open access.

negative Mamluk discussion about the *yāsā* was heavily influenced by anti-Mongol sentiments during the Mamluk-Ilkhanid wars and then further cemented by the “dishonest” al-Maqrīzī (d. 1442), as summed up recently by Reuven himself.²

The goal of this article is to come up with some new angles on the Mamluk-Mongol *yāsā* discussion and, hopefully, to add to points raised by Reuven in his work. Thus, it will put the discussion of *yāsā* in the Mongol context before turning to the negative image of it in the Mamluk sources up to the mid-fifteenth century.

Lately, research has shown that *yāsā*—as a Turkish-Mongol legacy term—lived on outside the Arab territories with a positive connotation. With this more positive meaning, *yāsā* made a reappearance in Egypt in late Mamluk and Ottoman sources. This might have to do with the fact that the Ottomans, unlike the Mamluks, had not been militarily or politically challenged by the Mongols. The period of Mongol rule was over when the Ottoman sultanate was at its peak in the early sixteenth century. For the Ottomans, as will be shown, *yāsā* was just one legal term out of a toolbox of Turkish-Mongol legal terminology, whereas for the Arabic-speaking Mamluk legal scholars it might have come across as more foreign and intrusive in the Arab-Islamic legal context, thereby threatening the holy language of the Quran. Mamluk scholars were, therefore, opposed to the term—whether it was used by Mongols in the thirteenth or fourteenth centuries or by Ottomans in the fifteenth or sixteenth centuries—as they deemed it contrary to Islamic principles and diminishing the role of legal scholars. This development will constitute the subject of the second part of the article.

The aims of the article are to offer a comprehensive overview of the history of the term *yāsā* and its interpretation through time and space and to show how important Turkish and Mongol legal and political concepts shaped the Middle East and complemented Arab and Persian perspectives. In doing so it will be following in the footsteps of Reuven Amitai, who wrote: “Without taking into account the role of the Turks and the Mongols in the Middle East, we cannot fully comprehend the political, social, economic, religious and cultural developments of this region: The Turks and Mongols have a decisive impact on it all.”³

38 (1973): 107–56; reprinted in idem, *Outsiders in the Land of Islam: Mamluks, Mongols, and Eunuchs* (London, 1988); Igor de Rachewiltz, “Some Reflections on Činggis Qan’s *Jasay*,” *East Asian History* 6 (1993): 91–104; Denise Aigle, “Mongol Law versus Islamic Law: Myth and Reality,” in *The Mongol Empire between Myth and Reality, Studies in Anthropological History* by Denise Aigle (Leiden, 2015), 134–56.

²Reuven Amitai, *From Turks to Mongols: David Ayalon’s Vision of the Eurasian Steppe in Islamic History*, Ulrich Haarmann Memorial Lecture 19, ed. Stephan Conermann (Berlin, 2019), 19–24.

³*Ibid.*, 28.



THE MONGOL YĀSĀ

For someone who is more acquainted with Mamluk sources it is quite a tricky task to explain what the Mongol *yāsā* could have been without being too biased by Mamluk legal discussion. The aim here, however, is to first summarize the Mongol information available on the *yāsā* before bringing into play the Mamluk evidence in the next section.

About the literal meaning, we read in the *Encyclopaedia Iranica* that *yāsā* (Turkish *Yasaq*; Mongolian *jasagh*) means “law, decree, order.”⁴ Something has to be put in order or organized through the *yāsā* and the one issuing the orders needs to have the necessary authority to do so. A major obstacle for looking at the term seems to be that we lack primary Mongolian sources on the subject.

The major Mongol source for the early history of Chinggis Khan is *The Secret History of the Mongols*, which might have been written in the thirteenth century but survives only in Chinese transcription of the original Mongolian from the late fourteenth century. This means that changes could have been introduced in the transmission of the original text into the Chinese language and the Chinese cultural context. The term *yāsā* (*jasaq*) occurs nine times in the text in definite legal contexts, which shows that it is not frequently used. According to its English translator, Igor de Rachewiltz, however, these references indicate that at some stage there was in fact a coherent written legal document, i.e., the Great *Yāsā* of Chinggis Khan.⁵ David Morgan, on the other hand, argues that *yāsā* as a term means more specific decrees or orders. According to Morgan, the absence of an original written legal text suggests that *yāsā* rules were orally transmitted or only partially collected in writing.⁶ Whatever the case, the Mongols had a set of written or orally transmitted rules that were called *yāsā* and, moreover, became known as the Great *Yāsā* of Chinggis Khan after the huge success of the Mongol conquests.

De Rachewiltz argues, based on *The Secret History of the Mongols*, that the *yāsā* had been elaborated during the lifetime of Chinggis Khan. Around 1206 at the famous Mongol assembly (*quriltai*) of 1206, where Chinggis Khan was proclaimed leader of all Mongols, a kind of binding law system was already in place that should then have been “closed” at the death of the Mongol leader in 1227.⁷ He suggests, based on examination of Chinese sources, that these laws were then probably written down under Chinggis Khan’s heirs.⁸

⁴Peter Jackson, “Yāsā,” *Encyclopaedia Iranica* (2013), <http://www.iranicaonline.org/articles/yasa-law-code>.

⁵de Rachewiltz, “Some Reflections,” 97.

⁶Morgan, “‘Great Yasa’ Revisited,” 300.

⁷de Rachewiltz, “Some Reflections,” 102.

⁸*Ibid.*, 94.



Morgan counters that there is no convincing evidence that such a law collection existed as a written codex in 1206. He opts for a definition of *yāsā* as a loosely connected set of laws that were well known to the administration of the emerging Mongol Empire.⁹

What we can deduce, however, is that the Mongols started their conquests with specific rules that can be called *yāsā* regulations or a *yāsā* system, whether written or oral. Glimpses of this system can be reconstructed by identifying a few scattered mentions in the sources, but we cannot expect to gain a complete picture.

As will be seen in the next part of this article, we also have to be aware that some of this information comes from sources hostile to the Mongols, whose aim was not to praise Mongol legal regulations but rather the contrary.

A central author in our context, who was favorable to the Mongols, is the Persian Juvaynī (d. 1283), who, as an official of the Mongol Empire, wrote the *Tārīkh-i Jahān-gushā* (History of the world-conqueror). As a high-ranking official and governor of Baghdad after its fall to the Mongols in 1258, Juvaynī certainly had considerable insight into internal matters of the empire.

He states, regarding the law-making process under Chinggis Khan, that “In accordance and agreement with his own mind he established a rule for every occasion and a regulation for every circumstance; while for every crime he fixed a penalty . . . and that those *yasas* and ordinances should be written down on rolls. These rolls are called the *Great book of Yasas* and are kept in the treasury of the chief princes.”¹⁰ When the great khan Güyük, a grandson of Chinggis Khan, followed his father, Ögedei, on the throne after a troublesome succession process in 1246, Juvaynī recalls that “first of all he made a *yasa* that such ordinances and commands as had previously been issued by Chingiz-Khan should be maintained, and secured, and protected against the evils of change, and alteration, and confusion.”¹¹ This suggests that *yāsā* regulations were a factor in the legal continuity of the Mongol Empire and had such an important role that their maintenance became part of the dynastic protocol at the coronation of new rulers.

As for the use and contents of the *yāsā*, Michael Hope argues that it “was used to stratify the Mongol polity and regulate its internal relationships in accordance with the perceived will of Chinggis Khan.”¹² Hope then mentions the

⁹David Morgan, *The Mongols* (Oxford, 2007), 83–87.

¹⁰‘Alā’ al-Dīn ‘Aṭā Malik Juvaynī, *The History of the World-Conqueror*, trans. John Andrew Boyle (Manchester, 1958), 1:25; see as well: Aigle, “Mongol Law,” 138.

¹¹Juvaynī, *History*, 1:189.

¹²Michael Hope, *Power, Politics, and Tradition in the Mongol Empire and the Ilkhānate of Iran* (Oxford, 2016), 54.



following fields that were important for the Mongol legal discourse and where the society should be shaped through laws: the military system, taxation, and property rights. He argues as well that the *yāsā* regulations privileged especially members of the Chinggisid household but contained general social elements as well. The appropriation of the property of a deceased person was forbidden, for example, as the inheritance was used to provide for widows and children. Hope says that the *yāsā* created some kind of “collegial” rule to the government.¹³

In his review of Hope’s book, however, Amitai is not convinced by this. He contends that the recurrent use of “*jasaq (yasaq) and yosun*” or “law(s) and tradition(s)” in Ilkhanid contexts does not hint at a collegial approach, since it was often used to discredit an opponent by saying that the person would not follow “*jasaq (yasaq) and yosun*” (in contrast, of course, with the person making the accusation).¹⁴

With the Mongol conquest came contact with a variety of religions and sects among the conquered peoples. The Mongols’ own practices and beliefs are usually classified as Shamanistic. According to Chinggisid concepts, their khans ruled through the will of *Möngke-Tenggeri* (Eternal Heaven) who had a superiority over other spiritual and human beings.¹⁵ Still, as Brack puts it, “Divine favor was revealed only through empirical proof in the form of political and military success.” Heaven had places for many religious stars as long as the Mongols were advancing.¹⁶

It was, however, not a concept that could be easily translated into the monotheistic frame of the Abrahamic religions. In any case, the Mongols were not religious missionaries. They expected conquered peoples and governments to obey the khan. John of Plano Carpini, an Italian Franciscan who travelled in the service of the pope to the Mongols in 1246, noticed that they would not force anyone to renounce their faith and follow the creed of the Mongols, which for him had to do with the fact that they had no written (religious) book. The Mongols were perceived as religiously tolerant or indifferent as this was the best way to get along with the many different ethnicities and religious groups they ruled.¹⁷

Once they had conquered Baghdad in 1258, though, things started to become more complicated. The Mongols had not only ended the Abbasid caliphate but

¹³Ibid., 55, 56.

¹⁴Reuven Amitai, review of *Power, Politics, and Tradition in the Mongol Empire and the Ilkhānate of Iran*, by Michael Hope,” *Journal of the American Oriental Society* 139, no. 3 (2019): 738.

¹⁵Hope, *Power*, 33; Morgan, *Mongols*, 37.

¹⁶Jonathan Brack, “Theologies of Auspicious Kingship: The Islamization of Chinggisid Sacral Kingship in the Islamic World,” *Comparative Studies in Society and History* 60 (2018): 1161–62.

¹⁷Aigle, “Mongol Law,” 152.



also killed the highest representative of Sunni Islam without replacing him adequately, so their Muslim subjects were quite confused. At first, end of the world scenarios became popular among Muslims, which was, of course, not favorable to the operation of a functioning state, and even less so when the ties of the Ilkhanate in Iran with the central Mongol authority in northern China under Qubilai Khan (r. 1264–94) loosened in the following years.

When the Ilkhans and their army became a minority ruling newly conquered Muslim territory, it at first resulted in the dichotomy of an urban capital—i.e., Baghdad—and a mobile one—the camp of the khan and the military (*ordo*). Baghdad maintained its role as official capital while the khan exercised military authority from his tent city. This also kept the judicial and religious spheres apart and separated the nomadic Turco-Mongol population from the sedentary non-Mongols.¹⁸ In the following years the role of Baghdad improved as it developed into a favorite winter pasture of the Mongol camp.¹⁹

Overall, a process of acculturation took place which led to increased intermingling of different layers of the society. Many rank-and-file Mongol soldiers did convert to Islam, which convinced the Ilkhanid nobility and the rulers to do the same and to blend into the cultural fabric of the society.²⁰ When Ghāzān Khan converted to Islam in 1295 he let the Mamluks know that there was no longer any religious impediment to recognizing the Mongols as superior.²¹

Despite their conversion, however, the Mongols still used older models of government and judicial administration like the *yāsā* regulations, while also combining these with Islamic law and Muslim concepts of sovereignty. When the two norms came into conflict, it seems that they dealt with it practically.

Needless to say, the Mamluks could never agree to the speech allegedly given by Mongol army commander Quṭlugh-Shāh Noyan to the Mamluk scholar Ibn Taymīyah (d. 1328) in 1299 when the Mongols had invaded Syria. According to Quṭlugh-Shāh, “God had sealed the line of prophets with Muḥammad and Chingiz Khan and . . . anyone who did not obey him was considered a rebel.”²²

¹⁸See: Hend Gilli-Elewy, “The Mongol Court in Baghdad: The Juwaynī Brothers between Local Court and Central Court,” in *Court Cultures in the Muslim World: Seventh to Nineteenth Centuries*, ed. Albrecht Fuess and Jan Peter Hartung (London, 2011), 168–81.

¹⁹Michal Biran. “Baghdad under Mongol Rule,” in *Baghdad: From Its Beginnings to the 14th Century*, ed. Jens Scheiner and Isabel Toral-Niehoff (Leiden, 2022), 285–315.

²⁰Charles Melville, “Pādshāh-i Islām: Conversion of Sultan Mahmūd Ghāzān Khan,” *Pembroke Papers* 1:159–77; See also: Peter Jackson, *The Mongols and The Islamic World: From Conquest to Conversion* (New Haven, 2017).

²¹Hope, *Power*, 160.

²²*Ibid.*, 161.



Ilkhanid rule based itself henceforth on both *yāsā* and *shari‘ah*, but this was not acceptable to the Mamluks.

MAMLUK DISCUSSION OF THE *YĀSĀ*

The Mamluks, of course, had their own ideas about the Mongols’ self-declared superiority. Through their victory at ‘Ayn Jālūt in 1260 they had shown the Muslim world that they could defeat the Mongols, but the Mongols continued to pressure the Mamluks militarily and claim overlordship. For our purpose, the exchange of letters between the Ilkhan Abaqa (r. 1265–82) and the Mamluk sultan Baybars (r. 1260–77) found in Mamluk sources is quite telling. Baybars refuses to submit to the Mongol ruler: “How can accord come about? Today the *yāsāh* which we have is greater than the *yāsāh* of Chinggis Khan. God has given us the rule over 40 kings.”²³

The obvious question that arises here is what to do with this idea of a Mamluk *yāsā*. I think we should not have to take it literally. I suggest that it was meant to signify that the Mamluk sultan’s rule was based on a superior system of governance and that Islam and *shari‘ah* were the superior law.

It was, of course, also a special figure of speech used by rulers in general and Baybars in particular. By doing so he connected the Mamluk *yāsā* (*shari‘ah*) to the Mongol *yāsā* and claimed the superiority of the former. In another example of such a method of argumentation, Baybars wrote a letter to Hugh III of Lusignan (r. 1235–84), the king of Cyprus, referring to the Mamluk military successes on land in Palestine against the Crusaders while conceding Mamluk naval weakness. Baybars argued that it was much easier to conquer ships than fortresses. His message culminated with the following statement: “Your horses are ships, but our ships are horses.”²⁴ Like the idea of a Mamluk *yāsā*, this phrase should not be taken literally; it clearly meant that the Mamluks had a better military than the Cypriots.

The most well-known refutation of the Mongols in the Mamluk period was presented by the Damascene scholar Ibn Taymīyah, who had been actively involved in the fights against the Mongols at the turn of the fourteenth century and encountered the Mongols in Damascus.

Ibn Taymīyah praised the Mamluks for their victories against the Mongols and the defense of the community of believers, the *ummah*: “In respect to the group which governs Egypt and Syria in the moment, one has to acknowledge

²³Reuven Amitai-Preiss, “An Exchange of Letters in Arabic between Abaqa Īlkhān and Sultan Baybars (A.H. 667/A.D. 1268–69),” *Central Asiatic Journal* 38, no. 1 (1994): 30; Aigle, “Mongol Law,” 135.

²⁴Ibn ‘Abd al-Zāhir, *Al-Rawḍ al-zāhir fī sirat al-Malik al-Zāhir*, ed. ‘Abd al-‘Azīz al-Khuwaytīr (Riyadh, 1976), 376.



that it is them who fight for the religion of Islam. . . . Their power is the power of Islam and their degradation is the degradation of Islam. If the Tatars [Mongols] would become their masters, there would be no more power in Islam.”²⁵

Ibn Taymīyah’s anti-Mongol propaganda was later adjusted due to Ghāzān’s conversion. Ghāzān had declared that he, as a new Muslim, wanted to end the Mamluks’ unjust and tyrannical rule and he initiated several military campaigns. In 1299, Mongol forces crossed the border into Syria, inflicted defeats on the Mamluk army, and occupied Damascus but had to retreat in February of 1300 due to a lack of provisions. It seems that Ibn Taymīyah was chosen to be a member of a delegation of citizens who went to meet the Ilkhan in order to beg him to spare the lives of the Damascenes.²⁶ Amitai indicated that Ibn Taymīyah overcame his disdain for the Mongols in order to help secure the lives of the local Muslims against the Mongol intruders.²⁷

Still, Ibn Taymīyah subsequently continued his preaching against the Ilkhanids and commented negatively on their alleged adherence to Islam. In a legal fatwa he explained why Muslims should continue to fight the Mongols. He presented them as one of the groups against which Islam needed to fight, despite their—in his view disingenuous—conversion. According to him, there were still infidels (*al-kuffār*), polytheists (*al-mushrikūn*), and Christians among their ranks.²⁸ How, he asked, could this mixed Mongol army pretend to be Muslim?

Concerning the *yāsā*, Ibn Taymīyah said that Chinggis Khan had developed the *yāsā* according to “his reason (*‘aqlihi*) and his own opinion (*dhihnihi*).”²⁹ This was, for Ibn Taymīyah, inconceivable, as law needed divine origin and could not be based on human reasoning. According to Ibn Taymīyah, the limits of *al-siyāsah al-shar‘īyah* (“sharī‘ah politics”), which he developed in one of his main works, were clearly defined by the stipulations of the Quran and Sunnah. He argued that the exercise of government was an act of religion, the sultan being

²⁵Yahya Michot, “Textes spirituels d’Ibn Taymiyya, XIII: l’état du monde musulman vers 709/1310 (fin),” *Le Musulman* 26 (1995): 26. See on Ibn Taymīyah: Albrecht Fuess, “A ‘Medieval Islamist’ versus an ‘Arab Machiavelli’? The Legacy of the Mamluk Scholars Ibn Taymīyah (1263–1328) and Ibn Nubāta (1287–1366),” in *Order into Action: How Large-Scale Concepts of World-Order Determine Practices in the Premodern World*, ed. Klaus Oschema and Christoph Mauntel (Turnhout, 2022), 97–125.

²⁶Denise Aigle, “The Mongol Invasions of Bilād al-Shām by Ghāzān Khān and Ibn Taymīyah’s Three ‘Anti-Mongol’ Fatwas,” *Mamlūk Studies Review* 11, no. 2 (2007): 102.

²⁷Reuven Amitai, “The Mongol Occupation of Damascus in 1300: A Study of Mamluk Loyalties,” in *The Mamluks in Egyptian and Syrian Politics and Society*, ed. Michael Winter and Amalia Levanoni (Leiden, 2004), 34–35.

²⁸Aigle, “Mongol Invasions,” 98–99.

²⁹*Ibid.*, 116.



“God’s Shadow on Earth.”³⁰ Therefore, he concluded, “the rules of the associationists (*aḥkām al-mushrikīn*)—such as the *yāsā* (*ka-yāsā*) of Chinggis Khan, king of the polytheists—is most gravely contrary to the religion of Islam.”³¹

Ibn Taymīyah is not the only author depicting Ghāzān as wolf in sheep’s clothing. Amitai has shown that the famous biographer al-Ṣafadī (d. 1363) wrote that Ghāzān, despite his conversion, upheld the Mongol *yāsā* (*al-yāsā al-mughūliyah*) as a basis for his decisions.³²

No wonder that the term *yāsā* was given “bad press” in subsequent Mamluk times. Still, given the Mamluk-Mongol rivalry, it is remarkable how the narrative developed that even Mamluk sultans were allegedly using the *yāsā*.

This brings us to the main Mamluk historian of the early fifteenth century, al-Maqrīzī (d. 1442). Remarkably, al-Maqrīzī managed to put all the criticism he had toward apparently un-Islamic behavior and ordinances of the mostly Turkish-born Mamluk officials by suggesting that they would secretly follow the Mongol *yāsā*. To support this claim he introduces and relies on a supposed witness from within the administration. However, David Ayalon compellingly dismantled all these accusations, showing that, in fact, when al-Maqrīzī depicts the *yāsā*, he repeats information from the aforementioned text by Juvaynī about the Mongol administration. Nothing hints at any application of the *yāsā* by Mamluk officials.³³ The reason for these accusations is still unclear, but given the negative attitude of the Mamluk establishment toward anything Mongol, such criticism would certainly “shock” readers and enable them to demand changes in some governmental practices. Still, al-Maqrīzī and his comments seemed to have shaped the internal discourse within the Mamluk Empire to some extent, since later scholars would continue to perceive the *yāsā* as negative.

As Robert Irwin has shown, another Mamluk author and contemporary of al-Maqrīzī who wrote about the *yāsā* was Ibn ‘Arabshāh (d. 1450). Borrowing from Juvaynī as well, he describes the Mongol *yāsā* in the context of accounts of animal fables. According to Irwin, however, Ibn ‘Arabshāh’s goal was to show how the *yāsā* differed from good Islamic practice, not to describe the functioning of a Mongol legal system.³⁴

Thereafter, the term *yāsā* apparently became less used in Mamluk sources until the arrival of the Ottomans, when it experienced a renaissance, as will be shown below. It is interesting that, apparently during the fifteenth century,

³⁰Fuess, “Medieval Islamist,” 112.

³¹Aigle, “Mongol Invasions,” 96.

³²Reuven Amitai-Preiss, “Ghazan, Islam and Mongol Tradition: A View from the Mamlūk Sultanate,” *Bulletin of the School of Oriental and African Studies* 59, no. 1 (1996): 5.

³³Amitai, *From Turks to Mongols*, 19–22.

³⁴Irwin, “What the Partridge,” 10.



Arab authors increasingly rendered the term as *yasaq* instead of *yāsā*, as noted by David Ayalon, who wrote that Ibn Taghrībirdī (d. 1470) explained that the Turks had changed the spelling from *yāsā* to *yasaq* and that it remained so until his own times.³⁵

However, if we look at the context in which *yasaq* is used in Mamluk sources of the fifteenth century we still see, content-wise, a connection with descriptions of the practice of the Mongol thirteenth and early fourteenth centuries, despite using a Turkic spelling.

YĀSĀ IN THE TURCO-MONGOL CONTEXT OF THE POST-ILKHANID PERIOD

Before turning to the Ottoman use of *yāsā*/*yasaq*, we need to take a brief look at subsequent occurrences in the former Ilkhanid territories. As seen above, the Ilkhanids used a combined *yāsā*-sharīʿah system after Ghāzān Khan's conversion to Islam. Apparently, it was important to know both and to show Mongol and Muslim adherence. To administer the *yasaq* well was also used as a qualifier for one's personal ability. One example for this was that Sultan Öljeitü (r. 1304–16) kept a close eye on the *yasaq* and *yosun* (customs and habits) of his brother Sulṭān Saʿīd Ghāzān and had his orders checked officially.³⁶

Islamisation of the Golden Horde took off more seriously under Özbek Khan (r. 1313–41). When Özbek was still only a candidate to the throne, a high ranking amir warned him about his inclination to Islam: “O pādshāh, you demand that we convert, but how can we obey and comply with this demand? What grievance do we have with the *yāsā* and *yosūn* of Chinggis Khan that you summon us to the old *sharīʿa* of the Arabs?” The amir was then apparently killed by Özbek and Islamisation was carried out. Nevertheless, this account highlights the complex legal situation in Mongol regencies once their rulers turned to Islam.³⁷ As Michal Biran has pointed out, the contradictions between *yāsā* and sharīʿah, “such as the elevated position of Chinggis Khan among the Yasa's adherents and the rules of ritual slaughter,” were mostly not perceived as fundamental and coexisted peacefully for centuries with each having its own sphere of application.³⁸

³⁵ Ayalon, “The Great Yāsā” (1973): 117.

³⁶ István Vásáry, “Yāsā and Sharīʿa: Islamic Attitudes toward the Mongol Law in the Turco-Mongolian World (from the Golden Horde to Timur's Time),” in *Violence in Islamic Thought from the Mongols to European Imperialism*, ed. Robert Gleave and István T. Kristó-Nagy (Edinburgh, 2018), 72.

³⁷ *Ibid.*, 67.

³⁸ Michal Biran, *Chinggis Khan, Makers of the Muslim World* (Oxford, 2007).



For example, in a diploma from 1453 of the founder of the Crimean Khanate, Hacı I Giray (r. 1441–66), we read that the decree was issued “by the strength of the Eternal Heaven (*Mängü tängri*) and the authority of Muḥammad, the messenger of God.”³⁹ Combining Chinggisid sacral kingship with the prophethood of Muḥammad was an idea that had already been used by the Ilkhanids.⁴⁰

The same holds true for the Timurid Empire. The approach to the *yāsā* was quite ambiguous, and even more so as Timur (r. 1370–1405) used Chinggisid legitimacy alongside Islamic legitimacy. He was hailed by contemporary sources as guardian of the *yāsā*. Moreover, he had both Mongol-Chaghatay amirs and regional descendants of the Prophet swearing their allegiance to him in 1370.⁴¹ His son Shāh Rukh (r. 1405–47), in contrast, seems to have rejected the *yāsā* and implemented only Islamic law. Still, he did relate officially to the Mongol heritage.⁴²

In 1489 the Aq-Qoyunlu sultan Ya‘qūb (r. 1478–90), son of the mighty Uzun Ḥasan, decreed the eradication of the *yāsā* and the following only of shari‘ah legislation. This was met with resentment by his contemporaries and his death a year later under mysterious circumstances could be placed in the context of this legislation.⁴³

With the emergence of the Safavids and their Shi‘ite Iranian legacy, however, the Mongol *yāsā* seems to have retreated as a state concept to the Uzbek Sultanate. After Shaybani Khan (r. 1500–10) captured Samarqand from the Timurids in 1500, he apparently ruled by applying the *yāsā* and the shari‘ah in their distinct spheres.⁴⁴

THE OTTOMANS AND THE YASAQ/YĀSĀ

The Ottomans did not perceive themselves as heirs to the Mongols but as dynastic descendants of Turkish tribes and guardians of Sunni Islam, and, therefore, as adherents of the shari‘ah. Still, their legal approach was flexible when it came to state interests: reigning sultans legally had a say in state affairs and religious scholars did try to make adjustments. The role of the ruler in law-making seems

³⁹Vásáry, “Yāsā and Shari‘a,” 78.

⁴⁰Brack, “Theologies of Auspicious Kingship,” 1167.

⁴¹Tilman Nagel, *Timur der Eroberer und die islamische Welt des späten Mittelalters* (Munich, 1993), 119.

⁴²Jackson, “Yāsā”; see also: Beatrice Manz, *Power, Politics and Religion in Timurid Iran* (Cambridge, 2010); Evrim Binbaş, “The Timurids and the Mongol Empire,” in *The Mongol World*, ed. Timothy May and Michael Hope (London, 2022), 936–52.

⁴³David Morgan, *Medieval Persia 1040–1797* (London, 1997), 106.

⁴⁴Ken‘ichi Isogai, “Yasa and Shari‘a in Early 16th Century-Central Asia,” *Cahiers d’asie centrale* 3, no. 4 (1997): 91–103.



to have been greater in the Ottoman Sultanate than in other Islamic entities like the Mamluk Sultanate. A famous example of a legal understanding that puts the state's interests first is the so-called law book (*Qānūn-nāmah*) of Sultan Mehmed II (r. 1444–46 and 1451–81), which stipulated fratricide as an obligation for Ottoman rulers.⁴⁵ This regulation was found in neither the *yāsā* nor the *shari'ah*.

This creative and autonomous law giving process as sign of the sultan's sovereignty led to Ottoman laws which were called *yāsā* or *qānūn*.⁴⁶ For example, when the author Abdülvasi Çelebi writes about Mehmed I's (r. 1413–21) campaign in Thrace, he states: "Everywhere he went, he made laws (*yasağ*) for justice."⁴⁷ This does hint at the fact that within the fifteenth-century Ottoman Empire *yāsā* or *qānūn* were used as laws in addition to *shari'ah* legislation or as part of an overarching *shari'ah*. However, there is no hint of any Great *Yāsā* of the Ottomans.

When the Ottomans conquered the Mamluk Sultanate in 1516–17 they brought their terminology with them and the term *yasaq* made a re-appearance in late-Mamluk/early-Ottoman sources, but this time it was clearly connected to the Ottomans and not to the Mongols.

For example, when Ibn Ṭūlūn (d. 1546) wrote that in 1518 the Ottomans abolished a regulation which some had thought was from the *yasaq al-Jarākisah* (the law of the Mamluks), though in fact it had been from the *yasaq al-Akrād* (the law of the Ayyubids), and the people rejoiced.⁴⁸ Here the attitude toward the term is neutral.

Ibn Iyās (d. after 1524) depicts the introduction of new Ottoman regulations and sees them quite negatively. He reports that after 1518 all judges had to follow the *yasaq* of the Ottomans concerning the introduction of marriage fees and the need to conclude or dissolve marriage contracts exclusively in the offices of the four *qadis*. Ibn Iyās calls this a great hardship for the Muslims.⁴⁹ He complains of the rising costs of the procedures and also that this custom was alien

⁴⁵ Colin Imber, *The Ottoman Empire: The Structure of Power* (London, 2002), 109. The authenticity of the law book was questioned, but its rules were applied.

⁴⁶ *Qānūn* is another colorful legal term. It derived from Greek *kanōn* (κανών), "measure," which was used in pre-Islamic papyri in the context of taxation. "Under the Ottoman sultans, the term *qānūn* came to be applied mainly to acts in the domain of administrative and financial law and of penal law" and scholars tried to make sure that *qānūn* and *shari'ah* should not oppose each other. See Y. Linant de Bellefonds, "Kānūn," *Encyclopaedia of Islam*, 2nd ed., http://dx.doi.org/10.1163/1573-3912_islam_COM_0439.

⁴⁷ Guy Burak, "The Second Formation of Islamic Law: The Post-Mongol Context of the Ottoman Adoption of a School of Law," *Comparative Studies in Society and History* 55, no. 3 (2013): 596.

⁴⁸ Ibn Ṭūlūn, *Mufākahat al-khilān fī ḥawādith al-zamān*, ed. Muḥammad Muṣṭafá (Cairo, 1964), 2:84; Guy Burak, "Between the Kānūn of Qāyṭbāy and Ottoman Yasaq: A Note on the Ottomans' Dynastic Law," *Journal of Islamic Studies* 26, no. 1 (2015): 15.

⁴⁹ Ibn Iyās, *Badā'i' al-zuhūr fī waqā'i' al-duhūr*, ed. Muḥammad Muṣṭafá (Wiesbaden, 1961), 5:418, 424.



to the actual practice. It is not presented as having any Chinggisid connection but is clearly linked to the Ottomans.

In another instance, Ibn Iyās cites a satirical poem by a member of the official legal witnesses (*shuhūd*) against an Ottoman judge comparing him to an ugly, half-blind monster who “puts the *qānūn* before the shari‘ah of Aḥmad (Muḥammad).” The context of this was that this judge forbade women to visit graves, their relatives, and the public bath. Only after intervention did he allow women to circulate, though only in presence of their husbands.⁵⁰ The comments and the poems clearly show a disdain for these regulations introduced by the Ottomans, which seem to be called either *qānūn* or *yasaq* and which went against the usual practices of Mamluk days, which were perceived as being nearer to the shari‘ah.

Other Egyptian scholars apparently even went so far as to declare the Ottoman *yasaq* the *yasaq* of nonbelief (*yasaq al-kufr*) and went to prison for this. Others criticized the *yasaq* for not being based on the four traditional sources of Islamic law (the Quran, the Sunnah, consensus [*ijmā‘*], and syllogism [*qiyās*]).⁵¹

As to why Mamluk scholars of the early sixteenth century were so opposed to Ottoman *qānūn* and *yasaq*, Burak argues that the scholars saw them as grounded in the practices of the Ottoman dynasty and not in the legal practices of the shari‘ah from the Mamluk period. It must have been a threat to their legal authority if the sultans could make and interpret the rules without asking the scholars for their legal opinions.

In Mamluk times, sultans made use of the more flexible concept of *siyāsah* (political statecraft, see above) in their decision making, but they could not act as “lawgivers” like the famous Ottoman Sultan Süleyman (r. 1520–66).⁵² The role and influence of Mamluk scholars was now at stake.

As a personal comment I would add as well that the term *yasaq* had, over the whole period of Mamluk rule, gained such a negative connotation —as a horrible, un-Islamic, Mongol concept —that it must have been very hard to accept it entering the former Mamluk realm in an Ottoman disguise.

MODERN TURKEY AND TURKISH USE

Without pushing it too far, I would now like to complete this discussion of the *yāsā* with a short glimpse at the career the term has had in the context of twentieth-century Turkey. After the revolution of the Young Turks and the end of the Ottoman Empire, a new constitution was drafted to replace the Ottoman *Teşkilât-ı Esasiye Kanunu* (Compilation of fundamental laws). Because *qānūn*

⁵⁰Ibid., 5:467.

⁵¹Burak, “*Qānūn*,” 16–17.

⁵²Ibid., 20.



sounded too Arabic (although it is actually a derivative from Greek κανών/rule), the officials choose to use *yāsā* (as an allegedly Turkish term and concept) and combine it with “ana,” the Turkish word for mother. Thus, the 1921 constitution got the name *Türk Anayasası* (Motherlaw of the Turks), known since 1961 as *Türkiye Cumhuriyeti Anayasası* (Motherlaw of the Turkish Republic). One might guess that it was the peculiar un-Islamic, nonreligious, secular meaning of the term *yāsā* that made it attractive to the fathers of the Turkish constitution.

A second point can be mentioned here. Since 2009 there has been a Kurdish-German NGO in Bonn named “YASA” (<http://www.yasa-bonn.de/>), whose logo has a double-s section symbol, as seen in legal documents, in place of the S. It offers legal assistance in matters of integration and refuge for Kurds living in or coming to Germany. It also represents the successful longevity of a Mongol law term.

If only Chinggis Khan could have known about that.



CONCLUSION

In tracing the history of a colorful law term from the thirteenth century to the present this contribution may have raised more questions than it answered. In particular, the relationships between religious laws and secular laws in Muslim societies need more research in order to understand how norms and practices intertwined. Be that as it may, the main aim of this article was to follow Reuven Amitai’s lead as stated in the introduction: “There is no Middle Eastern History without looking at Turks and Mongols.”

By looking at descriptions and uses of *yāsā* outside of the Mamluk realm and Mamluk sources, especially in neighboring countries and the early Ottoman period in former Mamluk lands, we get a better grip on the history of the Mamluks and can refine our understanding of Mamluk society and the Mamluks’ relations with Turks and Mongols.

