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THE LAWS OF GENGHIS KHAN*

*Beverly May Carl***

I. INTRODUCTION

IN these days, when thank God, all corners of the earth are under our control and that of Genghis Khan's illustrious family, and philosophers, astronomers, scholars and historians of all religions and nations—Cathay, Machin [North and South China], India, Kashmir, Tibet, Uyghur, and other nations of Turks, Arabs, and Franks—are gathered in

* I would like to express appreciation to my nephew, Michael J. Carl, for his kind assistance in computer research for this article.

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U.S. Delegate to Conference on Private International Law, Organization of American States, Panama (1980); Adviser to the Government of Mexico on lawsuits in Alaska, California, and Puerto Rico (1976-81); and Legal Report for the United Nations on "Coastal Zone Laws in Latin America" (1977).

Short courses given in China, Mexico (Oaxaca), Taiwan, Venezuela, and Yugoslavia.

Lecture tours were made throughout India, Pakistan, Nepal, Australia, Malaysia, Thailand, Honduras, Panama, Colombia, Chile, Ecuador, Uruguay, Paraguay, Argentina, Trinidad and Tobago, and Belgium.

Ten years work for the U.S. Government included: the relief program in Nigeria for Biafra; two years in Rio de Janeiro, Brazil (foreign investment); Special Ass't. to the Deputy Assistant Secretary of the U.S. Commerce Department and attorney in the Office of International Finance of the U.S. Treasury Dep't.

Education consists of a J.D. from the University of Southern California and an LL.M. from Yale Law School, as well as fellowships for post-graduate studies at the Hague Academy of International Law, the University of Seville and the University of Madrid, Spain, a Fulbright grant for the University of Chile, and a Dana Grant for international legal studies.

droves at our glorious court, each and every one of them possesses copies of the histories, stories, and beliefs of our people.

Rashad al-Din
Compendium of Chronicles¹

In 2001, my book, *Trade and the Developing World in the 21st Century*, was published.² I would now like to call attention to a much earlier trade precedent.

Genghis Khan and his heirs conquered three billion people. Before that time, no one in Europe had heard of China; no one in China knew of Europe. Khan and his heirs organized the disjointed cities along the Silk Road into history's largest free trade zone.³

Claiming descent from the Huns of Siberia, Khan smashed the feudal system of aristocratic privilege based on birth to create a new order predicated on individual merit, loyalty, and achievement.⁴

His fame reached as far as England.
This noble king was called Genghis Khan
Who in his time was of so great renown
That there was nowhere in no region
So excellent a Lord in all things.

Geoffrey Chaucer⁵

Vestiges of this Empire remained for more than seven centuries under an eclectic assortment of titles—Khan, Emperor, Sultan, Shah, King, Emir, and Dali Lama. Under the name of “Moghul,” his descendants turned India into the world's greatest manufacturing and trading nation.⁶ They ruled in India until the British drove out Badajur Shah II and beheaded his son and grandson in order to bestow this title on Queen Victoria.⁷ What many of us consider the world's most beautiful building, the Taj Mahal, was built by Khan's descendant, Shah Jahan.⁸

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1. M. Rossabi, “The Mongols and Their Legacy,” *LEGACY OF GENGHIS KHAN: COURTLY ART AND CULTURE IN WESTERN ASIA, 1256-1353*, p. 13 (Metropolitan Museum of Art, New York, 2002), [hereinafter “Legacy”].
 2. (Transnational Publishers, Ardsley, New York). *See also*, Beverly Carl, “Shortcomings of the WTO Model,” in *LAW CULTURE & ECONOMIC DEVELOPMENT* (ed. Norton & Rogers), Brit. Inst. Int'l. & Comp. Law (2007) and “Current Trade Problems of Developing Nations,” in *LEGAL ISSUES OF INTERNATIONAL TRADE* (ed. P. Sarcevic & Hans van Houtte, Martinus Nijhoff, 1990).
 3. JACK WEATHERFORD, *GENGHIS KHAN AND THE MAKING OF THE MODERN WORLD* xix (2004) [hereinafter “Weatherford”].
 4. *Id.*; *see* “Mongol History and Chronology From Ancient Times,” <http://www.coldsiberia.org/webdoc3htm>.
 5. Weatherford, *supra* note 3, at 239.
 6. *Id.* at xx, 253.
 7. *Id.* at 263.
 8. *ART: OVER 2,500 WORKS FROM CAVE TO CONTEMPORARY* (DORLING KINDERSLEY, 2008), 291.

The Aryan, the non-Aryan, the Dravidian,
The Huns, the Pathans, and the Moghuls—
They have all merged here into one body.⁹

Nonetheless, over time the very word “Mongol” came to acquire a negative connotation in the West. The British physician, Dr. John Down, and his son claimed that imbeciles in the West came from Mongolian stock and should be regarded more as “pre-human” rather than “human.” Dr. Francis Crookshank added that, not only were these children retarded, but they also were responsible for much of the crime and feeble-mindedness in the West. Jews were likewise blamed because they had interbred with the Khazans of the Steppe tribes.¹⁰

Meanwhile, Nehru, the future leader of India, wrote to his daughter that Genghis Khan was “a most remarkable man . . . the greatest military genius and leader in history.”¹¹

My own view of the Mongols was first challenged in the 1960s during a visit to the National Art Museum in Dar Es Salaam, Tanzania where a superb collection of Chinese ceramics was displayed. They had been conveyed to East Africa during the 1300s in enormous Chinese junks under the command of Mongol officers. Conversely, soon thereafter the first live giraffe appeared in China—transported in the same way.

Over the following years, I traveled in countries once under control of the Mongols: Austria, Azerbaijan,¹² Bosnia & Herzegovina, Burma,

9. Rabindranath Tagore, “A Flight of Swans”, as quoted in ROLOFF BENY, *RAJASTAN*, (1984), p. 27.

10. Renaissance writers and explorers in Europe had treated Genghis Khan with open admiration. Europeans had not yet heard of the fall of the Mongol Empire. In 1492, Columbus, who had a copy of Marco Polo’s journals, convinced the Spanish monarchs, Isabella and Ferdinand, that by sailing west on the ocean he could reestablish sea contact with the court of the Great Khan. Weatherford, *supra* note 3, at 254; *see also*, Francis G. Crookshank, “The Mongol In Our Midst” (1924), cited in Weatherford, *supra* note 3, at 258 & 263-64.

11. Weatherford, *supra* note 3, at 260.

12. Occupying twelve percent of China’s total land mass, Inner Mongolia has become a vital source of the coal, natural gas, and rare earth elements needed to fuel the People’s Republic of China’s (PRC) economy. Ethnic Mongolians, who wish to preserve their traditional life style as herders, argue that the Chinese changes provide slight benefit to the indigenous people. Young Mongols within Inner Mongolia are chaffing under the Chinese yoke. The Mongols, who account for less than twenty percent of that region’s 24 million population, complain that the immigration of the Han Chinese is threatening the Mongolian culture. Recently, two Mongolians were run down by Han Chinese drivers. Protests by Mongolian college students erupted in June 2011.

Coal mining vehicles chew up their fragile pastureland. Recently, three shepherds who sought to block them were killed. This then prompted a demonstration in Hohhot, the capitol of this region, by hundreds of Mongolians, with banners, saying, “Protect our Grasslands.” Riot police finally broke up the protest. *See* Andrew Jacobs, “Anger over Protestors Deaths Leads to Demonstrations by Mongolians,” *New York Times* (May 31, 2011), p.A8.

The police hauled dozens of college students away, prevented others from attending the rallies, interrupted their cell phone service and shut down their Internet. Turning to a carrot and stick approach, the Chinese Government announced plans for free tuition and textbooks to Mongolian high school students, as well as \$680 million to improve drinking water, transportation, and agriculture.

Cambodia, Egypt, Georgia, Germany, Hungary, Iran, Jordan, Russia, Serbia, Syria, Tajikistan, Thailand, Turkmenistan, Turkey, Urumqi, Uzbekistan, and the Ukraine. I also lectured in China, Croatia, India, Nepal, Pakistan and Thailand—likewise all part of the Mongol empire. And lastly, I journeyed through several nations the Mongols were unable to subdue—Indonesia, Japan, and Vietnam—all surrounded by oceans.

During most of the twentieth century, Russia and China maintained an accord that divided Genghis' homeland between them. China took Inner Mongolia, the area south of the Gobi Desert.¹³ The Soviet Union claimed the territory north of the Gobi Desert and harshly punished scholars who attempted to undertake research on the Mongols.

In 1990, the Soviet occupation of Mongolia ended. The tanks and planes left. Outsiders could now enter. Scholars and researchers from all over came. After the turn of the century, I too went to see Mongolia—the least populated nation in the world.

Mongolia's capitol, Ulanbaatar, was filled with striking Russian architecture and vast ger (yurt) cities. Often the local people prefer these tent cities to closed-in rooms. With felt walls, moveable roof panels, a smoke

Officials have also vowed to prosecute the drivers accused of running down the Mongolians.

Moreover, the government promised to spend \$308 million to promote Mongolian culture and \$200 million on student subsidies. Officials also agreed that the region's coal operations would be overhauled to "insure safe production practices, protect the environment, and address the problems of the local residents." Meanwhile, the authorities have cordoned off parks and public squares, as well as attempted to protect its officials. *New York Times* (June 2, 2011), p. A6.

China has vowed to correct abuses in the coal industry, unregulated strip mining, and trucks that careen over the fragile landscapes. A death sentence was handed down to the driver convicted of running down a Mongolian herdsman. In a United Nation's Report, Olivier de Schutter criticized China's nomad resettlement programs as "overly coercive." He continued that these programs "increased poverty, environmental desegregation and social breakdown." Andrew Jacobs, "Ethnic Protests in China Have Lengthy Roots," *New York Times International*, (June 11, 2011), p. A4.

13. When I visited Azerbaijan, it was still part of the Soviet Union and one of the poorest areas in the world. Quietly, a few local people expressed to me their discontent with their Communist overlords. Today this nation is one of the wealthiest, thanks to a new oil pipeline. Gross domestic product (GDP) has tripled. In the nation's capital city, Baku, international companies are constructing costly high rises, upscale department stores, and four-star hotels. The old Soviet-style apartments are being torn down. Although not very attractive, they did provide shelter. Now their inhabitants are being forced out of their apartments. At the same time, the salaries of many middle class families have lagged. Replacement apartments are too far away from their workplaces. According to the Human Rights Watch, hundreds of citizens in central Baku have lost their living quarters in the last two years. The government pays about \$1,900 per square yard whereas independent appraisals for properties in the center of the city would be about \$5,000 per square yard. Amanda Erickson, "Middle-Class Families Face Evictions in Booming Azerbaijan", *New York Times* (Aug. 11, 2011), p. A7.

Meanwhile, the authorities in Baku have bulldozed the offices of an activist who has been campaigning against these forced evictions. The European Union delegation in Baku released a statement that it "deplores" the damage to her organization, "a regular partner of the international community." Ellen Barry, "Offices of Activist Bulldozed in Azerbaijan", *New York Times* (August 13, 2011), p. A8.

hole, and a stove inside, these gers proved quite comfortable. The gaily painted modular beds, vanities, and tables can easily be disassembled for loading on the backs of camels. A good picture of these gers can be seen in the excellent film, "A Mongolian Tale." Today a foreign tourist can opt for a Hilton hotel in this capitol. Nonetheless, I would urge the visitor to try a ger for at least a few nights.

An evening's entertainment for us in this capitol consisted of a Russian classical symphony of four movements, a Mongolian wrestling match, a three-act classical ballet, Chinese acrobats, and Mongolian folk dances accompanied by exotic stringed instruments. The next day, we were treated to races of the small, powerful Mongolian horses.

The National Museum of Mongolia was a delight. Of particular merit were the fine works by their beloved sculptor, Zanabazar, a monk (1635-1723). One exquisite piece of his represents the tender embrace of the male and female cosmic forces.¹⁴

We also enjoyed a distinctive type of Mongolian "throat singing," or overtone singing. Here, the men make sounds from so deep inside their bodies that they can follow two musical lines simultaneously.

As a child, I had been fascinated by Lloyd Chapman Andrew's discovery of dinosaur remains in the legendary Gobi desert. So it was a great thrill to travel to the Flaming Cliffs where he made his earth-shaking discoveries.¹⁵ Mongolia is also one of the few places in the world where the elusive snow leopard can still be found.¹⁶

II. MILITARY TACTICS OF GENGHIS

Mongol herders had scant control over their environment. The high Altai Mountains to the west and the Khentai Mountains to the east hemmed them in. To the south lay the Gobi Desert. Most people lived in the small steppes region of the Center. They and their animals were subject to heavy snow, ice, and droughts. During times of disaster, they looked to trade with China for food and goods. But Mongolia had little that China wanted, so the Mongols resorted to military force.

They traveled with no commissary, no supply wagons, no infantry, and no siege engines. Instead they created an engineers' corp, which could build whatever was needed on the spot. Hunting supplied most of their meat, and local plants provided food for their animals.¹⁷ Generally, they crossed the deserts during the winter months. They did not bury their

14. THREE THOUSAND YEARS OF ART; THE STORY OF HUMAN CREATIVITY ACROSS TIME AND SPACE, PHAIDON, 800 (2007).

15. He did, however, make one mistake. Finding a clutch of eggs over which was spread an adult skeleton, he named it, "Ovoraptor" (Egg Thief). Today modern tests have revealed that the adult and the eggs have the same DNA, so this was most likely a mother protecting her young.

16. Natalie Angier, "A Forbidding Kingdom of Snow Leopards," *New York Times* (July 26, 2011), p. D1.

17. Weatherford, *supra* note 3, at 86-87.

dead, but rather left them to the care of the “Eternal Blue Sky.”¹⁸

Each man carried only what he needed: his deel (traditional wool robe), the pants he wore, fur hat with ear flaps, and boots. They had flints to make fire, leather canteens for water and milk, a needle for sewing, files to sharpen arrows, a lasso, and a skin bag. Each squad of ten carried a tent.

Their army consisted exclusively of cavalry with no foot soldiers. Their success lay not so much in cruelty as in speed and efficiency.¹⁹ They traveled with no supply train.²⁰ Often they would place raw meat under their saddles to be tenderized as they rode. They included a large reserve of horses—used for hunting and looting.

Each Mongol unit of 1,000 had a medical unit, including Chinese doctors.²¹ Communications could not be written because most of the men were illiterate. To ensure proper memorization, orders were often composed in rhyme. For the soldiers, hearing a message could be like learning a new verse to a song already known.²²

By 1204, Genghis had conquered all of Mongolia and within five years much of Siberia. In 1214, they besieged the court of the Golden Khan (Beijing), who agreed to a settlement. He gave Genghis large amounts of silk, 3,000 horses, 500 young men and women, as well as accepted the role of his vassal. Genghis Khan gave him a royal princess as a wife.²³

Genghis Khan showed no interest in ruling captured areas so long as he could obtain the goods he wanted. After concluding such arrangements, and when summer began, Genghis Khan and his troops returned home. Moreover, in the traditional Chinese view, victory came to those whom Heaven favored.²⁴ Soon he had far more goods than he needed, and he decided to use them to stimulate trade.

Fear of the Mongols was inspired more by their speed and efficiency than by their ferocity.²⁵ They did not torture, mutilate or maim. Khan did eliminate the vicious Assassins, a heretical Moslem sect, prone to terror and murder.²⁶ The English scientist Roger Bacon argued, in the 13th century, the Mongols succeeded by “means of science” and advanced so far “because they devote[d] their leisure to the principles of philosophy.”²⁷

Baghdad, Syria, Konya (Turkey), Isfahan, and Iraq were soon brought

18. *Id.* at 91.

19. *Id.*

20. *Id.*; *see also*, “Genghis Khan Dies” This Day in History—8/18/1227, <http://www.history.com/this-day-in-history/Genghis-khan-dies>.

21. Weatherford, *supra* note 3 at 116.

22. *Id.* at 88; *see also*, “A Personal History of Genghis Khan, Footprints,” http://www.greenkiwi.co.nz/footprints.mongolia/ghenghis_history.htm.

23. Weatherford, *supra* note 3, at 96.

24. *Id.* at 86.

25. *Id.* at 116.

26. *Id.* at 178-80.

27. *Id.* at xxiv.

under their dominion. The high culture of Persia quickly reemerged.²⁸ In this region, the Mongols had accomplished in two years what the European Crusaders had failed to do in two centuries.²⁹

The Mongols then launched a campaign against Europe, which stretched over 5,000 miles and five years. It required 50,000 Mongols and 100,000 allies. Thus began a three-year campaign over regions that would become Russia and the Ukraine. Surrounding a city, they would build an outer wall, seal off the gates, and then catapults rained down flaming rockets, pots of naphtha, and grenades over the walls.³⁰

When they attacked Kiev, the populace sought refuge in the Church of the Virgin. Their numbers and weight were so great the church collapsed.³¹ This was followed by “blitzkriegs”³² against Germany, Poland, and Hungary. When European Knights charged the Mongols, they retreated slowly. After the horses, burdened with the heavily armored knights began to tire, the Mongols regrouped and attacked.³³

Having failed on the battlefield, the Knights then turned to the supernatural and had their priests parade the bones of their saints before the Mongol army. To the Mongols, the exposure to parts of dead bodies was ritually contaminating and disgusting. The fearful and angry Mongols retaliated by killing the clerics and burning their churches, priests, and relics to purify themselves. European knighthood never recovered from losing nearly 100,000 men.³⁴ The Middle Ages were doomed.

The local folks were further terrified by an eclipse of the sun a few months later. A cleric reported to the Archbishop of Bordeaux that the Mongols were “cannibals from Hell who eat the dead . . . and leave only bones which even vultures are too noble to eat.” Another priest reported they enjoyed old women and gang-raped young Christian virgins.³⁵

When these invaders moved south toward the Balkans, some clerics decided they were Jews—the missing Hebrew tribes. In response, European Christians proceeded to burn Jewish homes and massacre their residents.³⁶

Soon the Mongols turned home toward Mongolia. The tall forests of Europe could not feed so many horses. With five horses for each man, it was crucial to return to Mongolia’s grassy pasture lands.

Throughout history, the Mongols were accused of having killed millions of people: *e.g.*, 1,747,000 in the battle of Nishnapur; 2,400,000 in Herat, and 15 million in Central Asia. Although accepted as fact and

28. *Id.* at 178-79.

29. *Id.* at 184.

30. *Id.* at 145-47.

31. *Id.* at 150.

32. *Id.* at 152.

33. *Id.* at 152-53.

34. *Id.* at 154; see “A Personal History of Genghis Khan, Footprints,” http://www.greenkiwi.co.nz/footprints.mongolia/ghenghis_history.htm.

35. Weatherford, *supra* note 3, at xvii, 150-55.

36. *Id.* at 155.

repeated throughout history, these numbers have no basis in reality. Skeptics point out that had so many people lived in those cities, they could have easily overwhelmed the invaders. Moreover, the entire tribe of Mongols, including children, women, the ill, and the elderly, probably numbered less than one million.³⁷ The attacking Mongol soldiers, although swift and ferocious, could not have been that numerous.

Most world conquerors have suffered untimely deaths. Alexander the Great, died at age thirty-three under mysterious circumstances.³⁸ Julius Cesar was stabbed in the Roman Senate by his former allies. Napoleon died a lonely prisoner on one of the earth's most remote islands. In contrast, the almost seventy-year old Genghis passed away in his camp bed, surrounded by a loving family, faithful friends, and loyal soldiers.³⁹

Some think he may have left a hidden treasure trove, but none has shown up. The Chinese have built a Genghis Khan Mausoleum in Inner Mongolia to strengthen their claim as the caretaker of the Mongolian heritage.⁴⁰

III. THE EMPIRE

Within four years of Genghis' death, his sons had died and the Empire was divided up among his four grandsons. Hulegu became the Great Khan of Ilkhans (Baghdad, Iran, Iraq, Persia, Syria, and Turkey). Here the ancient Persian culture reemerged to form the foundation for modern Iran.⁴¹

Kubilai Khan received China, Korea, Manchuria, eastern Mongolia, and Tibet. He also built the capital of Khanbalik (Beijing). To promote international trade, he designated portions of this city for Middle Easterners and for Chinese. Merchants from Italy, India, and North Africa were attracted here. Scholars and doctors came to practice their trades. Catholics, Nestorians, and Buddhist priests joined Taoist and Confucian counterparts. Mechanical peacocks were installed in the gardens. Nonetheless, behind high inner walls, Kubilai and his family continued to live in gers as Steppe Mongols.⁴²

A canal was constructed to link this capitol to the Yellow River. Since shipping by water cost less than transporting by land, a boat building industry was created.

The Mongols brought the warring states of the Korean Peninsula together. Here they created a major building industry for ocean going ships. Marco Polo, who sailed from China to Persia on his return to Eu-

37. *Id.* at xviii.

38. See Richard Covington, "Mighty Macedonian: Alexander the Great", SMITHSONIAN, Nov. 2004, p.73. The Mongol Empire was five times the size of Alexander's. History of the Mongol Empire - History Overview, http://mongolempire.4t.com/hl_overview.htm.

39. Weatherford, *supra* note 3, at xx, 128.

40. JOEL LEVY, THE ATLAS OF LOST TREASURES 80 (2008).

41. Weatherford, *supra* note 3, at 191.

42. *Id.* at 198-99.

rope, described these vessels as large, four masted junks with up to 300 crewmen and as many as sixty cabins.⁴³

In addition, the Mongols helped shift the Indian cultures of Cambodia, Thailand, Laos, and Vietnam to a mixture of Chinese and Indian elements.⁴⁴

The “Golden Horde” acquired Russia and the Slavic nations of Eastern Europe. Even as late as 1908, a descendant of Genghis became a serious candidate for the Russia throne. This relationship, plus his Orthodox faith, gave him considerable prestige in Russian eyes.⁴⁵

Bukhara and Samarkand had been taken in 1220.⁴⁶ Genghis’ last bequest included the traditional peoples from the Central Steppes—Afghanistan, Pakistan, Turkmenistan, Turkestan, Uzbekistan, and Siberia. All these regions would now be ruled under the name “Mongulistan.”⁴⁷

IV. PAX MONGOLICA

The Mongol Empire was the largest contiguous land empire of all times—five times that of Alexander the Great’s. It extended from the Pacific Ocean to the Danube River.⁴⁸ Genghis Khan and his family had conquered the most densely populated civilizations of the 13th century. Nonetheless, Genghis’ goal was not simply conquest, but rather the creation of a new global order, based on trade and international law.

The Mongols probably built more bridges than anyone else in history. They transported lemons and carrots from Persia to China, as well as noodles and tea from China to the West. They spread the use of carpets everywhere.⁴⁹

Almost all nations conquered by these “barbarians” soon enjoyed a rise in culture, expanded trade, and an improved standard of living.⁵⁰ Europe acquired new foods, exotic fabrics, and bows for their stringed musical instruments.⁵¹ When the Dark Ages descended on Europe, spices had all but disappeared. Europeans were starved for pepper, cinnamon, and cloves, which the Knights had previously enjoyed during the Crusades. The Mongols brought back spices to them.⁵²

The Mongol attack paths soon gave way to commercial arteries. Scholars produced detailed maps of the Yellow River in China. New connections were made to Tibet. To reach the markets of Europe more directly,

43. *Id.* at 223.

44. *Id.* at 213. A retired U.S. submarine captain, Gavin Menzies, believes that an enormous junk crossed the Pacific Ocean and reached Oregon in 1421. IAN MORRIS, *WHY THE WEST RULES—FOR NOW* 408 (2010).

45. DOMINIC LIEVEN, *EMPIRES: THE RUSSIAN EMPIRE AND ITS RIVALS* 16 (2001).

46. Weatherford, *supra* note 3, at 3-9; “Mongol history and chronology from ancient times,” <http://www.coldsiberia.org/web/doc3.html>.

47. Weatherford, *supra* note 3, at 191.

48. “History of the Mongol Empire,” http://mongolempire.4t.com/hl_overview.htm.

49. Weatherford, *supra* note 3, at xxii.

50. *Id.* at xxiii.

51. *Id.* at xxii.

52. *Id.* at xxiv.

the Mongols encouraged foreigners to establish treaty ports along the Black Sea as early as 1225. To protect these stations, the Mongols hunted down pirates and robbers.

In a book, *Practica Della Mercatura* (Practice of Marketing) published in 1340, a Florentine merchant, Francesco Balducci Pegolotti, wrote that the routes to Mongol Cathay were “perfectly safe, whether by day or night.”⁵³ A great deal of cultural diffusion took place between the East and West.

Scholars produced detailed maps of the Yellow River in China. New connections linked Tibet to the Mongol postal system. Geographers synthesized Chinese, Arab, and Greek knowledge of geography. As early as 1267, their craftsmen constructed globes which displayed Europe, Africa, Asia, and nearby Pacific Islands.⁵⁴

Genghis’ skills came not from formal schooling, but from pragmatic learning, experiments, and adaptations. The Mongols themselves, did not make ceramics, weave textiles, nor cast metals.⁵⁵ They painted no pictures, constructed no buildings—but their armies collected these skills and passed them on from one civilization to another. The Chinese cultural prejudice had ranked merchants merely a step above robbers; the Mongols elevated their status to second only to government officials.⁵⁶

They introduced paper currency, constructed roads, and on trade routes, they stocked shelters with provisions every twenty to thirty miles. They provided low-cost loans to finance long distance trips. Messages could be sent from Korea to Persia. The Himalayas were included in their postal system. In Yunnan, the Mongol governor built a dozen dams and reservoirs that lasted until recent times.⁵⁷

These complex activities called for processing massive amounts of numerical calculations. To do so, the Mongols used the Chinese abacus, as well as adopted useful innovations from Arabic and Indian mathematics. The word “algorithm” derives from the “Al Khwarizm.”⁵⁸

They made whole systems of knowledge portable by bringing Chinese doctors to the Middle East and used Muslim physicians for their surgical skills. They created a “House of Healing”⁵⁹ near Tabriz. Rashid al-Din published the first book outside China on Chinese medicine.⁶⁰

Because the expanded empire crossed a number of time zones, the Mongols needed new kinds of calendars. To achieve this goal, they built additional observatories, equipped them with new astronomical instru-

53. M. KRONDL, *THE TASTE OF CONQUEST: THE RISE AND FALL OF THE THREE GREAT CITIES OF SPICE* (2007).

54. History of the Mongol Empire-History Overview, http://mongolempire.4t.com/hl_overview/htm.

55. Weatherford, *supra* note 3, at 223.

56. *Id.*

57. *Id.* at xxii.

58. *Id.* at 223.

59. *Id.* at 231.

60. *Id.* at 229-30.

ments, and staffed them with brilliant scientists. New knowledge from the travel writings of Marco Polo, as well as the detailed star charts of Ulugh Beg, showed that much of the received classical knowledge was wrong.⁶¹

The Persian, Al-Tusi, had joined the Assassin sect. When Hulagu (Genghis' grandson) attacked that group, Al-Tusi's life was spared. He persuaded the Mongols to employ him as a scientific adviser. Under his authority, a great center for astronomy was built east of Tehran. There he wrote *The Transversal Figure*, the first book devoted exclusively to trigonometry.⁶² Despite Al-Tusi's ground-breaking work, Professor Jim Al-Khalili concludes the title of "father of modern astronomy" should still go to Galileo, because the real proof of the heliocentric theory could occur only with the use of a modern telescope.⁶³

The Mongols, however, failed to adopt their successful strategies at sea. In an attempt to conquer Japan, their fleet was destroyed by a "Divine Wind" (tsunami). A second attempt similarly failed.⁶⁴

When lecturing in Hanoi, Vietnam, I was taken to their National Art Museum. There, proudly displayed, was a painting of an enormous Mongol-Chinese junk invading Vietnam. To defend themselves, the Vietnamese had sharpened tree trunks to points, which they then simply drove into the invaders' wooden ships. The Mongol vessels promptly sank.

During an attempt to conquer Indonesia, the Mongols were lured into an ambush and defeated.⁶⁵ A few years ago when lecturing on the island of Sulawesi, I was told by my Indonesian colleagues that the Bugi tribes there had created the world's first maritime law, e.g., "Ships may pass an on-coming vessel only on the right."

In time, those within the Mongol ambit came to enjoy a century of political peace with commercial, technical, and intellectual explosions unlike anything in prior history. In 1620, Francis Bacon, the English scientist, designated three technologies on which the modern world was built—printing, gunpowder, and the compass. All of them spread to the West during the Mongol Empire.

61. *Id.* at 236.

62. JIM AL-KHALILI, *THE HOUSE OF WISDOM; HOW ARABIC SCIENCE SAVED ANCIENT KNOWLEDGE AND GAVE US THE RENAISSANCE* 214-15 (2011).

63. For centuries astronomers had thought the sun and other planets revolved around the earth, i.e., the geocentric theory. Then Copernicus put forth the heliocentric model, asserting that the planets, including the earth, revolved around the sun. *Id.* at 222.

For a modern parallel, see Rivka Galchen, *ANNALS OF SCIENCE, DREAM MACHINE, THE MIND-EXPANDING WORLD OF QUANTUM COMPUTING*, *THE NEW YORKER*, 34, (May 2, 2011).

64. Weatherford, at p. 210-13. For further detail about these two failed invasions, see KALLIE SZCZEPANSKI, "THE MONGOL INVASIONS OF JAPAN IN 1274 AND 1281," <http://asianhistory.about.com/od/japan/a/Mongolinvasion.htm>.

65. *Id.* at 213.

In Mongol Persia, the Ikan Kahn commissioned Rashid al-Din to prepare the first History of the World. To handle this enormous amount of material, they turned to the new technology of printing.⁶⁶

Although never ruled directly by the Mongols, Western Europeans benefited greatly from this new global order. As a result of the Mongol awakening, more specialized tools became available. New crops became part of the European diet—carrots, turnips, and lemons. Paper came to replace parchment. Playing cards spread throughout the world, as did pants and noodles.⁶⁷

V. THE GREAT LAW

A holy man admonished Genghis that his power was derived from Heaven, “and that God would not fail to bless and prosper his Designs if he governed his Subjects well and justly, but that, on the contrary, he would render himself miserable if he abused that power.”⁶⁸ Unlike other

66. In the 1970s, Professor Mieke Komar and her husband, Dean Komar, arranged for me to teach “International Trade and Investment Law,” as well as “U.S. Common Law” at their University of Padjadjaran in Bandung, Indonesia. Previously, she had earned a Master’s Degree in Comparative Law (M.C.L.) at my home law school, Southern Methodist University (SMU) Dedman School of Law, with a specialization in Air Law. After helping to launch Indonesia’s aviation industry, she became the Dean of the Padjadjaran Law School. Today, she is a Justice of the Supreme Court of Indonesia.

Professor Etty Agoes, who also provided invaluable assistance to me at the Padjadjaran Law School, has been advising the Chief Admiral of the Indonesian Navy on the Law of the Sea.

Bagir Manan was a young teacher there. We helped him obtain a scholarship to earn an M.C.L. degree at the SMU Dedman School of Law. Recently, he has served as the Chief Justice of the Indonesian Supreme Court.

Professor Dr. Sunaryati Hartono was provided a research grant at the SMU Dedman School of Law. Since her return home, she has served as an adviser to President of Indonesia.

67. Weatherford, *supra* note 3, at 232-36.

68. Previously, in the Law School on Java, I had tried using the Socratic technique (common in U.S. law schools.) This method consists of giving a fact situation (or reading a judicial opinion) and asking the students to argue both sides. This approach requires the teacher to use a series of questions and the students to defend various positions. It is intended to help them see different sides of an issue, to speak up, and to defend a position. My approach failed completely because the Javanese culture considered arguing with a professor discourteous.

I was told, however, that the culture of Sumatra was different—that they were only one generation removed from head hunting and loved a good argument. It was true and, for me, a delight. Sumatra is also the home of the Orangutan (this means “Man of the Forest” in the Indonesian language). Because they are now threatened with extinction, the Indonesian Government is engaging in a major rehabilitation effort. RICHARD BANGS & CHRISTAIN KALLEN, *ISLANDS OF FIRE, ISLANDS OF SPICE: EXPLORING THE WILD PLACES OF INDONESIA* 4 (1988); see Bill Brubaker, “Mission Orangutan,” *SMITHSONIAN* (Dec. 2010), 36.

The capital of Indonesia, Jakarta, also offers a zoo with an excellent selection of indigenous wildlife, such as the Komodo dragon. More than thirty feet in length, these lizards emit a sinister hissing and can devour a man or other large animal. The Indonesian Government has confined the free roaming Komodos to a small island. Entry requires special permission. Brubaker, at 116-18.

On one visit to southern Africa, I made a side trip to Madagascar to see the lemurs. Since the lemurs have become extinct in the rest of the world, this im-

world conquerors, he never considered himself a god. He sought to unite the whole world. Everyone, including the Khan himself, was subject to the law.⁶⁹ By subjecting the ruler to the law, he did something that no other civilization had yet done.

Khan's Great Law was not based on divine revelation from God nor on an ancient code of a sedentary civilization. He drew largely on the customs and traditions of the various herding tribes, but he would likewise abolish an old practice if it hindered the functioning of his new society. The Great Law did not constitute a single codification; rather, it was an on-going body of legal work he continued for twenty years. He allowed groups to follow their own traditional law so long as it did not conflict with the Great Law.⁷⁰

Readers trained in the common law tradition may see a parallel here, that is, deriving rules from the customs and traditions of a people rather than using high level scholars to create a complex network of new and different norms. Although the concepts of "in personam jurisdiction" and "choice of law" were probably unknown to Genghis, he seemed to have had a glimmer of understanding when he said, "People conquered on different sides of the lake should be ruled on different sides of the lake."⁷¹

A. ADMINISTRATION

As far as we know, no Mongul could read or write. In 1204, Genghis employed a Uighur scribe, whose language was close to the Mongolian language. Made from letters rather than characters, it flowed vertically down the page.⁷² Around 1207, the Uighurs submitted peacefully and

mense island is the last home for a variety of them. The acrobatics of the Sifaka lemurs, high in the tree tops, was amazing. Because of a severe drought, they were hungry and, with their strange sidewise hops, were willing to approach to take a banana out of our hands. *See also*, E. Hendry, "Saving the 'Ghosts of Madagascar'", SMITHSONIAN (April 2010), 60. Still more astonishing were the people. As one might expect, about half descended from black Africans. The remainder were from Indonesians who had sailed in primitive boats a thousand years ago across thousands of miles of open ocean from Indonesia to Madagascar. Even today they retain impressive burial customs which can be traced back to Indonesia.

69. Weatherford, *supra* note 3, at xix.

70. *Id.* at 68.

71. *Id.* at 125.

72. *Id.* at 71.

On an earlier lecture tour throughout Latin America, I was introduced to Dr. Teresa Genta Fons in Uruguay. She was described to me as "one of their brightest young lawyers." I inquired if she would like to study for a Master's degree at SMU. She said "yes" and we obtained a scholarship for her.

After earning this degree, she joined the World Bank staff advising on legal reform in Mozambique. That nation had broken away from Portugal and an attempted takeover by the Communist Party failed. She was now assisting the country's efforts on legal reform and brought me there as a consultant.

A key issue for Mozambique was, which law should they select to govern their nation. Portuguese? South African? Dean Matachine of the Mozambican Law School was sponsored by the World Bank for a trip to the United States to explore

became valued administrators throughout the empire.⁷³

In the past, hostages had been threatened with death if their relatives misbehaved. Genghis transformed the system by training hostages as clerks and officials. This gave every family a direct and personal connection to his imperial court.⁷⁴

Earlier he had given his mother a Tartar child to rear; he also adopted him as a brother. Now Genghis appointed him as the Supreme Judge “to punish thieves and put right the lies.” In addition, he was to keep a record of Khan’s decisions on white paper bound in blue books—the sacred color of the Eternal Blue Sky.⁷⁵

Genghis announced himself as the liberator of the Khitan tribe and restored the Khitan monarchy as a vassal state. Khitan scholars, with their proficiency in Chinese, astrology, and law proved so valuable he then focused on attracting scholars of all sorts.⁷⁶

Under Genghis, cowherds, shepherds, and camel boys could advance to become generals. Enforcement of the law began at the highest levels. His Great Law applied as strictly to rulers as to everyone else.⁷⁷

His grandson, Khubilai Khan, did not replace Chinese law with Mongol rules; rather, he strove to make his laws compatible with both systems. Law was viewed as one more weapon in the struggle for loyalty and support from his subjects. He instituted a system of laws that was substantially milder than that of the Sung. The Mongol legal code of 1291 provided that “officials must first use reason to analyze and surmise.”⁷⁸

Moreover, he did not restore the traditional Chinese civil service exam for government officials. Those prior tests had favored the Chinese. The Mongols suspended these traditional exams throughout most of their

issues of law and development. When he was here, he expressed concern about this matter.

I suggested he could use the concepts of Private International Law (or Conflict of Laws). Since we were in New Mexico, we visited a Judge of the San Ildefonso Indian Pueblo. That judge explained he had different sources of law he could use. He could apply the Code of the San Ildefonso Pueblo or the general ethical norms of his tribe, or if appropriate, the laws of the State of New Mexico. *See also*, William E. Coffey (Koi Hosh), SIPAPU; THE STORY OF THE INDIANS OF ARIZONA AND NEW MEXICO (Van Nostrand Reinhold, 1982), pp. 104-5.

The next day, Dean Matachine and I met with a lawyer from the Navajo Indian Tribe. *Id.* at 123-39. He told us they have a Navajo Commercial Code. I asked if it were similar to the Uniform Commercial Code (of the State of New Mexico), with which I was familiar. He replied,

“Yes, except for a few special provisions. For example, after bankruptcy, the bankrupt person is allowed to retain the ‘tools of his trade.’ This gives him or her an opportunity to start over. Because the Navajo Community depends so heavily on their beautiful wool carpets our Code allows a bankrupt person to retain ‘at least fifty sheep.’”

73. Weatherford, *supra* note 3, at 71.

74. MONGOLS, GENGHIS KHAN (1165-1227), <http://www.alamo.edu/sac/history/keller/mongols.empsub1.html4>.

75. Weatherford, *supra* note 3, at 71.

76. *Id.*

77. *Id.* at 70.

78. *Id.* at 201-205.

reign, preferring instead to use Muslims from Central Asia and Iran as fiscal administrators, Tibetans to supervise monasteries, and Nepalese to manage all the artisans in China.

Formerly, administrators in China had been unpaid scholars. They made their living by extorting money from people who needed their services. The Mongols endeavored to replace this with standardized salaries for civil servants throughout the empire (with regional differences for cost of living).⁷⁹

B. FREEDOM OF RELIGION

Genghis worshipped the “The Eternal Blue Sky.” He also paid respect to various forces of nature, such as the Golden Sun and flowing rivers. He decreed complete and total religious freedom for everyone—Buddhists, Manichaenists, Muslims, Christians, and Hindus (at a time when dissidents in Europe were being tortured and burned). He forbade the killing of priests, monks, nuns, mullahs, and other holy people. He exempted religious leaders from taxation and public service.⁸⁰

In 1222, he met the Taoist monk, Ch’ang. Genghis asked about a medicine for immortality, to which the monk replied, “There are means of preserving life, but no medicine of immortality.” Genghis praised him for his honesty. For almost a year, they traveled together. Then Genghis released him and subsequently had a monastery built for him in Beijing.⁸¹

In the capitol city of China, Roman Catholic, Nestorian, and Buddhist priests mingled with Confucian counterparts, Muslim clerics, and Indian mystics. Jewish rabbis added to this mixture.

The Mongols delighted in all sorts of competition. They set up a debate before three judges: a Christian, a Muslim, and a Buddhist. A large audience attended. Strict rules were laid down—“on pain of death, no one shall speak words of contention.” No one convinced anyone of anything and the Mongols happily ended by getting drunk.

When the Christian representative, William of Rubruck, a Franciscan monk, was departing, Mongke Khan (who had acceded to the office of Great Khan in 1251) told him:

We believe in one God, by Whom we live and by Whom we die and towards Him we have an upright heart. Just as God gave different fingers to the hand, so has He given different ways to men. To you he has given the Scriptures and you Christians do not observe them . . . instead of Scriptures, God has given the Mongols holy men. We do what they tell us and live in peace.⁸²

Unlike other early conquerors, Genghis knew he was not a god and attempted to prepare his sons to take over. In a meeting with his chil-

79. *Id.*

80. *Id.* at 204; Rossabi, *supra* note 1, at 20.

81. Weatherford, *supra* note 3, at 69; Genghis Khan Biography, <http://asianhistory.about.com/od/profilesofasianleaders/p/GemghisKhan>.

82. LEON FRAZIER, TRAVELS IN SIBERIA 118 (2010).

dren, he pointed out, "If all my sons should wish to be Khan and ruler, will it not be as the fable of the many headed snake?"

Genghis said, "I have not myself distinguished qualities. The Eternal Blue Sky condemned the civilizations around me because of their haughtiness and their extravagant luxury."⁸³ He continued to live the simple life. "I wear the same clothing and eat the same food as the cow herders." "I hate luxury," and "I exercise moderation." He treated his subjects like his children and talented men "like his brothers."

He acknowledged only one preceding empire from which he personally took inspiration—his ancestors, the Huns. He wanted to complete "a great work" to "unite the whole world in one empire."⁸⁴

Two of his heirs, Khubilai in China and Arghun in Iran, became Buddhists. Nonetheless, when a later descendant, Ghazan, converted to Islam in 1295, much of the physical evidence of Buddhism vanished from Iran.⁸⁵

In 1287, Rabban Bar Sawma, an Assyrian Christian priest (who was also a Mongol) was sent to Europe by Khubulai Khan. He was amazed to find that only one religion was tolerated there. He received communion from the Pope and served communion to the King of England.⁸⁶

C. EQUALITY

Genghis smashed the feudal system of aristocratic privilege based on birth and replaced it with a new one predicated on individual merit, loyalty, and achievement. He insisted that rulers were bound by law the same as the most lowly herder. Genghis proclaimed that his Great Law applied as strictly to rulers as to anyone else.

Geoffrey Chaucer, having traveled widely in France and Italy, had an international perspective. He wrote of Genghis:

He kept his law, to which he was sworn,
And thereto he was hardy, wise and rich,
And piteous [sympathetic] and just, always liked,
Soothe [calming] of his word, benign and honorable.⁸⁷

Select nations, like the Uighur, the Koreans, as well as certain Turkic groups, were granted the honor of becoming his in-laws through marriages to Genghis' children.⁸⁸

83. Weatherford, *supra* note 3, at 174. During Rubruck's absence, King Louis IX of France had some 12,000 handwritten and illustrated Jewish books burned. His church then canonized him as Saint Louis. In 1255, the Church authorized the torture and burning of suspected heretics. *Id.*

84. *Id.* at 120.

85. *Id.* at 130.

86. Sheila Blair, "Religious Art of the Ilkahnids," in *LEGACY*, *supra* note 1, at 105-10.

87. Weatherford, *supra* note 3, at 239-40.

88. *Id.* at 76-77.

He abolished inherited aristocratic titles. All such titles now belonged to the state. The word, Genghis (Chinggis) is associated with “strong,” “fearless,” or “wolf.”⁸⁹

Because the Mongols had no system of their own to impose, they were willing to adopt and combine systems from everywhere. Without deep cultural prejudices, they used pragmatic rather than ideological solutions.⁹⁰

He provided that the Khan must always be elected. It would have been a capital offense for any member of his family to claim that office without an election.⁹¹ Other leaders were also elected.

He extended kinship, not only to the Siberian tribes, but also the Uighur, Koreans, and some Turkic groups. They were all considered his in-laws, not on the basis of biology, nor a common religion. Rather it was predicated on allegiance and loyalty. Such kinship was expanded into a type of “citizenship.”⁹²

D. COMMERCIAL LAW

Traditional aristocrats, both in China and Europe, had disdained commercial endeavors as “dirty, undignified, and often immoral.” China had built the Great Wall to keep out foreigners. The Mongols, in contrast to the Chinese, elevated merchants ahead of all professions, except government officials.⁹³ Genghis furthermore granted diplomatic immunity to every ambassador and envoy—even those from nations with whom he was at war.⁹⁴

Previous empires had concentrated wealth within a single city, *that is*, Rome or Babylon. The Mongols never had a single major city. Their goods and people constantly flowed from one place to another.⁹⁵ They had truly created the world’s largest free trade zone.⁹⁶

From 1259 to 1295, commerce reached from China through Iran to Europe. By the time Marco Polo arrived in China, a system of paper money, made from mulberry bark, was in full operation. Persian had become the “lingua franca” for merchants and bureaucrats in Eurasia. An effort to introduce paper money in Persia failed only when corrupt local officials drained the state treasury.⁹⁷

For the Mongols, law was more a way of handling problems, creating unity, and preserving peace, rather than just a tool for deciding guilt or administering punishment. To further promote trade, the Mongols dis-

89. *Id.* at 65.

90. *Id.* at 233-34.

91. *Id.* at 69-70.

92. *Id.* at 76.

93. *Id.* at 225.

94. *Id.* at xix.

95. *Id.* at 227.

96. *Id.* at xix.

97. *Id.* at 204; *see*, LEGACY, *supra* note 1, at 33. For a photo of the Chinese paper currency, *see id.*, *supra* note 1, at 21, figure 16.

tributed a combined passport and credit card. Called a "Piaza," it consisted of a gold, silver, or wooden tablet larger than a man's hand. It allowed one to travel throughout the empire and be assured of protection, accommodations, and transportation, as well as be exempt from local taxes and duties.⁹⁸ They also provided capital to finance caravans.

Ogodei Khan frequently paid twice the asking price for goods in a show of appreciation for the difficulty the merchant had in reaching his kingdom and as an enticement to other future merchants. He also placed his soldiers on the trade routes to make it safe for merchants and he introduced a system of a standardized weights and measures. In addition, the Mongols planted shade trees along the trade routes.⁹⁹

The widespread opening of new trade routes spurred technology transfers—Moslem and Indian knowledge to China. New products were designed in China for export to the West: playing cards, board games, and images of the Madonna.¹⁰⁰ The Mongols also established government printing offices, which were soon widely disseminating official decisions, agricultural pamphlets, medical treatises, books on religion, law, mathematics, and even novels.¹⁰¹

They encouraged farmers to plant new crops—different varieties of lemon trees, diverse vegetables, and new varieties of cotton. They created a Cotton Promotion Bureau in 1289 to improve quality and achieve better weaving.

They made whole systems of knowledge transportable. They exported Chinese doctors to other regions for their knowledge of drugs and acupuncture. They spread the more sophisticated surgical skills of Muslim doctors. In China, Khubulai Khan created a department for the study of Western medicine, directed by a Christian scholar.¹⁰²

E. TAXES

The Mongols lowered taxes for everyone and abolished them completely for doctors, teachers, priests, and educational institutions.¹⁰³ The high taxes on commercial exchanges were reduced to three percent. They neither restricted the amount of profits nor imposed a luxury tax.¹⁰⁴ They also promoted the formation of "Ortoghs" (merchant associations) which could obtain low cost loans to finance risky long-distance caravans.¹⁰⁵

98. Photographs of Paizas can be seen at James Y. Watt, "A Note on Artistic Exchanges in the Mongol Empire," in *LEGACY*, 63 at 69 (figures 69 & 70).

99. Weatherford, *supra* note 3, at 136.

100. *Id.* at 226-27.

101. *Id.* at 232-33.

102. *Id.* at 229.

103. *Id.* at xix.

104. *Legacy*, *supra* note 1, at 22.

105. *Id.* at 22.

F. BANKRUPTCY

Mongol law allowed for bankruptcy. Nonetheless, no merchant or customer could declare bankruptcy more than twice as a way to avoid paying debts. The third time, he faced possible imprisonment or death.¹⁰⁶

G. ARTISANS

Genghis put artisans in a special class. After conquering Samarkand, he spared 30,000 craftsmen, which he distributed among his kin.¹⁰⁷ Later, many proved themselves so skilled, they would be given more choice in their location.

An example of the work of these talented artisans was the summer palace of Khublai Khan built in Shandu, Inner Mongolia. It served as the inspiration for Coleridge's drug-induced poem, "Xanadu": "That sunny dome! Those caves of ice!"¹⁰⁸

Marco Polo described it thusly:

"The halls and rooms and passages are all gilded and wonderfully painted with pictures and images of beasts and birds and trees and flowers, and many kinds of things, so well and so cunningly that it is a delight and a wonder to see."¹⁰⁹

H. CRIMINAL LAW

The Mongols printed books on criminology to guide small councils and set minimum standards for officials visiting a crime scene—such as drawing pictures of the wounds. They also provided instructions on the examination of a corpse. The Mongols did not torture, burn, nor mutilate criminal suspects. They rarely resorted to execution. They installed procedures to grant amnesty to criminals who repented their wrong doings.¹¹⁰

The Mongol legal code of 1291 specified that no torture may be imposed abruptly. In China, the Mongols reduced the number of capital offenses by nearly half—from 233 to 135. Often fines were substituted for physical punishment. In 1263, only seven executions took place in China.¹¹¹ The mildness of Chinese penalties for crimes was exceptional.

The Mongols prohibited the hunting of animals between March and October—the breeding season. In the winter, hunters were permitted to kill only what they needed for food. Genghis made animal rustling a capital offense. Anyone who found a lost animal had to return it to its rightful owner. For this purpose, he instituted a massive lost and found

106. Weatherford, *supra* note 3, at 205.

107. Legacy, *supra* note 1, at 27.

108. *Id.*

109. Marco Polo, "Il milione", as translated in Polo (1938), vol 1, 185, as cited in Legacy, 27-28, and see MORRIS, *supra* note 44, at 392.

110. Weatherford, *supra* note 3, at 201-06.

111. *Id.* at 201.

system.¹¹²

I. AGRICULTURE: THE “SHE”

In China, the Mongols organized the peasants into units of about fifty households—known as a “she.” *Shes* oversaw local farming, made improvements in water management, and provided food resources in time of famine.¹¹³

J. PUBLIC EDUCATION

Khubilai Khan created public schools to educate all children. He realized that in winter, farmers’ offspring had time to learn. They, however, were taught not in Chinese, but in their colloquial language. More than 20,000 public schools were created during Khan’s reign.¹¹⁴

K. THEATER

In traditional China, performers ranked as low as prostitutes. The Mongols raised their status to professionals. They sponsored spectacular dramas, involving thousands of people. They delighted in plays with acrobatic action, emotional music, and colorful costumes. This was a golden age for Chinese drama. One hundred and sixty plays from that era still survive. The Mongols laid the basis for the Peking Opera.¹¹⁵

L. WOMEN AND CHILDREN

When the men were gone on campaigns, their women had to take over—running the home, caring for the children, and handling the animals. In a pastoral economy, women had long been responsible for milking cows, delivering babies, and making clothing.¹¹⁶

The mother of Kubilai Khan was described by the Persian historian, Rashad al-Din, as “extremely intelligent and able and towered above all the women in the world.”¹¹⁷ She reared all four of her sons to be rulers, insisted they become literate, be tutored by an international coterie of advisers, and that they adopt policies of religious toleration.¹¹⁸

Genghis forbade the abduction or enslavement of any Mongol. He also prohibited selling women into marriage.¹¹⁹ He outlawed adultery, but defined it differently. It did not include sexual relations between a woman and her husband’s close relatives. Also excluded were relations between a man and female servants or wives of other men in his household. Genghis believed that matters of the ger should be settled within

112. *Id.* at 69.

113. *Id.* at 206.

114. *Id.* at 206.

115. *Id.* at 207.

116. *Id.* at 204.

117. <http://asiasociety.org/countries/traditions/women-modern-mongolia>.

118. *Legacy, supra* note 1, at 30.

119. *Weatherford, supra* note 3, at 68.

the ger.¹²⁰

Kubilai Khan prohibited the foot binding of girls. Chabi, Kubilai's wife, was a fervent Buddhist. She persuaded her husband to fund Tibetan monasteries and to recruit Tibetan monks for government positions.¹²¹

In Iran, Hulegu's wife, a Nestorian Christian, helped her co-religionists obtain key government positions. She also fostered a marriage between her son, Abakha and Maria, the illegitimate daughter of the Byzantine emperor, Michael VIII.¹²²

Many of the craftspeople the Mongols valued were women. Women had received little recognition in traditional China. Under Mongols, they obtained the same privileges and favors as men.¹²³

At age sixteen, Genghis had married his beloved wife, Borte. Soon thereafter she was kidnapped by another tribe and became pregnant with Jochi. After Genghis was able to retrieve her, there was some question about the child's paternity. Genghis defended her, saying "[i]t was not her fault." A compromise was finally achieved with his other sons, but thereafter he decreed that no child is illegitimate.¹²⁴

VI. THE END OF THE EMPIRE

Around 1332, the bubonic plague hit the Chinese summer capital of Shangdu. It may have started in Africa. The disease then spread to Constantinople, through Italy, up to England, and over to the Americas. Chaos reigned. The total world population shrunk by seventy-five million people.¹²⁵

The plague destroyed social order in Europe. In Giovanni Boccaccio's, *Decameron*, he described a world in which husbands deserted wives, mothers abandoned children, while human and divine laws were dissolved.¹²⁶

Although the people did not understand the true cause or method of transmission, they soon recognized its connection with commerce. Despite a Papal Bull from Pope Clement VI protecting the Jews, many were tortured and burned. One chronicler boasted that all the Jews between Cologne and Austria had been burned. Similar persecutions against Muslims occurred in Spain.¹²⁷

With the onslaught of the plague, the center could not hold. By 1356, paper currency had become worthless. The Empire collapsed.

120. *Id.*

121. LEGACY, *supra* note 1, at 31.

122. *Id.*

123. *Id.* at 30.

124. Weatherford, *supra* note 3, at 120-23; *see*, KALLIE SZCZEPANSKI, ABOUT.COM, ASIAN HISTORY, GENGHIS KHAN, biography; http://asianhistory.about.com/od/profilesofasianleaders/p/Gemghis_Khan.

125. Weatherford, *supra* note 3, at 224.

126. *Id.* at 245-47.

127. *Id.* at 252.

VII. LESSONS FOR MODERN TIMES

A. THE PLAGUE

Though the events recorded above happened long ago, they still offer cautionary tales for us moderns. For the past two decades I lived in New Mexico. The bubonic plague still exists in this state. The daughter of the President of a local college died of this disease when she was visiting the East coast. The doctors there thought it had been wiped out centuries ago and did not recognize it soon enough.

More recently another New Mexican couple became very ill while visiting New York. It took some time before disease was properly diagnosed as bubonic plague. They eventually received appropriate treatment, but in interim the husband suffered serious injury.

Scientists have just now dissected the DNA for the Black Plague. Recovery of the bacterium's full genome was a technical tour de force since the DNA had degraded into millions of small fragments.¹²⁸

B. FOOD

Global epidemics always start off small and can easily be missed. In May of 2011, an outbreak of E.Coli bacteria broke out in Germany. It was a nasty version, Oro104:H 4. Figuring out how this pathogen made its way into the food supply was a challenge. With our globalized food supply, an outbreak in Hamburg could be just one oceanic shipment away from becoming an outbreak in New York.

Europe's response has been scattered because no single organization is in charge. No centralized network exists to coordinate these outbreaks on a national level. Recently, this bacteria has been showing up in products that most people eat raw, such as bean sprouts. Antibiotics are not always effective since they may simply provoke the bugs into pumping out more toxins.

W. Ian Lipkin, Professor of Neurology, Pathology, and Epidemiology at Columbia University has warned that our public health system is underfinanced and overwhelmed. "We can and must reduce the . . . [time] required to create and test a new vaccine before beginning large scale production and distribution." He also called for better coordination among local, federal, and international agencies.¹²⁹

128. Nicholas Wade, "Scientists Solve Puzzle of Black Death's DNA", *New York Times* (Oct.13, 2011), A9.

129. "The Real Threat of Contagion," *New York Times* (Sept. 12, 2011), A25; *see also*, Alice Park, "How to Stop the Superbugs," *TIME*, June 20, 2011, 34. The deadly E-Coli strain that killed at least forty-five people has now resurfaced in France. Officials say that eight people had eaten sprouts grown in France. The German outbreak sickened more than 3,800 people, nearly 900 of them with acute kidney failure. Scott Sayare & William Neuman, "German E COLI Sickens Eight In France," *New York Times* (June 25, 2011), A5.

C. PETROLEUM

In August 2011, some 55,000 gallons of oil poured into the North Sea from a leaky pipeline operated by Royal Dutch Shell. The year before, we saw the oil industry and the government struggle to contain a massive blowout in the Gulf of Mexico.

Now the Shell Oil Company is seeking approval to drill next summer in the Beaufort Sea, off the coast of Alaska. We do not have the infrastructure, the know-how, or the experience to cope with a blowout if one occurs in this place—1,000 miles away from the nearest U.S. Coast Guard station. We still lack sufficient knowledge of the little understood Arctic eco-systems, which are the home of rich salmon and cod fisheries, the habitat for beluga whales, golden eagles, and spotted seals. The dangers of a blowout are only magnified in the harsh and remote Arctic waters. “Before we go to the ends of the earth in pursuit of oil, we need deeper, better technology to prevent blowouts and to clean up after accidents, and greater expertise to protect Alaska’s Arctic waters, one of our oceans’ last frontiers from grave and needless risks.”¹³⁰

D. FUKUSHIMA

Japan, in 2011, suffered a horrendous disaster when a forty-five foot tsunami struck a nuclear power plant at Fukushima. At least 60,000 people were evacuated and radioactive materials were detected in tap water as far away as Tokyo. We will probably never know how many died.

Japanese officials are agonizing over what is a safe radiation dose for people living near the Fukushima area. With growing public fears, many reactors, which had been closed for regular checks, have not been allowed to restart. Widespread power shortages followed. Only nineteen of the nation’s fifty-four reactors are still operating.

People in the Fukushima area are confronting radiation five to ten times the normal background amount. Inspectors have found radioactive cesium “in rice 100 miles south of the stricken plant.” This is especially worrisome because it is a major rice growing area. Radiation in excess of safe levels has shown up in spinach, beef, and green tea. Tap water in Tokyo has revealed five to ten times the normal amounts.¹³¹

Polls reveal that seventy percent of the Japanese oppose restarting these reactors despite the prospect of blackouts. In a poll by the nation’s largest business newspaper, seventy-four percent of the respondents voted to phase out nuclear power.¹³² The Prime Minister of Japan, Naoto Kan, has said his nation should reduce and eventually eliminate its de-

130. Frances G. Beinecke, “No to Arctic Drilling,” *New York Times* (Aug. 18, 2011), A.19.

131. Martin Fackler, “Radiation Discovered In Rice Near Tokyo.” *New York Times* (Aug. 20, 2011) A8.

132. Matthew L. Weld, “Radiation’s Unknown Weighs on Japan,” *New York Times* (June 27, 2011) B7.

pendence on nuclear energy.¹³³

That disaster has prompted a review of safety in the United States. This study produced some disturbing findings.¹³⁴

VIII. A HOPEFUL END?

As already mentioned Genghis Kahn and his heirs descended from Siberian Hunic tribes. Today, there is another world leader who also traces his ancestry back to the Huns of Siberia—Ahmet Davutoglu, the Foreign Minister of Turkey. He has shaped Turkey's foreign policy according to a principle called "zero problems toward neighbors." In 2009, he helped resolve a bitter conflict between Serbia and Bosnia.¹³⁵ With his diplomatic skills, maybe Professor Davutoglu can pull more of the region together.

While this is being written, he is demanding that Syria cease its crack-down on a five-month-old uprising. Syria has one of the region's most authoritarian regimes. Activists claim that the recent action by the Government killed 260 people. Davutoglu has threatened, "If these operations do not end, . . . steps . . . [will] be taken."

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133. Hiroko Tabuchi, "Japan Premier Wants to Shift Away From Nuclear Power" *New York Times* (July 14, 2011).
134. The odds are the United States will not suffer a powerful earthquake and a forty-five foot tsunami like Japan did. Still we must learn from the Japanese experience. Thus, the United States Nuclear Regulatory Commission formed a task force to assess our ability to withstand a similar disaster. That Commission found oversights in these nuclear plants and a patchwork of voluntary regulations. Inspections revealed that equipment needed to deal with fire and explosions were often missing or inoperable. Immediate action is required to ensure that plant operators verify their measures to prevent earthquake and flood damages, as advertised. Plants should be compelled to ensure workers monitor conditions in spent fuel pools. The Japanese operators had no idea what was happening in their pools. Mandatory requirements must replace voluntary compliance. More hardened vents should be required to reduce the risk of hydrogen explosions. The Commission admitted these measures will drive up costs. "In the Wake of Fukushima," *New York Times* (July 24, 2011), *Sunday Review*, 11.
135. James Traub, "Turkey's Role in Middle East Is Bolstered by Vision of Foreign Minister, Ahmet/Davutoglu", *New York Times* (May 3, 2011), Magazine Section; www.nytimes.com/2011/02/23/magazine/23/davutoglu-t.html?scp; see also, Anthony Shadid, "Can Turkey Unify the Arabs?" *Week in Review*, *New York Times*, (May 29, 2011), 1, 6.

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