The 1640 Great Code: an Inner Asian parallel to the Treaty of Westphalia

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Two recent studies, Johan Elverskog’s *Our Great Qing* (2006) and David Sneath’s *The Headless State* (2007), have made bold and fascinating contributions to overcoming the lingering legacy of representing and framing the pre-modern Inner Asian social and political order in terms of evolutionist, nationalist or nation-statist logics. Joining the cause and building on these works, yet critically examining them, this article argues that the late sixteenth and early seventeenth-century Mongolian political order was akin to that of the Holy Roman Empire and the 1640 Great Code was an Inner Asian parallel to the Treaty of Westphalia.

**Keywords:** Mongolia; törü; ulus; political order; the Qing Empire

**Introduction**

On the auspicious fifth day of the middle month of the autumn of the Iron Dragon year (20 September 1640), the assembly of the lords of the Döchin and Dörbön1 drafted a document named the Great Code (*yeke caγaja*) with 120 provisions. The Zasagt Khan Subudai convoked the assembly and 27 other Inner Asian lords drafted the code in the name of the Buddha Sakyamuni, the Holy Tsongkhapa, the Panchen Lama and the Dalai Lama in front of three Buddhist reincarnate lamas including one from the Sa-skya order.

Conventionally, the Great Code was regarded as a Khalkha-Oirat defensive alliance treaty in the face of a growing threat from the Qing Empire.2 However, David Sneath in his recent work treats the Great Code as ‘a charter of a new state’, a headless state with ‘no capital, no center, and no sovereign’ (Sneath 2007, p. 181). Following Christopher Atwood’s lead,3 Sneath reads the term *törü* that appears in the first provision of the Great Code as ‘state’ and finds in this ‘political environment . . . almost all of the operations of state power . . . at the local level virtually independent of central bureaucratic authority’ (Sneath 2007, p. 5). Consequently, he defines this political order as a headless state, ‘a configuration of statelike power formed by the horizontal relations between power holders, rather than as a result of their mutual subordination to a political center’ (Sneath 2007, pp. 1–2, 182–185).4

The Great Code was not the only *törü*5 that the Mongol rulers were establishing at that time, and, certainly, they were not the only party who were interested in this enterprise. The Qing emperor in the south, Hong Taiji, was very concerned with this particular development and tried to abrogate this *törü*. Upon learning that the Zasagt Khan was joining *törü* with Oirats, Hong Taiji tried to persuade the Zasagt Khan saying, ‘[If] you join *törü* ey-e [with us] you will enjoy receiving treasure, goods and silk by Sirhū Gate that I will open [for you]. [If] you don’t like *törü* ey-e, wouldn’t the Oirats, who are awaiting [you] make of you food?’ (Li Baowen 2004, p. 98). The Zasagt Khan seems to have turned the offer down.

Yet, Hong Taiji had been very successful in negotiating, establishing and joining *törü*, ey-e (alliance) or adopting *caγaja* (codes or laws) with southern Mongol princes, which ultimately
led to the incorporation of the southern Mongol lands into the Manchu state. Johan Elverskog sees these developments as joining/submission of smaller Mongol communities to ‘a larger state formation’ while maintaining their autonomies, thus forming ‘semi-autonomous aristocratic federations within the larger Manchu state’ (Elverskog 2006, p. 27). To understand why Khorchin, Kharachin and the other southern Mongol uluses joined the Manchu state, Elverskog looks at the Mongol conceptualization of ulus and törü and their interrelationship. Elverskog renders ulus as community and törü as state. According to Elverskog (2006, pp. 18–20), community ‘was understood as a particular group of people with a recognizable continuity of cultural practices, inhabiting a natural geography. The state, on the other hand, was the governmental apparatus represented by a leader (khan, emperor, sultan) who ruled a community, or several uluses, by means of its form of governance, or “customs of state” (törö yosun). While the community was generally an immutable entity, the state and the “customs of state” could change … Thus, a state could be conquered, and a community or peoples could be subsumed under another state, but it was assumed that this “conquered” ulus maintained its coherence even under the new state7 … Each [ulus] could choose either to join a larger state formation or, as most did, to forge their own local state government.’ Thus the Khorchin, Kharachin and the other southern Mongol uluses operating within this framework, joined the larger Manchu state. This ‘relationship was defined as two ulus, gurun, in Manchu, joining together in an alliance (ey-e) or state (törö)’ (Elverskog 2006, p. 24). Furthermore, according to Elverskog (ibid., p. 35), ‘Both Manchus and Mongols understood their relations as one of two distinct ulus joining together in a new state formation.’

Both Sneath and Elverskog’s interpretations ultimately stem from their respective author’s reading of the term törü as state. While this reading leads Sneath to treat the 1640 Great Code as a ‘charter of new state’ and Khalkha and Oirat as a single headless realm, the same reading leads Elverskog to take Khorchin, Kharachin and others’ joining of törü with the Manchu as their submission to the larger Manchu state. Hence the two interpretations appear different from each other in their solutions to the question of sovereignty; while in Sneath princes remain sovereign, in Elverskog southern Mongol princes became subject to Manchu rule, albeit with a degree of autonomy. It must have been a sharp difference for the Zasagtu Khan who, by contesting Hong Taiji’s claim for sovereignty over the Mongols, caused the Great Code to be drafted. Thus, one cannot help but wonder whether Hong Taiji was proposing to create another headless state with the Zasagtu Khan or was demanding that the Zasagtu Khan submit to the Qing. Furthermore, what was the Zasagtu Khan doing in joining törü with the Oirats? Was he submitting to their realm, making them submit to his realm, or was he really building a headless state? What did ‘joining törü’ mean? Did törü really convey the notion of state in these contexts?

Both authors’ understanding of törü ultimately emanates from their respective understandings of the political order of Mongolia. In Elverskog’s ‘theory of the ulus and törö system’, though community and the state did not necessarily presuppose or define each other, local communities forged their own ‘local state governments’. Furthermore, larger state formations come and go, but local communities remain almost immutable. Thus local communities or uluses appear as enduring, permanent building blocks of Mongolia’s political order. They only switch their allegiances to larger state formations. Thus, Khorchin, Kharachin and so on, as they once accepted the Dayan Khanid state before, were switching their allegiances to the larger Manchu state by way of ‘joining törö’ (Elverskog 2006, pp. 20–21). They understood it as ‘two distinct ulus joining together in a new state formation’ while maintaining their autonomies (ibid., p. 35). However, according to Elverskog (ibid., p. 24) it was the Qing that finally ‘disassembled and transformed’ these uluses into the banners of the Qing dynasty’.
In a very similar vein, but from a different angle, Sneath argues that ‘the local power relations that since ancient times have made the Inner Asian state possible were reproduced with or without an overarching ruler or central ‘head’ (2007, p. 5). Moreover, ‘… in Inner Asia many of the forms of power thought to be characteristic of states actually existed independently of the degree of overarching political centralization’ (2007, p. 5). Furthermore, ‘the political relations of aristocrats determined the size, scale, and degree of centralization of political power’ (2007, p. 4). ‘The centralized “state”, then, appears as one variant of aristocracy’ (2007, p. 5). Thus, the state or the centralized state appears as ‘a temporary structure resting on’ the aristocratic substrata. Indeed, Sneath (2007, p. 197) asserts that: ‘The recognition that stratification and the state relation are not dependent upon a centralized bureaucratic structure makes it easier to discern the substrata of power, the aristocratic order that lay at the base.’ Therefore, according to Sneath, it is not the (centralized) state that produces aristocracy (or the aristocratic orders) but it is the aristocracy that produces the state. Thus, according to Sneath’s analysis, ‘aristocratic orders’ are intrinsic to Inner Asia and the permanent political order there. These aristocracies were creating a de-centralized headless state in 1640.

Notwithstanding the differing focuses, structurally both models are very similar and, in a way, even complementary, yet with crucial differences. Both models envision a two-tiered political order for Mongolia: ‘the local’ and, let us say, ‘the non-local’, that is, ‘centralized state’ in Sneath’s model and ‘larger state formations’ in Elverskog’s. Furthermore, both models treat the ‘local’ as intrinsic and enduring building blocks of pre-modern political order of Mongolia and Inner Asia. Thus, we still find the same scheme of two-tiered political organization for Inner Asia as advanced by the evolutionary model that both authors consciously position themselves against. In place of Thomas Barfield’s ‘imperial confederacies’ we have ‘centralized state’ or ‘larger state formation’ while in place of ‘tribal political organization’ we find ‘aristocratic orders’ and ‘local communities’. Furthermore, both authors, like Barfield, emphasize the lower or ‘the local’ power structures, that is, ‘local communities’ or ‘the aristocratic orders’ as the permanent political organizations in Mongolia and Inner Asia over ‘the non-local’ (Barfield 1989, pp. 24–28).

However, unlike Barfield, both Sneath and Elverskog find state power at the local level, although they do not treat its manifestations as states in their own right. Thus, ultimately, both authors find aristocracy-led ‘local’, smaller-than-state polities (uluses or communities in Elverskog) in Mongolia and treat them as the permanent building blocks of the Mongolian and Inner Asian political order. Elverskog sees them as enduring pre-existing communities that either created their own states or joined to larger state formations depending on the circumstances. Unlike Elverskog, Sneath, though he believes aristocratic houses were permanent units of political order, sees uluses neither as pre-existing communities nor as ‘autochthonous kinship communities, but rather as politically defined categories that had been historically formed by rulers (2007, p. 174). ‘The Zakhachin (“Borderers”), for example, of southern Khovd province, originated as a Zunghar administrative division (otog) formed from a diverse set of subjects charged with the duty of acting as border wardens (2007, p. 174). Thus, while in Elverskog’s model pre-existing local communities were either building their own state or joining to larger state formations, a sort of bottom-up enterprise, in Sneath, those local communities appear as results of state-initiated top-down enterprise. Another noticeable difference is that while Sneath explicitly views aristocracy as existing since ancient times and also as a self-generating strata independent of a centralized state, Elverskog, in talking about Dayan Khan’s appointment of his offspring as the rulers of the local communities, implies not only the recent creation of Dayan Khanid aristocracies but also the production of aristocracies by central state power.
Therefore, an adequate understanding of Mongolia’s political order requires an answer to the question of what were these aristocracy-led ‘local’, smaller-than-state polities or uluses? How did they emerge? Were they enduring (bottom-up) permanent entities or were they creations of projects of (top-down) rulership? Were the aristocracies self-generating and independent of centralized state strata or were they produced by the state? Most importantly, were ‘the local’ power structures producing the ‘non-local’ power structures or vice versa?

In the following sections, I attempt to respond to these questions. In doing so, I join Elverskog and Sneath in their cause of dismantling the evolutionist and nationalist framings of Mongolia’s pre-modern political order and seek to build on their contributions thus far. Furthermore, I join Sneath in his understanding of local communities as emerging out of state administrative units, while I support Elverskog in taking aristocracies as creations of the centralized state. I accept the two-tiered political organization of Mongolia but only to the extent that every state has central and local institutions of governance and whenever central power wanes the local power holders attempt to exploit the opportunity to consolidate their powers. Therefore, I don’t see ‘the local’ uluses as pre-existing enduring ethno-cultural communities, nor the aristocracies as self-generating strata independent of central authority. Instead, I understand them as outgrowths of the centralized state’s local administrative structures. Furthermore, I don’t regard either the aristocratic orders or the ulus and töruü system as the enduring political organization of Mongolia, but rather I locate them only in the period of the late sixteenth and early seventeenth centuries, a period of waning of the Northern Yuan Dynasty. Thus, I view Sneath’s aristocratic orders and Elverskog’s semi-autonomous local communities as the result of the decline of the centralized state in Mongolia. I will argue, furthermore, that Mongolia’s political order of the period was akin to that of the Holy Roman Empire and the 1640 Great Code was an Inner Asian parallel to the Treaty of Westphalia. The comparisons, by shedding important insights into Mongolia’s political order, help overcome both the evolutionist/tribalist and the nation-statist framings of pre-modern Mongolian political order and thus contribute to the demolition of the academic conceptual apartheid that this new perspective aims to overcome.

In order to develop my argument, first, I will briefly describe several ‘joining töruü’ settlements by looking at available sources. This enables me to offer a new reading of töruü after a close analysis of the use of the term in such sources. Consequently, I will put forward a fresh reading and understanding of the 1640 Great Code that allows me to treat the code as an Inner Asian parallel to the 1648 Treaty of Westphalia. Finally, I will offer an alternative understanding of the political order of Mongolia at the time of the Great Code, which makes it comparable to that of the Holy Roman Empire. In order to do so, I will examine the internal structure of one of ‘the local lesser ulus’ to show that local uluses were thoroughly state-organized entities and emergent princedoms growing out of former politico-administrative divisions of the Northern Yuan, by examining extant late sixteenth and early seventeenth century codes of one such princedom.

**Joining töruü: establishing a treaty**

Nurhachi and his successor as Manchu ruler, Hong Taiji, energetically pursued a policy of ‘joining töruü’ with various southern Mongol princes and established töruü with the rulers of southern Khalkha in 1619, Khorchin in 1626, Kharachin in 1628 and Nonni Khorchin and Abagha in 1631. Existing sources show that Hong Taiji advanced the same proposal to the rulers of the Tümed, Ordos and Naiman and again to the rulers of the southern five Khalkha around the same year. In addition, after more than two decades of lingering, the Qing and Khalkha khans completed one töruü in 1657. Hong Taiji’s above-quoted letter to the Zasagtu Khan shows that the 1640 Great Code was one such settlement.
The 1619 törü between the Manchu and the southern Khalkha was a military alliance against the Ming. The parties promised to deal with China in unison (nigen eyeber) either in waging war or making peace. They specifically promised not to conclude a unilateral peace with the Ming (di Cosmo and Bao 2003, pp. 30–35). On 28 June 1626 Nurhachi, as the Manchu ruler, made a ‘solemn promise to Heaven and Earth for the sake of törü’ to be a faithful ally to the Khorchin against the Chakhar and Khalkha and thus sealed another settlement with the Khorchin ruler Uuba Khung-Taiji (Tserendorj 2009, p. 117). The Khorchin ruler promised not to ally with the Chakhar and Khalkha (caqar qalq-a luq-a elsekülę) against the Manchu (Li Bao-wen and Nyamka, 2004, pp. 10–11, 55).

Another very similar settlement (caγaja) was sealed between the Manchu, Nonni Khorchin and Abagha in May 1631 against the Chakhar and the Ming. The Manchu promised the Nonni Khorchin and Abagha terms identical to the established code (caγaja) that already regulated the Manchu relationships with the Khorchin. Specifically, under this 1631 settlement the Manchu pledged not to take the people and livestock of the Nonni Khorchin and Abagha by force (Li Bao-wen and Nyamka 2004, pp. 13–14). In addition, the Manchu declared that if the Nonni Khorchin and Abagha broke the code (caγaja-yi ebdeküle) the Manchu would treat them as enemies (ibid., pp. 14, 56). Furthermore, the parties declared to mutually respect their territorial sovereignties.14

Finally, available documents show that, in early 1636, Hong Taiji, by saying, ‘Let us decide whether to join törü caγaja or not after hearing your words’ (törü caγaja nigedkü bayiqu) responded rather coldly to a letter from Khalkha Setsen Khan suggesting the establishment of friendly relations (Li Baowen and Nyamka 2004, p. 64). While the Setsen Khan was much more conciliatory, by giving up his earlier claim on the Mongol throne to Hong Taiji, the latter was reminding the Setsen Khan of his ‘fault’ for selling horses to China (ibid.). Furthermore, in 1638 Hong Taiji was clearly claiming sovereignty over the Mongols: in his sarcastic response to the Zasagtu Khan’s letter, he argues: ‘I thought that Heaven granted me all the Mongol ulus starting from the Lord of the six ulus.’15

However, as we have seen earlier, the 1640 Great Code made the Qing emperor change his position quickly. After Hong Taiji’s death, his successor the Shunzi emperor sent letters to the Tüshiyetu Khan in 1644 and to the Setsen Khan in 1645 saying that: ‘I sat on the great throne seizing the törü of the old vengeful Chinese ulus. We, the ulus with the red tassel, are one [kind] from the ancient time. Now, in order to make the great ulus peaceful we shall need to join our törü ey-e’ (Li Baowen 2004, p. 99). However, the positions of the Tüshiyetu and Setsen Khan were no longer conciliatory. They not only incited the Sö nid prince Tengis to revolt against the Qing and to resettle in Khalkha but also defended him from a Qing expeditionary force. In the meantime, two other Khalkha princes invaded Qing territory and raided Baarin.16 The Qing emperor demanded that the Khalkha rulers return the Sönid prince, the people and animals taken to Khalkha from Baarin and also pay reparation of 100 camels and 1000 horses (Li Baowen 2004, pp. 110–114). In response, the Zasagtu Khan proposed to the Qing emperor ‘to discuss [the matter] by törü’ (törü ber kelecei-e) (ibid., p. 109). Furthermore, in his 1647 letter to the Qing emperor, the Zasagtu Khan proposed to ‘join törü’ and noted that they were sending this letter not because of the Qing emperor but because of törü (ibid., p. 112).17 Finally, by 1650, both the Tüshiyetu Khan and the Setsen Khan, together with various other princes, sent three nobles (tayiji) and 55 officials (tüşshimed) to the Qing court to negotiate törü with the Qing on behalf of the Khalkha rulers (Mongqol Dangsa v. 3. 2003, pp. 167–171). However, the negotiations were lengthy and after many rounds of envoys, the parties only reached a conclusion in 1657. Specifically, the Khalkha rulers promised to ‘Let Heaven and Earth blame us if we breach the established törü’, while the Qing promised to ‘Let Heaven blame us if we commence war attacking [you] while your Khalkha ulus was
sending tribute and coming to kowtow [to the Qing emperor]. Let Heaven blame you if you stop sending tribute and coming to kowtow and break your promises. Our great ulus, testifying to Heaven, will take up arms [against you]!’ (Li Baowen 2004, pp. 152–156). The letters leading to this settlement show that while Khalkha rulers were obliged to pay yearly tribute of ‘nine white’¹⁸ and kowtow to the Qing emperor, the Qing emperor promised to reward them handsomely. If the Khalkha rulers were to break their promises, the Qing would stop rewarding them, shelter Khalkha fugitives and halt Khalkha envoys from entering the Qing territory (Li Baowen 2004, pp. 89–158). The whole enterprise started with the phrase ‘törü ey-e- ben nigedküle’ (join the törü ey-e) and continued as ‘törü ogüleldüre’ (to discuss the törü) and ended with ‘törü elsey-e’ (join the törü).

What are these settlements? Are they instances of lesser communities joining a larger state formation, the Qing? Are they instances of building headless states? Or are they treaties as conventional scholarship portrays them? Again, what did the Shunzi emperor mean when he proposed to the Khalkha khans to join törü? Was he demanding the Khalkha khans to submit to the Qing? What does törü mean in these contexts?

The aim of joining törü was to ‘go by one ey-e (accord)’ (nigen ey-e-ber yabuqu). The ey-e, although the settlements and their terms vary, was invariably directed against the Mongol Great Khan and the Ming dynasty, with, in some cases, Mongolian parties promising ‘to go by one ey-e’ with the Manchu and not to ally with the former two. Once established, the törü was subject to collective enforcement. There seem to have been many unilateral breaches or defections from these settlements.¹⁹ A phrase ‘Chinese törü will be seized by us. If not [we] will devise törü [with the Chinese],’²⁰ that appears in Hong Taiji’s 1630 letter to Darkhan Baatar, sheds some further light on what törü meant in these contexts. As the phrase makes clear, the Manchu ruler’s inability to seize the Chinese törü creates a need to devise a törü with the Chinese, while a seizure of the Chinese törü eliminates that need. Thus, the phrase establishes that on these two occasions törü undoubtedly conveys two different meanings. Furthermore, as quoted earlier, the Shunzi emperor informed the Khalkha khans that: ‘I sat on the great throne seizing the törü of the old vengeful Chinese ulus.’ Thus, ‘seizing törü’ meant taking over the state or government or rulership.²¹ Consequently, in this sense, ‘joining törü’ can be read as joining a larger state formation. Does this mean that Hong Taiji was thinking about joining/submitting to the Ming if his bid for the Chinese throne failed? I argue that this was not the case.

An early eighteenth-century Mongolian dictionary gives a clue to what Hong Taiji actually meant by ‘devise törü’. The dictionary’s entry for törü directs us to look at yosu, which is defined as ‘norm measure’ (keb kemjiyesü), ‘rule and law’ (yosulal qauli). Both ‘norm’ (yosu) and ‘rule’ (yosulal) are identified with törü yosun, which is defined as ‘that which is established according to an occasion, which people conscientiously follow’ (Qorin nigettü tayilburi toli 1979, pp. 675, 849). The dictionary gives two definitions for ‘norm’ (keb). One is ‘a measure used to cast things’ (or mould); the other is ‘to perpetually follow surgaguli’, which is defined as ‘to make the multitude follow qauli dûrim, or learn qauli dûrim’ (ibid., pp. 344, 590). Qauli is defined as ‘to conduct any business in an established way’. The dictionary defines ‘caça’ as ‘enforcing compliance by establishing the law’ (ibid., p. 747). Also, the dictionary defines ey-e as harmony and accord (ibid., p. 70).

Thus, what Hong Taiji (and others) apparently meant was not to join the Ming dynasty, but to devise or draft or adopt a norm, measure, rule or law or regulation that would harmonize them with the Ming. Thus, ‘joining törü’ did not mean joining someone else’s törü in this case, that is, joining a larger state formation. Instead, it meant that the parties involved join or adapt their rules or laws to accord, to agree, or to harmonize their relations and conducts, what we call
today an agreement or treaty, a binding rule or regulation that the parties sealed and had to honour and follow.

However, drafting a common law, or joining in law so as to harmonize the conducts of the parties can mean that the parties were forming a joint state, a federative state, although not necessarily that one of the parties was submitting the other party’s state. Yet, that does not seem to be the case in these instances. Firstly, the laws established between the parties had terms or provisions that limited their scope such as the provisions not to ally with the Chakhar and Khalkha, or to wage war or make peace together, or respect each other’s territorial jurisdictions. Secondly, they do not identify a commonly acknowledged formal sovereign or authority. Instead, the parties involved were to enforce the law collectively. Thus, joining törii did not mean forming a joint or federative state. Instead, it seems to have been an adoption of common laws that regulated or harmonized the conducts and behaviours of the parties involved within the scope of the agreed-upon terms. In fact, the difference between law and treaty is that the former is enforced by a single authority while the latter is enforced by as many authorities as the parties involved.

Thus ‘joining törii’ in these contexts meant the adoption of common laws that regulated or harmonized or governed the conducts and behaviours of the parties involved, and their interactions within the scope of the agreed-upon terms. Therefore, literally, it was an act of ‘joining state’ or ‘joining governance’. However, states or governments were joined within the scope of the agreed-upon terms and the enforcement of the terms were subject to the bilateral honouring of the joining states or governments. Thus, the proper rendering of ‘joining törii’ in modern language is concluding a treaty or agreement, a derivative of law. In fact, isn’t it the function of a treaty or an agreement to ‘join states’ on certain terms? Can these be considered as examples of the headless state that Sneath proposed? What is the difference between a headless state and what we call a treaty or agreement today?

Westphalian features of the 1640 Great Code

As newly published Qing archival documents show, the 1640 assembly of the Mongol aristocrats was an attempt to reconstitute the Mongolian state by the Zasagtu Khan of Khalkha. Upon the death of the last Great Khan, Ligdan, in 1634, Hong Taiji, the Manchu ruler, who had already won the allegiance of the majority of southern Mongolian nobilities, by making the consorts and the sons of Ligdan submit to Manchu authority, came very close to claiming the Chinggisid throne. Alarmed by this development, as early as the summer of 1635 the Setsen Khan of Khalkha not only summoned Ligdan’s consort to come to his court but also sent a memorandum to Hong Taiji informing him that he had taken over ‘the jade great state/government’ in place of Ligdan for he was of ‘the same royal lineage’ (Li Bao-wen and Nyamka 2004, pp. 26–27). However, by early 1636 Setsen Khan of Khalkha dropped his claim saying: ‘Alas, Khutugtu Khan (Ligdan Khan) broke the unbreakable state/government. [You], Setsen Khan (Hong Taiji), lead the pacifying state/government’ (Li Bao-wen and Nyamka 2004, p. 28).

Meanwhile, the Zasagtu Khan of Khalkha, whose line was not only the most senior among Geresenje’s descendants but also was the earliest to claim the title of khan, proceeded to reconstitute the Mongolian state under his leadership and the result was the 1640 assembly of the Mongol aristocracies (See Okada 1972). In 1638, while Hong Taiji was claiming that his rule extended all over the Mongols, the Zasagtu Khan asserted that he was ruling some of the Mongols or ‘some parts of the six ulus’ (Mongqol Dangsa v. 1. 2003, pp. 255–257). By 1640, the Zasagtu Khan augmented his claim to declare himself as ‘the Lord of the throne and the legitimate Great Khan’ of Mongolia (Mongqol Dangsa v. 1. 2003, pp. 269). Hong
Taiji had to dispute the Zasagtu Khan’s claim by affirming that: ‘We thought that the Khan of Chakhar was the Lord of the throne and the legitimate Khan’ of all Mongolia (ibid.).

To wrestle with the Manchu emperor the Zasagtu Khan needed to increase his power. Neighbouring his domain, Oirat polities were powerful potential allies. To persuade the Oirat rulers, the Zasagtu Khan partially adopted his opponent’s weapon and proposed to various Oirat rulers that they should ‘join tòrì’. Treating all the Oirats as a single polity was not in the interest of the Zasagtu Khan. Nor was he willing to recognize the Oirat domains as independent. Furthermore, as the khan of the most senior line, the Zasagtu Khan must have considered himself as sovereign of all the Khalkha. Therefore, he did not want to recognize his Khalkha junior siblings as his equals. Yet, because his intention was to reconstitute the Mongolian state and to get himself enthroned as the Great Khan he needed the collaboration of all the Oirat rulers, as well as the Khalkha princes. Thus he convoked these 28 ruling princes to the Great Assembly to reconstitute the Mongolian state and to adopt the Great Code.

The assembly adopted the Great Code and reconstituted the Mongolian state as Döchin and Dörbön. However, the reconstitution of the Mongolian state proved to be impossible without the recognition of the sovereignty of the parties. The assembly, instead of enthroning the Zasagtu Khan as the Great Khan, enforced and legalized the existing fragmentation and the Great Code resulted in something akin to the Treaty of Westphalia. Thus the first two provisions made an armed assault against the greater uluses (ikh aimag uls) and lesser uluses (zakhyn tsöön khüin aimag uls) or princely domains illegal and harshly punishable by the Mongol-Oirat joint force (Batbayar 2008, p. 49). In particular, he who ventured to raid a greater ulus did so at the risk of destruction by the Mongol-Oirat joint force, for one half of his possessions were to be divided between the Mongol and Oirat while the rest was to go to his victim (ibid.). He who raided a lesser ulus was to pay 100 pieces of armour, 100 camels, and 1000 horses for his action and return his booty and repay the damages caused by his attack (ibid.). Thus, these provisions in effect recognized the independence and sovereign existence of the multitude of greater and lesser uluses or princely domains in the Mongol world. Furthermore, as Atwood perceptively noticed the assembly ‘ratified the Oirat’s partial adoption of Chinggisid titles’, which was a very important recognition for the non-Chinggisids (2004, p. 421).

The fifth provision of the Great Code invoked a penalty of 100 pieces of armour, 100 camels, and 1000 horses for ‘killing and raiding of the different communities of monks’ (shajny tus lam naryn aimgig alj talj avbaas) (Batbayar 2008, p. 50). Thus the provision, by making religious discrimination punishable, not only encouraged religious tolerance but also provided a legal protection to various (Buddhist) religious sects.

Thus, the Great Code not only recognized and legalized the independence and sovereignties of the multitude of greater and lesser uluses and princes, but also prohibited religious discrimination in the Döchin and Dörbön. As such, the main tenets of the Great Code parallel those of the Treaty of Westphalia: namely enshrining the sovereignty of states and the enhancement of religious tolerance. In modern lexicon, the Great Code creates a ‘commonwealth’ of independent principalities with a common legal system and collective enforcement. Thus, in a way, the order established by the Great Code can be treated as a headless state, especially in the absence of a nominal sovereign comparable to that of the Holy Roman Empire. The absence of a sovereign made the order even more ‘interstate’. This was a blueprint of the new sort of inter-polity relations based on mutual respect of the sovereignties of the rulers of the polities popularly epitomized by the Treaty of Westphalia and from which what was later known as the ‘international’ or ‘sovereign state’ order evolved. In fact, the Treaty of Westphalia was concerned principally with the Holy Roman Empire and the treaty reconstituted the Empire on the basis of recognition of the sovereignties of the multitude of German territorial princes within the Empire (Wilson 2009, pp. 751–778). The principle of sovereignty enshrined by the Treaty of
Westphalia was not exactly ‘international’ or ‘interstate’ but rather intra-empire state sovereignty. Nor it was based on equality. ‘The legal supremacy of the empire was not formally surrendered. The imperial legislative power was undefined and not restricted to certain matters; and if so expressed, it prevailed over local customs and statutes of the territories; from a purely theoretical point of view it was therefore sovereign; but the machinery for its exercise was so constituted that the rights of the territorial princes could not be affected without their assent (Freund 2009, pp. 7, 263; see also Wilson 2009, pp. 777–778 and Osiander 2001). As Peter Wilson argues, the system ‘remained hierarchical, fragmented … after 1648, but was clearly moving towards a secular order based on more equal, sovereign states …’ This model assumed global significance through its articulation in theories of international relations and its use by Western colonial powers in their dealings with other parts of the world (Wilson 2009, p. 754)

The political, both lay and religious, environment that led to the 1640 Great Code was very similar to that of the 1648 Treaty of Westphalia. Just like Christianity in Europe, the entire Lamaist world was engulfed in fierce sectional strife. Furthermore, as in the case of the Holy Roman Empire, the Northern Yuan or the Mongolian state was highly fragmented. Just as the individual territorial princes of the Empire were following one or the other Christian orders, the Mongol princes were also divided into the followers of the Red and Yellow sects of Lamaism. While German rulers were in conflict over the issue of sovereignty, the conflict in the Mongol world was much fiercer. The Mongol Great Khan was trying to subdue the recalcitrant princely domains, while the princes were fiercely defending their sovereignties over their immediate domains.

In fact, the 1640 assembly was preceded by the 1637 religious war between Tsogt Khun Taiji of Khalkha, supporting Red Hat sects, and the Oirat force led by Gūushi Khan Törü-Baikhu of Khoshuud, backing the Yellow Hat Sect or Gelug-pa order. A few years earlier, the Mongol Great Khan Ligdan, a follower of Sa-skya (according to Miyawaki [1999, p.323] Karma-pa), a Red Sect, crushed the Altan Khanid followers of the Yellow sects in Southern Mongolia. Ligdan, allying with the King of Tsang, seems to have been preparing for a campaign in Tibet against the followers of Dalai Lama before he died in 1634. Furthermore, at the time of the 1640 assembly while the Oirats were following the Yellow sect, the majority of the Khalkha were generally considered to be followers of the Red sect. For this reason an incarnate lama from the Sa-skya order, representing the Red sect, was present at the drafting of the Great Code.

The code’s use of the names of Mongol and Oirat seems to have led later scholarship to frame the code as if it was between the Khalkha and Oirat as the two parties. However, the use of the names Mongol and Oirat seems to have been partly out of convention and partly out of convenience. In fact, there were no Mongol and Oirat states as such, instead there were multitudes of greater and lesser uluses. Indeed, the adopters of the code are identified as ‘the lords of the Döchin and Dörbön’ and the main provisions of the code are about greater and lesser uluses. The 28 lords were representing their respective uluses, or domains. While a few were the rulers of the greater uluses, the great majority of them were rulers of the lesser uluses. Thus, first and foremost, they were there not because they were representing Mongol and Oirat, but because without the collaboration of these greater and lesser uluses, and without protecting their interests, it was impossible to reconstitute the Mongolian state and keep peace in the Döchin and Dörbön. This was the reason that the code framed the relation in terms of greater and lesser uluses, but not Mongol and Oirat, and embraced them as Döchin and Dörbön. However, in reconstituting the Mongolian state the Great Code, just like the Treaty of Westphalia would do with the Holy Roman Empire eight years later, effectively dismantled the Mongolian state by recognizing the sovereignties of these greater and lesser uluses.
Tüsniyetu Khanate: from administrative unit to principality

To develop the above argument further, I contend that whether to accept the 1640 Great Code as comparable to the Treaty of Westphalia ultimately depends on the understanding of the term ulus and the bodies denoted by this term. What were these greater and lesser uluses, that is, the aristocracy-led ‘local’, smaller-than-state polities that the Great Code recognized as sovereign polities? Were they enduring (bottom-up) permanent entities or were they creations of projects of (top-down) rulership, as variously argued by Elverskog and Sneath?

In fact, the communities or uluses that Elverskog talks about and the greater and lesser uluses of the Great Code are better known as tümens and otoigs in Mongolian chronicles of the late sixteenth and seventeenth centuries. Furthermore, none of these chronicles depict these units ‘as a particular group of people with a recognizable continuity of cultural practices, inhabiting a natural geography’ or as an ‘immutable entity’ or as ‘a viable and eternal entity’ or as ‘unique cultural, social and legal systems’ (Elverskog 2006, pp. 18, 26). Such depictions rather referred to the Mongols as a whole or as a single community. All the tümen and otoig like Chakhar, Khalkha, Tümed and so on are within Mongolia or the Northern Yuan. In fact, Altan Khan was khan of Tümed within Mongolia in the sixteenth century (ibid., pp. 248, 253); however, when he interacted with the Chinese and Tibetans he was referred to as Mongol Khan (ibid., pp. 247, 248, 260, 261, 265). Furthermore, in Altan Khan’s code, we find Mongols enjoying legal privileges over the three classes of Chinese in the ‘Mongolian country’ (Mongol oron) (Bira 2007, p. 193). None of the rulers of these units seems to have challenged the Mongolian state. Instead, as when Altan Khan threatened to destroy the Ming dynasty by the force of 40 tümen Mongols, they apparently took pride in their membership of the Mongolian state (Elverskog 2003, pp. 122, 245).

In the codes adopted in one of these tümen, namely Khalkha, in the late sixteenth and the early seventeenth centuries, the units known as otoig in the above-mentioned sources and ulus in Elverskog are consistently denoted as khoshuun (qosiγun), while otoigs appear inside the khoshuuns. Thus, seven otoigs of Khalkha are referred to as seven khoshuuns in these codes. In fact, these codes never use the name Khalkha nor does the name Mongol appear; they simply refer to the entities to which the codes apply as ‘four khoshuun’, ‘six khoshuun’ and ‘seven khoshuun’ (Perlee 1974). In addition, Altan Khan’s code talks of ‘40 khoshuus, and 5 otoigs of Mongolia (Mongolyn 40 khoshuu, 5 otoig)’ (Bira 2007, p. 188). However, early documents relating to Mongol–Manchu relations and early Qing documents do describe these intra-Mongol units as ulus, very often while also referring to them as tümen and otoig/khoshuun. Thus, Chakhar, Tümed, Ordos, Khalkha even Sönit and Abagha were described as ulus in Qing documents. The 1640 Great Code describes them as greater and lesser uluses. In fact, the 1640 Great Code literally refers to them as ‘great divisional ulus’ (ikh aimag uls) and ‘peripheral divisional ulus with few people’ (zakhyn tsöön khün aimag uls). Therefore, the greater and lesser uluses themselves are divisions of the much greater body Döchin and Dörbön.

According to seventeenth-century Mongol chronicles, eastern Mongolia, under Dayan Khan (fifteenth–early sixteenth centuries), consisted of six named tümen divided into 54 named otoigs (or khoshuun, at least in Khalkha and Altan Khan’s codes). The six tümen were divided into two wings, the left under the Great Khan, the right under the Jinong (Chinggisid viceroy), while western Mongolia consisted of four named tümen and numerous named otoigs (see Atwood 2004, pp. 430–431, 505). We do not know how well this framework reflected the reality. The same chroniclers also tell us that Dayan Khan dismantled the Uriyangkhan tümen and distributed it to the remaining five tümen (Sagang Secen 1990, p. 130). Except Uriyangkhan, none of the names of the other tümen are known to the Mongol imperial period. In fact, those names appear in Chinese sources starting from the fifteenth century (Serruys 1967, Pokotilov 1976). One of
these tümens or ulus es is Khalkha and we have 18 codes of various sizes from this realm that shed light on what was it like in late sixteenth and early seventeenth centuries.\textsuperscript{39}

According to these codes, the ‘seven khoshuun’ (or rather the domain of the Tüshiyetu Khan)\textsuperscript{40} is virtually an independent kingdom headed by a khan (qayăn). The khan was the overlord and the other rulers were clearly subordinate to the khan (Perlee 1974, pp. 100–101). In fact, an article assigns the khan the role of arbiter (ibid., pp. 89, 94). For example, the khan was to send his emissaries (elci) to solve all the crimes and debts between khoshuuns (ibid., p. 94). However, khoshuuns or principalities had a degree of autonomy because the 1611 code says that: ‘All these princes are joined [in this] accord (ey-e). If [one] does not participate in the accord, [the one] is to go separately’ (Perlee 1974, p. 87).

The realm consisted of a number of khoshuuns\textsuperscript{41}, which were arranged by otogs (camp units). Each khoshuun and each otoğ had a fixed territory (Perlee 1974, pp. 85, 100). Each khoshuun was ruled by the Geresenjid princes and administered by numerous officials of various ranks and duties. While in the 1616 code an expression ‘ruling princes’ (jasar-un taiji) appears, in the 1620 Great Code, two of the princes who participated in the adoption of codes are addressed as ‘prince in charge of governance’ (jasag barıqsan noyan). In addition, the same code lists the names of the numerous officials (tüsimed) as ‘officials who are in charge of the administration/governance of the seven khoshuun (doluyän qosıryan-i jasar barıqsan tüsimed)’ and these officials belonged to 15 named lords starting from the khan himself. It is difficult to determine whether these princes and officials were in charge of their own khoshuuns or were forming a central government.

The realm had its own assembly (ciyul'yan) that adopted the codes and governed the realm. There seems to have been an assembly and a Great Assembly (yeke ciyul'yan) (Perlee 1974, p. 87). The assembly consisted only of the nobility. Khan (qayän), rulers (qan kömin or yeke baqa noyad), and non-ruling princes (yeke baqa tayijinar) and tabunungs (sons-in-law) and sigechiner were expected to attend the assembly (ibid., p. 87, 100). Dates and places of the assembly were made known by messengers in advance. Late appearance and non-attendance were punishable by fines (ibid., pp. 81, 100).

The society was rigidly hierarchic (as Sneath depicts it) and the codes prescribed strictly unequal treatments for people in accordance to their place in the hierarchy. Numerous status groups with differing privileges are listed (ibid., pp. 88, 103). Predictably, Borjigids\textsuperscript{42} were given equal privileges to princes (ibid., pp. 100, 104).

In short, the ‘seven khoshuun’ or realm of the Tüshiyetu Khan was a thoroughly state-organized community, a khanate. Thus, ultimately, the aristocracy-led ‘local’, smaller-than-state polities were principalities of their own, albeit within the Northern Yuan. Therefore, Elverskog is correct in treating Mongolia (or Northern Yuan) in its entirety as a failing state, and he is equally correct in saying that Dayan Khanid princes forged their own ‘khanates’, breaking away from their ancestor’s state. Thus, the realm of the Tüshiyetu Khan was a principedom in itself and at the same time it was seven khoshuuns of the Dayan Khanid state. Thus, the aristocracy-led smaller-than-state polities were, in fact, sub-state politico-administrative entities. Consequently, Sneath is also correct in arguing that all of these ulus es were creations of rulership projects, that is, products of a top-down enterprise. Yet Sneath, in treating the aristocracy as permanent self-generating power holders in Inner Asia, pays scant attention to the legacy and existing structures of the (failing) centralized state. As I have written elsewhere, almost all of the pre-modern states were aristocratic states (Munkh-Erdene 2009). However, as Pierre Bourdieu would have argued, aristocracy was a product of the state for the state as the ‘holder of the monopoly of legitimate symbolic violence’, or ‘the holder of the monopoly of official naming’, imposes the legitimate vision of division of the social world and thus conserves and transforms the social world (See Bourdieu 1985, 1989, 1994). As the following section will
show, the aristocratic houses of the period were the creations of the Dayan Khanid state, a later incarnation of the Northern Yuan and the latest of the Chinggisid states.

In fact, Sneath and Elverskog were finding state powers at local level not because the aristocracy was producing state power there, but because the aristocracy was produced by a state that lost its head, the Great Khan, in 1634 and which the remaining claimants tried to revive in 1640. However, when they failed to do so, they settled on the recognition of the sovereignties of greater and lesser principalities. Thus, the Foucauldian perspective, which Sneath adopts, finds local machineries of the former state in the process of turning themselves into states. How did these principalities emerge and what was Mongolia’s overall political order like?

The Northern Yuan dynasty: an Inner Asian parallel to the Holy Roman Empire

The Mongol Great Khans never gave up their sovereignty over all of the Mongols and their dynasty ruled Mongolia until 1634. Historians designate the dynasty as the Northern Yuan (Atwood 2004, pp. 407–411). Up until 1636, no non-Chinggisid ever claimed the title of Great Khan except Esen taishi. However, it does not mean that the Chinggisid Khans were the effective rulers. In fact, Chinggisid Khans until Batumöngke Dayan Khan (c.1480–c.1517) rarely ruled themselves; instead it was the ministers (taishi) who were the effective rulers of Mongolia.

Indeed, the fifteenth century was the period of Mongolian great ministers (see Serruys 1977, Atwood 2004, pp. 407–408). One after the other they effectively ruled Mongolia while the khans were symbolic heads of state. However, Esen taishi, probably the greatest of these ministers, left a great lesson to the Chinggisids; if the Chinggisids did not rule themselves they would be wiped out. Batumöngke, the early years of whose reign probably passed under Ismayil taishi, had the latter executed on the charge of conspiracy and destroyed the office of taishi (Serruys 1977, Atwood 2004, p. 138). Iburai taishi, probably the son of Ismayil, depicted in the Dayan Khanid chronicles as a treacherous child murderer, was the last effective taishi to perish defending his office. In fact, what Dayan Khan accomplished was not so much a reunification of the Mongols but a reinvigoration of the Chinggisid lineage’s rule by the wholesale replacement and abolishment of ministerial offices. Dayan Khan installed all of his surviving sons over the various divisions of Mongolia displacing the ruling ministers and officials. Understandably, the Dayan Khanid chronicles picture these events as Dayan Khan’s glorious victories over the power-abusing ministers, while later nation-state minded or nationalist historiographies depicted him as the re-unifier of the Mongols.

However, ironically, Dayan Khan in eliminating the ministers, who were perceived as a great threat to the Chinggisid dynasty through their abuse of authority and tendency to turn tümens under their jurisdiction into their own political domains – in effect, not only turned the state into a family business but also transformed the tümens into princely domains. Dayan Khan’s descendants faithfully continued his policy. Thus, for example, while Barsu-Bolod, who was installed over the right-wing tümen, installed his sons over the individual tümen and some otoqs, his sons installed their offspring over their domain’s individual otoqs. The successive generational apportionments led to further fragmentation breaking earlier greater uluses into numerous smaller uluses (Sagang Secen 1990, pp. 135–136, Jamba 2006, p. 66). This arrangement led to the effective division of the Mongolian state into a numerous principalities of smaller sizes like the Tušiyetu Khanate.

At the same time, Dayan Khan also established the principle of primogeniture for succession of the Great Khan’s throne, by making his eldest son Tördi-Bolad’s son Bodi Alag crown prince, while leaving his own third son Barsu-Bolad as Jinong on the right wing (Sagang Secen 1990, p. 129). The design seems to have been that while the most senior line was to succeed the Great Khan’s throne the junior lines were to rule their respective territories. This arrangement
effectively led to the decentralization of power. After Barsu-Bolod’s failed bid for the throne following Dayan Khan’s reign no one challenged the principle (Bawden 1955, p. 191). Instead, all the princes sought to consolidate their powers over their own respective domains. Consequently, within this fragmented structure, the former tümen and some of the otogs or khoshuuns apportioned to Dayan Khanid princes, were gradually evolving into virtually independent domains as the princes increasingly concentrated powers in their own hands.

Thus, in effect, Dayan Khan accelerated the aristocratization of Mongol society, a process that turned public offices into hereditary domains because of the hereditary entitlement of the princely lines. Thus Dayan Khan, although he consolidated the rule of Chinggisids over Mongolia, in effect, not only fragmented Mongolia but also institutionalized this fragmentary order that entailed further fragmentations.

By the early seventeenth century the Northern Yuan was fragmented into a number of virtually independent emergent khanates each of which also was divided into a number of petty principalities as epitomised in the Tushiyetu Khanate. Thus, the Northern Yuan with its fragmented sovereignty and decentralized political power – where the sovereignty (törü) of the Great Khan was nominal, while the khans, taijis or territorial princes were the effective rulers of their immediate domains – was akin in this respect to the Holy Roman Empire (see Wilson 1999). Any of the Mongol princely domains like Khalkha, Tümed, Oirat were comparable to the 66 imperial states represented in the Treaty of Westphalia, or the 140 or so imperial states that were involved in the event and the 350 or so territorial units comprising the Holy Roman Empire (see Lee 1991, pp. 60–71, Wilson 2009, pp. 17–18). In fact, in a way, six tümen can be compared to the Reichskreise (Imperial circles: regional groupings of territories of the Holy Roman Empire); the senior and powerful principalities were comparable to imperial Estates (Reichsstand), while the most senior princes of each tümen were as influential as the seven electors in the Holy Roman Empire (See Wilson 2009).

Furthermore, like the Holy Roman Empire, there were realm-wide institutions of governance in the Northern Yuan (see Wilson 1999 on the Holy Roman Empire). Certainly, the Great Khan was the head of state and the legal sovereign, however his rule was nominal. In fact, as long as the Chinggisid Great Khan was there, the Northern Yuan existed if not as a viable political body then rather as an imagined state.

The Great Khans seem to have been always enthroned by assembly in front of the White Tent or shrine of Chinggis Khan (see for example Sagang Secen 1990). In fact, the assembly of the six tümen was another realm-wide, crucial institution of governance. The assembly in the realm of the Tushiyetü Khan (comparable to Landtag in the Holy Roman Empire, an assembly of the individual imperial states) must have been a local version of the assembly of the six tümen, (comparable to Reichstag, the general assembly of the Holy Roman Empire). Indeed, assembly had long been a forum of governance in post-imperial (i.e. post-1368) Mongolia. Most of the important affairs of the realm – adoption of codes, conferral of titles, appointment of high-ranking officials, decisions on war and peace, and certainly, enthronement of the Great Khan – were decided by assembly. For instance, Great Khan Tümen convoked an assembly of the six tümen in 1576. The assembly adopted a Great Code and appointed six princes (one from each tümen) in charge of the governance/administration (jasary bariqulsan) of the realm (Sagang Secen 1990, p. 135). Certainly, they must have been the ‘princes in charge of governance’ of the ‘six tümen’, while the ones in the realm of the Tushiyetü Khan must have been modelled after them.

Realm-wide codes like the 1576 Great Code preserved realm-wide common legal traditions. In fact, the 1640 Great Code was made possible by these preceding common legal traditions. Many of the provisions of the 1640 Great Code, Khalkha codes and Altan Khan’s codes are very similar in terms of structure, provisions and lexicons and undoubtedly based on common legal tradition (Bira 2007, pp. 186–201). Thus, there were realm-wide institutions of governance
under the Great Khan like assembly and government and those institutions were often reproduced at regional levels.

However, the fragmentation process described above ultimately exhausted the power of the Great Khan and by the early seventeenth century the Great Khan’s authority barely extended over his immediate seat, the Chakhar tūmen. As the tūmens evolved into increasingly independent domains prepared to fiercely defend the existing status quo, their sovereigns claimed the title of khan and started to call their domains uluses.

As Elverskog’s critical assessment reveals, Altan Khan (1508–82) not only challenged the authority of the Great Khan but also demolished the order of dual sovereignties of Khan and Jinong (2006, pp. 20–23; see also Atwood 2004, pp. 9–10). Altan pressed the Great Khan to confer upon him the title of ‘Tūshiyetu Khan’ (qan) (lit. ‘subordinate ruler’). However, the conferral of this title proved to be ruinous for the Great Khan’s power and authority and for the entire order of the Northern Yuan. Altan, in seeking to augment his own power and authority, hollowed those of both the Great Khan and the Jinong, transformed the Great Khan to a nominal sovereign of Mongolia and reduced the Jinong to the ruler of Ordos, thus effectively putting an end to the era of dual sovereignties of Khan and Jinong by the end of the sixteenth century. However, because of the principle of primogeniture Altan was in no position to claim either the office of Jinong or the throne of the Great Khan. Soon the rulers of Khalkha (three khans), Kharachin, Khorchin and Ordos all claimed the title of khan. Consequently, the Great Khan, in effect, became none other than the first among equals; thus, his rivals appositely downgraded him as Chakhar Khan. Thus, Altan also opened the era of multiple sovereignties.

With the existence of the nominal Great Khan and multiple effective khans by the early seventeenth century the Northern Yuan became ‘an Irregular Body, and like some mis-shapen Monster . . . So that in length of time, by the Lazy-easiness of the Emperors, the Ambition of the Princes, and the Turbulence of the Clergy or Churchmen, from a Regular Kingdom is sunk and degenerated to that degree, that is not now so much as a Limited Kingdom, . . . nor is it a Body or System of many Sovereign States and Princes, knit and united in a League, but something (without a Name) that fluctuates between these two’, as one contemporary observer depicted the Holy Roman Empire (Schroder 1999, p. 966). However, as long as the Great Khan existed, the realm was there and the principalities were parts of it; as such the princes were insecure. Indeed, as Dayan Khan himself destroyed the Uriyangkhan, Ligdan took over the Tümed and Ordos before his death. In fact, Mongol princes were ‘joining törü’ with the Manchu ruler not because they ‘hoped that the Manchu state could restore order among the fractious Mongol groups’ but because the Manchu ruler was offering a military alliance in defence of their autonomy against the encroachment of their sovereign, the Mongol Great Khan (Elverskog 2006, p. 30).

**Conclusion**

‘Joining törü’ emerged as a strategy in the context of a crisis of sovereignty. The Great Khan Ligdan, following his great-grandfather’s lead, tried to centralize power at the expense of the territorial princes. In the meantime, the Manchu ruler, lacking the sovereignty that Ligdan enjoyed, launched a policy to turn his rival’s advantage against him. His policy was to lure semi-autonomous Mongol princes into military alliances against their legitimate sovereign, that is, to ‘join törü’ or to conclude treaties with the Mongol princes. Alliances with Mongol princes were of crucial importance for Manchu rulers, not only as a way to win recognition for the fledgling Manchu state, but also, most importantly, as a way to safeguard the Manchu state from a united Mongol assault. This explains why the Manchu rulers were so consistent and so tolerant of Mongol princes’ numerous offences against the Manchus in building the
alliances. This also explains why Manchu rulers emphasized the sovereignties of the Mongol princes against their sovereign, while belittling the Mongol Great Khan as Chakhar Khan.

Ligdan Khan, very assertive of his sovereignty over these princely domains, was greatly frustrated by this situation. However, Ligdan, because he was the sovereign of these princes, was denied his opponent’s cunning weapon, the joining of törü. As a sovereign he was in no position to conclude a treaty with any of his subjects because this implied the recognition of their independences and abdication of his own sovereignty over them. Thus, he had no choice but to turn to arms to bring the recalcitrant princes back under his effective control. The harder Ligdan pressed the Mongol princes the stronger he was making his rival the Manchu ruler, as, by doing so, Ligdan was pushing the recalcitrant princes into the orbit of the Manchu ruler and encouraging them to commit to military alliances. Thus, ironically, the sovereignty of the Mongol throne was destroying his realm. Yet, as long as the Great Khan was there he acted as a deterrent to realization of the Manchu ruler’s ambition of sovereignty over his Mongol allies.

However, once the Manchu ruler captured the seal of the deceased Great Khan (Ligdan) circa 1635, the situation was completely changed. The Manchu ruler successfully pressed his Mongol allies to enthrone him as their Khan for he allegedly ‘took the jade seal (hasbau erdeni tamg-a)’ of the Great Yuan Dynasty (Mongqol Dangsa v. 1. 2003, pp. 3–12, Weiers 1994, p. 121). Thus, when the southern Mongol princes with their Manchu and Chinese counterparts proclaimed the Dayiching Ulus (the Qing Dynasty) and recognized Hong Taiji as their Khan their previous treaties of alliances with the Manchu ruler came to an end. Consequently, with the establishment of the Dayiching Ulus in 1636, the Mongolian uluses like Khochin and Kharachin, once Manchu’s allies, could no longer be denoted as ulus for now the Qing itself was the ulus, the Dayiching ulus. The former kingdoms or uluses were incorporated into the Dayiching ulus as its sub-divisions; thus, they were demoted to aimag and their former khans to wang, or kings for there was to be only one khan, the Qing emperor.

In the meantime, the Zasagtu Khan Subudai resisted the Manchu ruler, by trying to reconstitute the Mongolian state and claim the throne of the Great Khan. However, the Great Code enforced the existing fragmentary order by recognizing the greater and lesser principalities. Yet, the Zasagtu Khan did reconstitute the Mongolian state as Döchin Dörböö even though he could not have himself enthroned. Therefore, does this indicate that the word törü that both Elverskog and Sneath read as ‘state’ actually means state in this context?

The first provision of the earlier 1620 Great Code included very similar provision to the 1640 Great Code, where in place of the phrase ‘destroys this törü’ the 1620 Code has the phrase ‘destroys this caγaja’ (Perlee 1974, p. 100). Furthermore, the extant first list of the 1639 Great Code, of which the Zasagtu Khan was the leading figure, also has ‘destroys this caγaja’ (ibid., p. 106). We should be reminded again that the Zasagtu Khan was the leading figure in the adoption of both the Great Codes of 1639 and 1640. This raises the question of why the term törü is used in the 1640 Code while it is caγaja in the preceding 1620 and 1639 codes, even though all of them are designated as Great Codes. The phrase ‘destroys this caγaja’ in the earlier Great Codes makes it clear that the Zasagtu Khan and the other adopters of the 1640 Great Code had a reason to use törü in 1640, which suggests that the order established by the 1640 Great Code must have been different from that established by the previous two. What could this difference have been?

This leads us to compare the order established by the 1640 Great Code to that of 1620. The most noticeable difference is that while the 1620 Code has provisions concerning assembly, namely ‘officials who are in charge of the administration/governance of the seven khoshuun’, the 1640 Code has not. In fact, the 1620 Great Code is clearly a charter of the state of Tushiyetti Khan. It does not include many provisions about the constitution and the governing structures
and their organizations and functions because they were already there and the code takes them
for granted. However, because there were problems to be addressed in the workings of those
governing institutions, the code takes up, for example, the issue of how to improve the
quorum of the assembly because the nobilities who were expected to be present at the assembly
were not attending. It is true that the 1640 Great Code, like the 1620 Code, was also based on the
existing constitution and governing structures. However, the absence of some provisions found
in the 1620 Code pushes the törü of the 1640 Great Code closer to a treaty. We do not know
whether the 1640 assembly appointed ‘princes in charge of governance’ as the Great Khan Tümen did at the 1576 assembly. Yet, the 1620 Code has a provision that appoints ‘officials
who are in charge of the administration/governance’.

However, as discussed earlier and notwithstanding the above, both the context of the 1640
assembly and the intention of the Zasagtu Khan, undoubtedly suggest that the use of törü is
closer to meaning a state than a treaty. An interesting term ‘aimag’ that we do not find in
early documents concerning Manchu–Mongol relations was used in the 1640 Code in the
expression ‘aimag ulus’, to refer to both greater and lesser uluses. As we have seen earlier,
these greater and lesser uluses were principalities of the sort of the Tushiyetu Khan. As we have also seen earlier, they were denoted in the early Manchu–Mongol relations’
documents as ulus or gurun, in Manchu. However, with the declaration of the Qing Dynasty in
1636, they all were demoted to aimag, that is, to ‘divisions’ of the Qing. Thus, by describing
the greater and lesser principalities as ‘divisional ulus’ (aimag ulus), the 1640 Great Code seems to
embrace them as parts of the Döchin and Dörbön. Therefore, this use of aimag ulus also pushes
the order established by the Great Code into the spectrum of a state because the term ‘divisional
uluses’ implies that the greater and lesser uluses are part of a greater polity named Döchin and
Dörbön.

Nonetheless, the most important element of the 1640 Great Code is the recognition
of the sovereignties of the greater and lesser principalities. In fact, while the first provision of
the 1620 Great Code prescribes fines for the destruction of the code or the order in general,
the first two provisions of the 1640 Great Code specifically prescribes punishments for any
armed assault against the greater and lesser principalities. Such an assault is considered as the
destruction of the törü. This shows that the issue of most concern to the princes was the
sovereignty of their respective principalities. Indeed, ‘törü’ in the 1640 Great Code refers to
these few provisions while the rest of the provisions of the code are referred as caraja.

In conclusion I argue that törü in all these documents meant essentially the same thing – law
or rule. However, it is our conceptual parcelling and categorization that makes the understanding
of these documents complicated. Thus, whether to understand törü in these events as law, as
treaty or as state depends not only on the contexts and scope of the events but also on our
own understanding and parcelling of these concepts. This also applies to the understanding of
Mongolia’s political order of the time.

The collapse of Mongol central authority during the period under consideration and the
associated crisis of sovereignty created an environment wherein princes who wished to claim
sovereignty engaged in ‘joining törü’ enterprises for the sake of that sovereignty. Because the
parties commanded no legitimacy by which they could claim sovereignty over each other
they had to recognize each other as equals. In this environment, and aiming to reconstitute
the Mongolian state, the Zasagtu Khan Subudai convened the 1640 Great Assembly.
However by recognizing the sovereignties of the greater and lesser principalities, the assembly
in effect came to a very similar conclusion to that which the 1648 Treaty of Westphalia did
for the Holy Roman Empire eight years later, out of which the order that we know today
as ‘international’ evolved, and which is, in effect, a headless political order of supposed equals.
Acknowledgement

The author owes a debt of gratitude to the editors and the anonymous reviewers of the Central Asian Survey for their helpful comments and to the Austrian Science Fund (FWF) for making this research possible.

Notes

1. The name Döchin Dörbön (lit. ‘Forty and Four’) was used in the Great Code to designate the political entity that embraces all the parties represented in the 1640 assembly. While Döchin stands for the eastern Mongols, the Dörbön denotes the western (Oirat) Mongols. According to the seventeenth-century Mongol chronicles, the eastern Mongols consisted of 40 tūmens (originally military units of 10,000 troops and their families, subsequently administrative units or myriarchy) while the western Mongols comprised four tūmens before the collapse of the Yuan Dynasty. The designation seems to have been chosen to evoke the former unity of the Mongols.

2. For example, see Sh. Natsagdorj (1963), p. 34 and Junko Miyawaki (1984), p. 152.

3. Christopher Atwood (2004, p. 389), who wrote that ‘the purpose of the assembly was to unify the Khalkhas and Oirats, after decades, even centuries, of animosity. The first provision ... in the code therefore prescribed collective action by all signatories against any person who “destroys this state (töro)”’, opened this new perspective.

4. Author’s fuller review of Sneath’s work can be found in Munkh-Erdene (2009).

5. Töri is also spelled as törö by some authors. In contemporary Mongolian it (spelled as tör in Cyrillic) means state (as a ruling institute) or government.

6. Former Mongol tūmens (myriarchy); see Atwood (2004, p. 505).

7. See also Atwood (1994). Prior to Elverskog, Christopher Atwood proposed a very similar formula to explain why Mongols throughout the Qing period saw ‘the Mongolian banners as collectively forming a single realm, one on a level with that of China, Tibet, Korea, and so forth’.

8. This enterprise of ‘joining töri’ is variously described in historical sources (as explored in subsequent sections of this paper) as establishing, joining and devising (toqtaqaju, nigeđkii, neyilegélekii, jokijii) töri ey-e, or töri carajaja, or ey-e carajaja, or töri, or carajaja. It involved negotiating and discussing between parties (kelelecekii, keleldükii, ogüleldükii). These expressions indicate the stages involved in the enterprises as well as scribes’ preferences for particular expressions. In joining töri parties involved, if successful, agreed certain terms and devised (esgekkii) or drafted (bicikii) carajaja (codes or law). The result was called joining, or establishing töri or carajaja.

9. See subsequent section on Northern Yuan Dynasty, this paper, for details of Dayan Khanid state. See also Atwood (2004, p. 138).

10. See Sneath (2007, p. 49. See also Serruys 1960, for the Sino-Mongol Peace accord).

11. A division of the Khorchin settled around the river Nonni (or Nen River).

12. Before the Manchus and the Mongols, Altan Khan of Tümed established a töri with the Ming dynasty in 1571–72. The Jewel Translucent Sutra, written in the early seventeenth century, tells us how Altan Khan ‘established a peaceful great töri’ (tayibing yeke töri-yi toqtaqaju) with the Ming (Elverskog 2003, pp. 247–249. See also Serruys 1960, for the Sino-Mongol Peace accord.).

13. In addition to Hong Taiji’s letter a number of diverse documentary sources exist. Some are oaths made by the parties involved in the ‘joining töri’ settlements, while others detail the actual terms of the settlements. The oaths typically do not bear any title, while the latter are clearly entitled as carajaja (code). From the oaths we learn the parties’ promises ‘to go by one ey-e’, from the carajaja we learn the actual terms of the settlements. In some cases, the two might have been different kinds of settlements. However, in other cases, they were also different stages of one settlement, that is, while the carajaja was the actual terms of the given settlement the oath seems to have been the way to ratify the settlement. Evidently, the ‘joining töri’ enterprise itself was evolving. By the 1630s, joining töri involved both oath and carajaja.

14. For example: ‘When a Manchu goes to the Khorchin and Abaga and commits a crime, [the crime] must be dealt with according to the laws of the Khorchin and Abaga. When a Khorchin and Abaga goes to the Manchus and commits a crime, [this crime] must be dealt with according to the rules of the Manchus. When one commits a crime exactly in the middle of two ulus, [the crime] must be dealt with according to each person’s laws’ (Li Bao-wen and Nyamka 2004, pp. 15, 57, Elverskog 2006, p. 26).

15. ‘jirgugan ulus yin ehen-i ehilin büged mongqol ulus-i tegri nada soyorhagsan metü sanaji bile’.
16. Baarin (baqarin) is a former Mongol otog. An otog is a sub-division of tümen; see Atwood (2004, pp. 430–431).


18. ‘Nine white’ consists of one white camel and eight white horses.

19. With no deterrent or punishment, enforcing the terms of the settlements seems to have been difficult. For example in a letter to Khun Baatar of the Naiman in 1627, Hong Taiji describes how the Khalkha, breaking their anti-Chinese military alliance with the Manchus, attacked the Manchus and allied with the Chinese (di Cosmo and Bao 2003, pp. 29–35). However, some later settlements included certain fines and punishments for failures, while in the one that was established between the Qing and Khalkha Khans in 1657, the Qing emperor offered handsome rewards as incentives for compliance and military threats as deterrents.


21. Mongolian chronicles use the expression ‘take or seize törü’ many times. For example, Manchu rulers ‘takes the törö of the White Jurchen, then the törö of the Mongols, and finally in 1644 the törö of the Chinese emperor’ (Elverskog 2006, p. 29).

22. ‘khas ikh törig khadgalj suunam bid’.

23. ‘khan törölt bidnii örgüün tuld’.

24. The Manchu ruler Hong Taiji was known as Setsen Khan (literally ‘Wise Khan’), and as distinct from Setsen Khan of the Khalkha, from 1627–36.

25. ‘Evdershguit öriig evdev Khutagt khaan. Enkhjuulekh törig tend Setsen khaan med’.


27. By this, Hong Taiji actually meant that he himself was the legitimate Khan of all Mongolia because, he claimed, Heaven had granted him the throne of the Great Khan.

28. According to Hong Taiji’s letter, the Zasagtu Khan clearly put himself above Hong Taiji for he not only called himself the legitimate Great Khan but also put his name above Hong Taiji’s name and entitled his letter as a decree (jarlag). In contesting the Zasagtu Khan’s claims, Hong Taiji writes: ‘Aren’t there three khans in one otog of Khalkha because you cannot rule the state? . . . Instead of sending me, who is the lord of all, a decree, send it to your brothers in the east and west. Is there a person who would go by your word?’ (Mongqol Dangsa v. 1. 2003, pp. 271–272).

29. Because of the Zasagtu Khan’s intention, the Setsen Khan, who had also coveted the throne of the Great Khan, seems to have boycotted the assembly.

30. The choice of the name was understandable. Neither the name Mongol nor Oirat was suitable for the new state because the state was neither Mongolian nor Oirat, but both. In other words, politically the name Mongol had been shrunk to equal only the eastern Mongols, while the name Oirat was never a collective name for the Mongols. Certainly, Oirat rulers must have been unhappy with the adoption of the name Mongol for it would make them look like they were submitting to the state of the Dayan Khanids. Thus the choice of the name was a reflection of the conscious effort to transcend and displace the division and create a state inclusive of all Mongols.

31. The Great Code had multiple adopters and collective enforcement. It was as much a treaty as legislation. External threat and the ambition of the convoker pushed the Mongol nobilities to put their differences aside and reconcile their relations, while their shared political, legal and cultural legacy allowed them to issue much legislation. Thus, it regulated civil, criminal and domestic relations in ways that could be enforced at local level by local authority. The code created a universal legal environment within the Döchin and Dörbön.

32. Indeed, the third provision of the Great Code settles the outstanding issues that these wars left regarding issues of war captives, fugitives and refugees (Batbayar 2008, pp. 49–50).

33. The code does not use term Khalkha at all.

34. The adoption of the name Döchin and Dörbön clearly signals that the matter was not about Mongol and Oirat but beyond this narrow framing. If it were a matter of Mongol and Oirat, there was no need to adopt the name Döchin and Dörbön; the names Mongol and Oirat, as used in the codes, would have sufficed.

35. We were able to find ‘Tuğed yeke ulus’ (Elverskog 2003, p. 253), and Khalkha ulus (Shamba 1959, p. 92) each only once in all of the late sixteenth and the seventeenth-century chronicles. However, all the chronicles of the period consistently denote these named greater units as tümen and lesser units as otog.
37. Mongolian qosiqun, cigulgan and jasary or zasary (known as banner, league and ruling prince respectively in literatures on the Qing) all predate the Qing. Throughout the Qing period, the Mongolian khoshuuns remained first and foremost princely domains; see Atwood (2004, pp. 30–32, 329).
38. For instance, Hong Taiji in his 1638 series of memoranda to Mongol nobles repeatedly noted that they originally belonged to the ‘Boshogtu Khan of Tumed ulus’ (tümed ulus-un boshogtu hagan) or ‘Boshogtu Khan of Tumed of Mongolia’ (mongqol-un tümed ulus-un boshogtu hagan) (Mongol Dangsa, v. 1. 2003, pp. 217–240).
39. All these codes were found in 1970 by Khödöögiin Perlee at Khar Bukhyn Balgas in Dashiinchen county, Bulgan province. Many of the codes are ‘minor codes’ (öciiken cayaaja) mostly consisting of a dozen provisions that regulate certain relations; three of them are ‘great codes’, of which the one that was adopted in 1620 is complete and it is actually named as a Great Code (yekc cayaaja).
40. The codes are the codes of the ‘four khoshuun’, ‘six khoshuun’ and ‘seven khoshuun’. Perlee thought that the ‘seven khoshuun’ was for Khalkha in its entirety. The princes who adopted the code all belonged to what later became known as the Tushiyetu Khanate.
41. The ‘seven khoshuun’ seems to have been just a framework. In reality there seems to have been have many more khoshuun.
42. Borjigids are those who belong to the lineage of Borjigin, the lineage of Chinggis Khan; see Atwood (2004, pp. 44–45).
43. All the Dayan Khanid chronicles vilify Mongol ministers, depicting them, especially the Oirat ministers, as cowardly, as trying to annihilate the Chinggisids/Borjighid line, and even as trying to commit infanticide. Against this background, the chronicles depict Dayan Khan as the saviour of the Borjighid line and the Mongols.
44. See also Atwood (2004, pp. 18–19, 430–431) for appanage system and otog.

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