

THE PLACE AND ROLE OF THE COURT OF CADIES¹ IN SOLUTION OF ECONOMIC AND POLITICAL-SOCIAL PROBLEMS IN CHIMBAY REGION

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Аннотация: The Lower Amudarya tributaries were completely dependent on the Khanate of Khiva until 1873. However, after Tsarist Russia conquered these lands, the Amudarya division belonging to Tsarist Russia was established on the south bank of Amudarya. The administrative system of the Amudarya division was under the control of military officials. Russian courts were used for the European population of the region, and traditional courts were used for the local population as before. This article talks about the role of the cadies' court in solving economic and political-social problems in the judges' court of Chimbay section of the Amudarya division. In the scientific work, archival materials that were not previously included in the scientific treatment were used.

Key words: Amudarya division, Chimbay section, court of cadies, judge documentations, debt, waqf, shariat, punishment, customs, archival documents.

By the end of the 19th century, the role of cadi courts was high in the social life of the peoples of the Lower Amudarya. In the daily life of local residents, the importance of shariat increased along with custom. After Tsarist Russia conquered the Khanate of Khiva, the cadies' court did not have equal jurisdiction on both banks of the Amudarya. On the south coast, which was under the rule of Tsarist Russia, the main cases were dealt with by Russian courts. But the local people appealed to the cadi's court.

After the conquest of Khiva Khanate by the Russian Empire in 1873, on August 12 of this year, the truce Gandimiyan had been done, according to its conditions, the lands on the right bank of the Amudarya were transferred to the Russian Empire, and the Amudarya Division was established in this area as part of the Syrdarya Province of the Turkestan-General Governorate. The creation of the Amudarya section artificially divided the people of the Khiva Khanate, who had been living together for centuries, into two

The administrative center of the Amudarya division was the city of Petro-Alexandrovsk, founded in 1874 on the right bank of the Amudarya. Amudarya section is divided into 2 parts: Shorakhan section, Chimboy section.

Chimboy section includes 12 volosts - Nukus, Chimboy, Kegeyli, Ko'kozak, Beshyop, Ishim, Daukara, Ko'kkol, Naupir, Talliq, Kungrad, Yangibazar volosts, Shorakhan section includes 7 -

Shorakhan, Tortkol, Sheikh Abbas Vali, Biybazar, Mingbulak, Tamdi, Saribi volosts existed.

The head of the Amudarya division was a military post holder, subordinated to the military governor of the Syrdarya region and had the status and powers of the head of the uezd. The chiefs of the precinct - bailiffs - were Russian administrators. The members of the lower administration - head of the volost, elder, mirob, cadi, biy, arik elders - are representatives of the local population, and their candidates have been previously considered and approved by the manager of the Amudarya division.

In terms of religious belief, 97.6% of the population of the Amudarya division are Muslims, of which 97.4% are Sunnis, 0.2% are Shiites (Iranians).

Uzbeks consisted the majority of the population in Shorakhan section, and Karakalpaks and Kazakhs in Chimboy section [7:54].

The restrictions imposed by the "regulation" of 1865 on the activity of courts in the Turkestan region also became effective in the newly created Amudarya division. The range of cases dealt with in people's courts is very wide, and about 90% of the population applied to biy and cadi courts [1:72].

Court cases were in the hands of cadies. However, it was centralized instead of from one source, as before. For example, Chimboy section of Amudarya division was divided into 5 judicial sections after the election in 1876:

Section 1 - covered Nukus volost;

Section 2 - covered Davkara volost;

Section 3 – covered Kungrad and Tallik volosts;

Section 4 – covered Kegeyli and Navpir volosts;

Section 5- Chimbay, Eshim and Kok-kol volosts.

A cadi stood in each of these sections. Cadies, like elders, were "elected" by the people for a period of three years at the election meeting [9:14].

In 1897, there were 10 judicial districts (Nukus, Chimbay, Eshim, Kokuzyak, Kegeyli, Naupir, Talliq, Daukara, Yangibazar, Beshyab, Kok kol) in Chimboy section. There were 3 people's judges in Shurakhan district's Biybazar district, 4 in Mingbulaq district, 4 in Tamdi district, 4 in Nukus district of Chimboy district, 3 in Talliq and Kokkol districts, 2 in Kungrad district, and 4 in Davkara district. [back of sheet 13:8].

Making a family is one of the biggest events in the life of Muslims. Of course, family building ceremonies were carried out on the basis of ancient customs and sharia of the people. In nomadic and semi-nomadic nations, marriage and engaging was performed not only on the basis of Sharia, but also according to their traditions. According to the custom of local peoples, there have been cases where they agree to share their children before they are born. In the Turkic peoples, this ritual is called "Aqlay" engaging. If this agreement is violated, that is, it is not fulfilled due to any reason due to the fault of the party, then the guilty person is punished without mercy.

Due to the fact that the peoples of the lower Amudarya lived a prosperous and vigorous lifestyle, the customary law was preserved along with the Sharia. The customary law of the nomadic and semi-satled peoples of the past was distinguished by its remarkable simplicity, which corresponded to the simplicity of their lifestyle and patriarchy. Due to long-term dependence on different states, close contact with the settled population, the influence of Islam, the development of usury, and changes in economic conditions in general, customary law underwent such changes that almost imperceptible complications remained from the previous custom.

The court of *cadi* was carried out in the following order: when the plaintiffs appeared, according to the rules of Sharia, the *cadi*, without starting an investigation and questioning, offered them to make peace and set a certain period for this, after which the plaintiff had the right to demand the court to resolve the case. After questioning and investigations, if the evidence is insufficient and after taking an oath of purity, the judge declares the guilt of one of the parties and asks the *mufti* what kind of fine or punishment there is in the Sharia [6:61].

If we look at the history of Karakalpakstan, the guilty were often punished with a whip, and in most cases they were tied to a cart. Sometimes, instead of this punishment, the culprits were expelled from the village. In some cases, the sinner is recognized as "bad" by decision. In connection with this, interesting information is given in a document found in the Ayimbet Eshan mosque in Takhtakupir district in 1961. It is shown that 18 people, probably from one village, called Eshan, Khoja and Shaikh two unknown people as "bad people". After such a decision was made, everyone called them "bad people" and tried to exclude the accused [7:179-180]. Although such a concept in society is not compatible with Sharia, it is considered one of the traditions that are useful in educating people and maintaining order among the population.

In the Karakalpaks, this situation was called "aq uyli ("settler of white house"). The term "settler of white house " was used to separate the population from the population and make them look bad and punish them by scaring them in this way. It was the type of punishment usually given to political criminals. In the work of Berdaq poet "Ernazarbi", it is said that Ernazar, the Karakalpak folk hero, was considered a criminal in the eyes of the khan and made "settler of white house" by the khan because he rebelled against Khiva Khan [3:120].

Even during the Khiva Khanate and Tsarist Russia, local people's appeal to the court was related to socio-economic conditions, which indicates that the problems of the way of life have not changed. For political crimes, as we said above, the punishment was imposed by the public by the assembly of elders and representatives of reputable religions. The peoples who lived here influenced each other's legal systems and customs for many years and benefited from similarities in administrative units. Zaki Validiy Togan writes about this in his memoirs: "Bashkurt clans live in Nukus between Kungrad and Chimbay, they moved here several centuries ago. Here, the clans of the Bashkurts or Istyaks are called Mankanay, Qoipnazar, Karaterenchi, Kalmurtayli. Karakalpaks like Bashkurts hold a public gathering on the hill, we also call it "yyyn" ("Counsel") [4:28-30].

In the socio-economic life of the end of the 19th century and the beginning of the 20th century, usury played a huge role, according to documentary sources, it penetrated into all areas of the national economy, had a negative impact on the economy and increased incomes, and led to the impoverishment of the country's population.

It is known that usury is forbidden in the Holy Koran, but in practice this prohibition has been avoided for a long time with the help of various tricks. Lawyers have developed such types of documents that are burdened with usury. Their usurious debt is disguised as interest-free (payment for service, price of something cheap, rent, etc.) [15:37].

If we look at the cadial documents of the Chimbay district, we will see that most of them are related to the issue of debt. In particular, 50% of the 80 documents drawn up by the Chimbai cadī Mirkhamid Mirhaqnazar in 1904 were devoted to the issues of borrowing and lending, debt recovery [10:40].

It is important to note that the cadī paid special attention to the documents of the claim during the trial. If a person came to the court with a claim, he was required to provide documents or evidence in connection with his claim. The defendant's confession was substituted for the document. This document had to be confirmed by witnesses. Although the plaintiff has evidence, but no witnesses, his claim was not accepted by the judge. In a real estate case, the judge asked the witnesses in court how much the yard or the total area of the land was. After that, the judge went to the claimed land and asked the witnesses and the claimant to show the boundaries of the real estate from four sides [14:76-77].

The court process is built on the private lawsuit type, that is, civil and criminal cases are initiated only by filing a lawsuit. According to the rules of Sharia, the cadī should have offered to end the case by compromise before starting to hear the case on its merits. If the offer is accepted, this process is completed. If the parties cannot agree, the judge will proceed to consider the case. The year and date of the “kazikhati” (cadī official letter) received from the claimant are written, and the cadī's seal is stamped. For example, in one such document, dated 1324 Hijri, 22 Jumadi ago, Murad Kamal....karri qirtum (old) was written as a cadī's letter about the arrival of 2 claimants [11:67].

The Khiva khanate was searching for a person who left the Amudarya region for a crime or for other reasons, or, on the contrary, went to the Amudarya region. In another case, he carried letters from one region to other regions within the Khiva Khanate. Each cadī wrote a reply letter to him about whether he was present or not in his territory: in our letter dated March 14, 1906 year, he was in the presence of an indigent cadī named Niyazbiyka in Shumanay district (belonging to Khiva khanate). Khudaibergan Zarlik lost his son and got a divorce and is currently living in Khiva [11:37].

Among the cadial documents, one of the most common documents is the one related to the sale or purchases of land, in which it is shown from whom the land was acquired, the amount of the land, and in what currency the buyer paid for the land. Also, at the end of the document, the names of the witnesses are written and the cadī's seal is printed.

In the inheritance documents, it is written one by one how many heirs the bequeathed has, who they are, and what will be left to them. The following document clearly shows this: Shaban 29, 1332² / August 22, 1914

Mulla Adina Keldi is to share the inheritance left by his son Mulla Allahkuli. After his death, two heirs remained from his sons: Abdulla Makhdum and Bobojon Makhdum. Their land and houses in the Pishkanik area were divided between them ten years ago, but not completely. Abdullah Makhdum also died during this period. He left his heirs: a wife named Mamajan-bika, daughter of Muhammad-Yaqub, two daughters and seven sons: the eldest of them Muhammad-Karim and Nasrullah. The remaining undivided property in the first division was assessed by the judges, and the share of Muhammad Karim and Nasrullah mentioned was eight lands: the first three-quarters of tanab³, the second the same, the third forty acres with houses and a fat room (juwaz-khana), the fourth, Kiyat - There are about 55 tanabs in Boz-Qal'a in the Kungrad region, the fifth - about 54, and the sixth in the mentioned Boz-Qal'a. Two tanabs and 60 acres in Mayli-Changal area, the seventh is about half a tanab and forty acres in the same Mayli-Changal, and the eighth closed house in the same place. All of these are valued at 111 gold, each equal to nine coins in circulation. All listed properties were transferred to Muhammad-Karim and Nasrullah who agreed to this section.

Witnesses. Elder Pahlavan-Niyaz, Abdalkarim.

Clerk: Damulla Karimberdi.

Round seal: 4.5 cm Cadi aqza al-kuzat Damulla Muhammad-Salim akhund ibn Muhammad-Said deceased 23 pages 36 x 22.5 cm [5:53-54].

Therefore, the economic and political role of the clergy has increased, as a result of which its members have been appointed to various positions in the country's local and central administration.

The lands given to mosques and madrasas are called "waqim jer" (endowment land) in Karakalpaks, and cadies were also involved in its granting. In the southern regions of Karakalpakstan, there were 38 mosques that had waqf lands before joining Russia. Waqf land ownership remained after annexation to Russia, and priests were still encouraged by central and local authorities [2:12-13]. The documents of the waqf lands are stamped with the seal of the qazi along with the khan. In some documents, only the seal of the judge is printed [12:10 on the back of the page]. All waqf lands are leased, the amount of which is determined by the judges. The privilege brought great income to the clergy and strengthened his power over the peasantry as a large landowner.

The number of people's courts did not meet the demands of the local population and the long distance for the local population to appeal to the cadies created difficulties. This situation continued even after the conquest of Tsarist Russia. This can be understood from the fact that in 1890, the head of the Amudarya division asked the Syrdarya regional administration to submit a petition on the establishment of new judicial districts of Kokkol and Kegeyli, as well as on the election of Yangibazar and Beshyab cadi courts [13:8].

The organizational process in a certain aspect of any socio-economic and political field also shows the general level of development of the society in this field. The above information shows that judges and judges play a major role in solving various social and economic issues in Karakalpak society. For several centuries, the Sharia and custom were mixed together and became difficult to separate. Sharia can be compared to written laws, and custom can be

compared to unwritten laws. That's why the powerful population conducted court cases orally without documenting them.

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- ¹. Cadi is the type of religious judge who regulated issue by laws of Sharia.
- ². Shaban- Arabian name of month August.
- ³. Tanab- a unit of distance measurement in Muslim countries in the Middle Ages. Equal to 39.9 meters