



HISTORY OF THE JUDICIAL SYSTEM OF THE GENERAL GOVERNORATE OF TURKESTAN

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Abstract

In this scientific study, the structure and mechanisms of activity of the judicial system, formed on the territory of the general governorate of Turkestan in the second half of the XIX - early XX centuries, were thoroughly analyzed on the basis of a source-economic and historical-legal approach. Also, a comparative analysis was carried out on the basis of traditional judicial institutions practiced in the country and new judicial bodies introduced by the Russian Empire, archival documents of notarial and legal relations, official regulatory legal sources and scientific literature.

Keywords: General governorship of Turkestan, judicial system, notarial offices, Kazakh courts, Russian Empire, statutes, governor-general's administration, uyezd courts, military-judicial commissions, regional judicial departments, Sharia and customary law, colonial administration, archival sources, notarial-legal relations.

Introduction

The source base of the studied research topic consists of official administrative documents of the Turkestan General-Governorship, materials from periodical publications, archival sources, and officially published scholarly studies. In terms of scope and content, particular scientific significance belongs to the documents preserved in the fonds of the Central State Archive of the Republic of Uzbekistan. When researching the history of the second half of the nineteenth century, it is methodologically appropriate to analyze periodical publications directly and to examine them comparatively alongside the scholarly conclusions of researchers who have previously studied these materials.



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The issue of the formation and development of judicial and notarial institutions in the territory of Turkestan has been addressed in the works of a number of scholars. Research in this field primarily relies on observations and analyses conducted by administrators of the Russian Empire, military officials, travelers, and historians. In this regard, the works and records of Nikolai Ivanovich Kraft, Vladimir Nikolaevich Kaplun, Nikolai Fioletov, Sergei Nikolaevich Tregubov, Nikolai Likoshin, Nikolai Maev, and Vasily Nalivkin are of particular importance as primary sources for studying the history of the establishment of the foundations of the Russian judicial system in Turkestan.

In the works of these researchers, detailed and systematic information is provided regarding the normative-legal documents governing the administration of Turkestan, the organizational structure and jurisdiction of judicial bodies, and the processes involved in introducing new state institutions. In particular, the studies of Nikolai Ivanovich Kraft, Vladimir Nikolaevich Kaplun, Sergei Nikolaevich Tregubov, Nikolai Fioletov, Nikolai Voshinin, and Vladimir Gessen present a structured analysis of legislative acts, their practical implementation, and the institutional formation of the judicial system. These sources serve as an important scholarly foundation for reconstructing the legal policy of the colonial administration.

The issue of the functioning of judicial and notarial institutions in Turkestan has also been examined in foreign historiography. In particular, Daniel Brower, Robert D. Crews, Alanna Donelli, and Jeffrey T. Matthews have analyzed the legal policy of the Russian Empire in Central Asia, the mechanisms of colonial governance, and the social impact of the judicial system. In their research, the issue is primarily considered within the broader context of relations between the imperial administration and local society.

Within contemporary historiography, this problem continues to be studied as one of the relevant research topics. In particular, Irina V. Anisimova, Abduaziz Soliev, Dmitry A. Glazunov, Konstantin L. Vasin, and Lyudmila S. Nesterenko have examined the transformation of the judicial system in Turkestan, the formation of the notarial institution, and its role in legal practice. The conceptual approaches they propose allow for an evaluation of this field from institutional, comparative-legal, and socio-historical perspectives.



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Thus, the historiographical legacy formed in the study of judicial and notarial institutions in Turkestan is multifaceted, encompassing a wide range of scholarly research—from the analysis of primary sources to modern theoretical approaches. The second half of the nineteenth century emerged as a period of profound transformation in the history of the peoples of Central Asia. As a result of the military campaigns of Tsarist Russia in the 1860s–1880s, a new political-legal and socio-economic system based on colonial principles was established in the region. This system significantly restricted the natural development of local governance and social relations that had evolved over centuries. After conquering the territory of Turkestan, the Russian Empire began forming a centralized administrative apparatus there.

In particular, on March 2, 1865, the Russian Senate issued a decree establishing the Turkestan Region within the Orenburg Governor-Generalship, covering territories from the Aral Sea to Issyk-Kul. On August 6 of the same year, Emperor Alexander II approved the “Provisional Statute on the Administration of the Turkestan Region.” On the basis of this document, the Turkestan Governor-Generalship was established on July 11, 1867, and General Konstantin Petrovich von Kaufman was appointed as its first Governor-General.

Due to the ongoing process of conquest, at the initial stage the administrative system was primarily exercised by the military authorities. Administratively and territorially, the Governor-Generalship initially consisted of the Syr-Darya and Semirechye regions; later, with the addition of the Fergana, Samarkand, and Transcaspian regions, its territorial composition expanded. The system of governance was divided into several levels: oblast (region), uyezd (district), uchastok (sector), volost, and rural communities. In areas inhabited by nomadic populations, volosts were further divided into aul communities. The Governor-General simultaneously served as the highest administrative authority of the region and the commander of the Turkestan Military District.

Within the central administrative apparatus, the Office of the Governor-General occupied a key position and initially consisted of four departments. The first department performed administrative and supervisory functions; the second dealt with financial and economic matters; the third prepared draft normative-legal documents concerning taxation and governance; and the fourth operated as a



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special department vested with broad powers. At the same time, as representatives of the central government, there were also agencies subordinate to the Ministries of Justice, Finance, Agriculture, and State Property.

The principal institutional pillar of the colonial administration was the judicial system, which was divided into two types: colonial courts and qadi (Islamic) courts functioning on the basis of Sharia law. Under the Regulation of 1886, the judicial system was retained but certain modifications were introduced, including the abolition of district courts. The highest judicial instance was the Imperial Court, which primarily examined crimes against the state system. Its investigative and punitive practices were distinguished by their severity.

Archival materials indicate that during the period when Sharia and customary law were in force, no separate notarial institution existed; however, civil-law matters were resolved by qadis in the presence of witnesses. In practice, qadis also performed notarial functions. By the end of the nineteenth century, the notarial system began to assume a formal structure. For example, beginning in 1890 in Kokand, notarial documents were systematically recorded in special registry books, with the state duty collected and the signature of the document recipient duly registered.

Prior to the conquest of Turkestan, qadi courts operated among the settled population. The Qazikalon was appointed by the head of state, while qadis were appointed or dismissed at the discretion of the khan or local governor (bek). Candidates were required to have studied at madrasas in Bukhara or Samarkand, possess thorough knowledge of Sharia law, and successfully pass a special examination.

In the draft Regulation of 1867 introduced by the Russian administration, the judicial system was to be organized according to categories of the population. For the nomadic population, biy judges were to be elected, while for the settled population, qadis were to be chosen. Cases concerning the Russian population were examined under imperial legislation. The judicial system consisted of three levels: uyezd courts, military-judicial commissions, and regional judicial administrations. The provisions of the “Judicial Statute” adopted in Russia in 1864 were also extended to Turkestan.



The development of trade and economic relations increased the need for a formal notarial institution. Accordingly, from May 1, 1880, Governor-General Kaufman approved the “Regulation on the Notarial Part,” and notarial offices were established in Tashkent and Verniy. In other territories, notarial functions were assigned to district judges, while the powers of senior notaries were entrusted to the heads of regional judicial departments. In certain cases, the authority of justices of the peace could also be delegated to the police.

Based on the analyzed archival sources, it can be concluded that the conquest of Turkestan by Tsarist Russia fundamentally transformed the region’s political and legal system. In particular, the introduction of the notarial institution created a new form of formalizing civil-law relations. Transactions, civil status documents, and other legal matters came under state supervision and, by the final quarter of the nineteenth century, became an integral component of the judicial-legal system.

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