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JUDICIAL SYSTEM IN FERGONA REGION AT THE END OF THE 19TH CENTURY - THE BEGINNING OF THE 20TH CENTURY

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ABSTRACT

This article analyzes the reform of the legal system in the Fergana region of the Governor General of Turkestan at the end of the 19th century and the beginning of the 20th century. general information on the discovery process is summarized.

KEYWORDS

Regulation on the administration of Turkestan territory, legal system, biy court, judge's court, people's court, court investigator, judge, military governor, court, court precinct, "Russification" policy, uezd, volost, congress, Tashkent judicial chamber, Senate, Ministry of Justice.

INTRODUCTION

It is known that one of the main links of the colonial administration of the Russian Empire in the territory of Turkestan was the judiciary. During the colonial period of the Russian Empire, the courts had two forms, consisting of courts and people's courts. The first of them was in the form of pure colonialism, while the

people's courts were judicial offices operating on the basis of Sharia. According to the territorial division of the courts, there were district courts, regional departments under the authority of the People's Chamber, congresses of courts dealing with secular issues, and military court commissions.

According to the 1886 "Regulations on the Administration of the Turkestan Territory", some changes were made to the existing court system while maintaining it. District courts were abolished and regional courts were established in the country. The positions of regional prosecutor and his assistant-deputy, court investigator were introduced [1].

The colonialists effectively used Sharia law to stabilize their system based on tyranny in the country. Judges for settled residents of Syrdarya, Samarkand, Fergana, Ettisuv regions, dance courts for nomadic herdsmen of these regions and special people's courts for Kaspiyorti region were established [2]. As a result of the changes in the structure of these courts, the position of judge was abolished, the rights of all judges were equal, the procedure for electing judges once in 3 years was introduced, and the plaintiff was given the right to turn to the judge he trusts most to consider his application [3].

As a result of the limitation of the power of the judges, the cases of the local population, which affected the interests of the Russian citizens or the tsarist government to one degree or another, were transferred to the tsarist courts. All criminal and civil cases in which the death penalty or bodily injury may be inflicted according to Sharia law are approved by the military governor of the Turkestan region; was given to commercial courts composed of Russian and local merchants (with the condition that their decisions

would then be submitted to the military governor of the region for approval) to consider certain controversial cases related to trade. The military governor of the region was also given the right to replace the verdicts of the judicial court with appropriate punishments according to the Russian military criminal laws [4].

In particular, since the formation of the judicial system in the Fergana region, which was included as an administrative unit, was one of the most complex issues in the activity of the colonial administration, the administration was very careful in organizing the judicial work [5]. Because the presence of the people's judicial system in the country, which has been formed since ancient times, and the presence of settled and herding peoples, clans in the country, the administration of the judicial system in them prompted the colonial administration to be careful that "the influence shown only on the judicial system represents the influence on their religion, which is extremely dangerous."

The first reformative change in the field of the judicial system was manifested in the establishment of a collegial municipal judicial body - "mahkama" in the city of Tashkent. It was determined that this court will operate in the capacity of judicial courts operating in the country [6].

On July 11, 1867, the adoption of the "Regulation on the Administration of the Turkestan Territory" became the basis for the implementation of the first changes in the country's administrative management and judicial system. According to the project adopted in 1867, a new judicial system was formed by the imperial government in the country, and court districts were established in the subjects of the governorate. However, the colonial administration, taking into account the political point of view, was content only with restricting the activities of judges and courts in the country.

The introduction of the imperial judicial system in the territory of Turkestan was considered one of the components of the "Russification" policy to be implemented by the colonial government. That's why the Russian administration emphasized that the judiciary system should be restructured immediately as it is harmful to the people. It should be noted that with the adoption of this Regulation, the judicial system of the entire Turkestan region had to work on the basis of the current laws of the Russian Empire.

According to the claims of the authorities of the Russian Empire, the activities of judicial courts based on the instructions of the holy religion of Islam and the Holy Qur'an strengthen the attachment to religious beliefs among the population and have a negative impact on the development of their intellectual abilities. Therefore, it was concluded that it is possible

to give a license to the activity of the judiciary only with the implementation of certain restrictions [7].

According to the new reform, it was established that the judicial and judicial courts in the country will be run under the name of "people's courts". The imperial judicial system in Turkestan began to operate on the basis of Russian laws. People's courts, in turn, were formed by dividing them into judicial courts for the local settled population and biy courts for the nomadic herdsmen.

At this stage of its judicial activities, the colonial administration tried to gradually reduce the moral influence of the existing "people's courts" on the local population. Prohibition of the types of punishments existing in the country's judicial system, i.e. physical injury, amputation, imprisonment, etc., was a positive situation. However, in the period under study, along with the operation of the people's judicial system, the colonial administration began to introduce the imperial judicial system.

According to the Russian legislation, although the right to elect the people's courts was initially given to the local population, the right to approve the candidate judge and the election remained in the power of the military governor.

The authority of the people's courts was reduced to a certain extent, and the authority to hear only civil cases was given to the imperial courts. With the

implementation of these changes in the judicial system, the colonial administration aimed to reduce the influence of religious people on the local population, to reduce their faith in Islam.

In addition, the hope of the colonial administration that local people would appeal to the courts of the Russian Empire for justice in the judicial system did not come true. Despite the restrictions imposed by the administration, the local population continued to apply to the judiciary and the courts. Because this judicial system operates on the basis of long-established customs, traditions and Sharia laws, their activities were understandable to the local people.

With the adoption of the 1886 edition of the Regulation on the Administration of Turkestan, the following changes were made in the judicial system of the country: firstly, the name of judicial courts was noted in the law as people's courts. The law stipulates that people's courts are referred to as their congresses. Secondly, it is noted that the first instance of consideration of criminal or civil cases shall be the people's courts, and the courts acting in them shall be elected for a period of 3 years from among the local people with certain knowledge and experience.

Thirdly, a separate administrative-territorial unit was attached to the operating courts, and several volosts were included in this unit in some cases [8]. Fourthly, the areas of operation of the people's courts

and the number of judges were determined by the regional administration before the elections.

At this point, it should be noted that according to the Regulation, the court of judges and their congresses for the nomadic herdsmen in Fergana region were appointed and determined by the head of the uezd. The cases where the people's courts were considered outside the scope of their authority and the punishment was imposed were submitted by the regional prosecutor to the regional courts, not approved by the regional courts. and the court cases rejected and sent back for reconsideration are sent to the people's courts for reconsideration, and it is evidence of the fact that it is the authority of the administrative administration to ensure the execution of the type of punishment accepted by the people's courts or to reject it.

According to the new Regulation, the second appellate instance is considered a congress of people's courts, and two-thirds of the courts operating in this administrative unit must participate in the work of this congress. In some cases, extraordinary congresses of people's courts were organized to review disputes between several volosts of the region.

On June 2, 1898, another change was made by the colonial administration to further improve the judicial system of the country. According to this change, regional courts in 5 regions included in the Turkestan

Governorate were abolished and district courts were introduced instead. It was determined that the correctness or wrongness of this decision can be considered by the Tashkent court chamber if the decision on the punishment adopted by the district courts is challenged and appealed.

In this way, it was legally confirmed that the highest instance in the judicial system of Turkestan is the Tashkent Court Chamber. The Tashkent Chamber of Justice was subordinated to the Senate of the government, which was the highest body of the judicial body of the empire in its field of service.

On June 2, 1898, due to the changes made in the judicial system, the position of prosecutor, the collegium of prosecutors, judges and lawyers was introduced in all regions that are part of the Turkestan General Governorate [9].

Political integration processes and changes in social relations during the colonial period caused the Sharia judicial system to deal with economic and daily life problems in many cases, and in this way to conduct the activities of judiciary and court of judges. The transfer of the judicial system of the Turkestan region to the control of the Ministry of Justice of the Empire led to the complete subordination of the people's courts, i.e., the activities of the judiciary and court courts, to the Russian administration.

In turn, the colonial administration in 1900 introduced a single fee-for-every-case system for the people's courts to operate. In addition, during the election process, 2-3 judges from each precinct can be nominated, and the local administration must approve the preferred candidate from among the judges who have passed the election. However, the changes implemented by the local administration in the judicial system did not always bring the expected positive results.

police administration, officers with military rank were appointed to all levels of administration, from the governor-general to the administration of the volost, and they were given great privileges and rights. In particular, the governor-general can make any decisions and orders deemed necessary and appropriate for the local conditions, exile any citizen deemed politically dangerous, who opposes the sentence of the military court to Siberia for a period of 5 years, and make conclusions on determining the level of the crime committed. Privileges and rights were granted to the heads of administrative administrations with all military ranks [10].

Ensuring the execution of decisions made by the volost people's courts is entrusted to the volost administration and village elders under the supervision of the head of the uezd. In addition, the head of the uezd has the right to stop the execution of the prescribed sentence and send the case to the regional

prosecutor for appeal. The head of uezd submitted his decision in writing to the Congress of People's Courts for reconsideration [11].

However, it can be observed that in the changes in the judicial system by the administration, the introduction of fines for some cases in which severe punishment should be imposed by the courts based on Sharia and customary laws, and in some cases these punishments were reduced by sentencing to imprisonment for a period of 1 or 1.5 years [12].

For example, according to Sharia law, if a criminal is sentenced to death for a crime committed in cases of intentional killing (except for one's own son, grandson, daughter), self-defense, then due to changes made by the administration, this punishment will be 20 years of exile to Siberia. replaced.

It is noted that if one of the fighting parties inflicts injuries on his opponent during a fight during a quarrel, and as a result of this, the injured citizen loses his ability to work, the guilty victim must pay compensation for the period of treatment and according to the conclusion made on the injury to the body part according to the established procedure based on the court decision. . In addition, the guilty party was sentenced to 6 years in prison or prison, depending on the injury caused.

In short, during the colonial period of the Russian Empire, a number of changes were made in the judicial

system of the Turkestan region, according to which, for the first time, the names of the judicial and judicial courts operating in the Turkestan region were changed to "people's courts". In addition, the procedure for nomination and election of judges operating in people's courts was introduced. Prior to that, judges and courts were appointed and operated by local governors and relevant officials. For the first time, changes were made to call congresses of people's courts, that is, council meetings, to limit some types of punishment. In particular, the positions of judge Kalon, judge askar, chairman were abolished. Instead of them, judges' courts were established, which were elected by local residents for three years.

The judicial court, which considered the civil case, had the right to appeal to the imperial court if the party was not satisfied with the decree issued in connection with the trial. On the other hand, it was noted that in the process of consideration of the judicial case by the imperial court, it will be considered in accordance with the Russian court legislation and the rules of judicial proceedings. Based on the changes introduced in appeals regarding family and marriage relations, the head of uezd could decide on his own or refer to the judgment of the governor-general with a presentation. It is assumed that this situation will serve to reduce the importance of judges and court courts among the local population, and in turn, to increase the status of the imperial courts.

REFERENCES

1. Содиқов Ҳ, Шамсутдинов Р, Равшанов П, Усмонов Қ. Ўзбекистоннинг янги тарихи. 1-китоб. Туркистон Чор Россияси мустамлакачилиги даврида. – Тошкент: Шарқ. 2000.
2. Шамсутдинов Р, Каримов Ш, Ҳошимов С. Ватан тарихи. 1-китоб. – Тошкент: Шарқ. 2020.
3. Абдурахимова Н.А, Эргашев Ф.Р. Туркистонда Чор мустамлака тузуми. – Тошкент: Академия, 2002.
4. ЎзР МДА. И.336-жамғарма (Военный губернатор и командующий войсками Туркестанской области), 1-рўйхат, 26-иш, 1-6-варақлар.
5. Бобоматов Т.М. Репрессивные органы как инструмент колониальной политики царской России в Туркестане (1865-1917 гг.): Автореф. дисс канд. истор. наук. – Ташкент, 2006.
6. Пояснительная записка к проекту Положения об управлении в областях Туркестанского генерал-губернаторства. – СПб., 1874.
7. Зайнобиддинов Н.С. История развития судебной системы Средней Азии в конце XIX - начале XX вв.): Автореф. дисс... канд. истор. наук. – Ташкент, 2006.
8. Наливкин В.П. Туземцы раньше и теперь. – Ташкент, 1914.
9. Абдурахимова Н.А. Узбекистан в составе Российской империи / Очерки по истории государственности Узбекистана. – Ташкент: Шарқ, 2001.
10. Абдурахимова Н.А., Рустамова Г. Колониальная система власти в Туркестане во второй половине XIX века - первой четверти XX вв. – Ташкент: Университет, 1999.
11. Ликошин Н.С. Полжизни в Туркестане. – СПб., 1916.
12. Пален. Народные суды Туркестанского края. – Ташкент, 1909.