



JUDICIAL SYSTEM AND ITS FORMATION IN BUKHARA EMIRATE

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Abstract

In this article, it is mentioned about the creation and development of the judicial authority in the Bukhara Emirate, the actions of the active judges, and in what cases they are brought to court.

Key words: Qazi kalon, devan, khan, authority, qazi soldier, military court.

Introduction

It is the civic duty of each of us to thoroughly analyze our historical experience in the formation of the judiciary, which is considered an integral part of the state power, as well as to decide on an independent judiciary that reflects all aspects of our social, economic and political life today and is world-class... President Sh.M. Mirziyoyev in his speeches "...In recent years, large-scale reforms have been implemented in our country to ensure the rule of law and improve the judiciary. These changes are aimed at ensuring human rights and freedoms and achieving a fair trial, thus showing the importance of the role of the court of law in politics. The judicial system in the Emirate of Bukhara had the same appearance as other khanates in Central Asia. In particular, court cases in the emirate were conducted on the basis of Sharia, and included in the composition of judges and alams. They were appointed by the emir, and the activities of the judiciary were managed by the judge Kalon.

In studying the history of the statehood of the Bukhara Emirate, it is important to study its judicial system, process, and issues related to crime and punishment based on primary sources.

Based on the above-mentioned opinions of President I.A. Karimov, it is worth noting that the objective study of the history of courts and judicial issues, which is one of the important issues of the history of national statehood, and the drawing of appropriate conclusions from it, as well as showing its importance in the progress and development of the state, are today is considered one of the topics that is relevant to be researched.

At the same time, in these studies, the judicial system of the emirate, the judicial process, the work of the judiciary, its specific features and a number of other issues were not studied as a comprehensive study. Consequently, it cannot be said that the sources related to the history of the court and the judiciary have been sufficiently analyzed in these researches. Only some aspects of the Bukhara Emirate's court and judicial issues were studied in them. In particular, D.I. Logofet described the history of the court of the Bukhara Emirate in a one-sided and unfounded manner, calling it "a country of the lawless and wild arbitrariness"- and informs that the rules of justice



were not applied in practice.¹ T.G.Tukhtametov, giving general information about the judicial system, admits that in the emirate there was no jury trial or court of cassation and the right to appeal against the verdict.² The traveling scientist Ye.K. Meyendorff also gives a brief information about the judicial system and states that although the judge was in the position of the supreme judge, he did not have the authority to control or manage the activities of local judges.³

B.I. Iskandarov, a scientist dealing with the history of the statehood of the Bukhara Emirate, provides reasonable and impartial information about the history of the Emirate court based on primary sources. In particular, he admits that judicial proceedings in the emirate were conducted on the basis of the Sharia, that judges and clerics were part of the clergy, that they were appointed by the emir, and that the judicial activities were managed by the judge Kalon, and that the judicial authorities worked separately from the local authorities.⁴

Like other khanates in Central Asia, the judicial system of Bukhara Emirate had the same appearance. Although the judicial system in the Emirate was in the hands of the administrative apparatus of the state, it was under the control of the scholars of jurisprudence. Consequently, the control of judicial activities by religious officials in the state, in turn, has increased their importance in state administration to a certain extent. Based on the study of available sources and literature, the court system of Bukhara Emirate can be analyzed as follows: The court of judges was led by judge ul-quzzot, and mirzas and officials worked in it. In turn, Qazi ul-Quzzot was considered the chief judge of the city of Bukhara. The mirzas are considered to be the administrators of the judicial court, and the officials are engaged in conducting investigations.

Devoni ulama is an office that assists and advises the work of the judiciary. Muftis and clerics worked in this office. According to the information, a council consisting of 12 muftis acted in this department.⁵

Local judicial office - in all provinces, these offices were managed by judges appointed directly by the emir. In addition, muftis and officials also served in this office. Unlike the judge's court, the officials in the local judge's office were engaged in ensuring the execution of judges' judgments and decisions. At the same time, the post of dabors (secretary) existed for the purpose of recording court proceedings. Judges functioned independently of the local bek (hokim) and exercised control over the work of the bek to a certain extent.

A military judge is a judge who is directly subordinate to the judicial court and judges military crimes committed by military personnel in service, during battle, or during other campaigns.

1 Логофет Д.И. Страна бесправия. Бухарское ханство и его современное состояние. – СПб.: Березовский, 1909. – С.58

2 Tuxtametov T.G. Rossiya i Buxarskiy emirat v nachale XX veka. – Dushanbe: Irfon, 1977. – S.17

³ Мейендорф Е.К. Путешествие из Оренбурга в Бухару. – М.: Наука, 1975. – С.136.

⁴ Искандаров Б.И. Из истории Бухарского эмирата. – М.: Изд.Вос.Лит, 1958. – С.27.

⁵ Tuxtametov T.G. Россия и Бухарский эмират в начале XX века. – Душанбе: Ирфон, 1977. – С.17;



Scholars of jurisprudence, who are of special importance in the judicial system of the Bukhara Emirate, have earned a reputation as defenders of law and Sharia legal norms, interpreters of laws. The judicial system has established a strict order in the division of labor, according to which each official working in the judicial office exercised only his authority. Despite the fact that the judicial sphere in the state follows a certain system, the courts were not divided into religious and secular courts, as in the Western countries of the Middle Ages. It should be noted that the judicial system in the Bukhara Emirate was improved to a certain extent compared to the Khiva and Kokand khanates. In particular, the judicial system in the Khanate of Khiva has a simple appearance, and many cases are brought directly to the khan's discretion, and the decision of a certain case depends on the discretion of the khan and his relatives. was liq. In the Emirate of Bukhara, the following basic requirements are set for a judge: he must be a Muslim man, free, adult, married, free of physical disabilities, have perfect knowledge of jurisprudence, have life experience, know the Arabic language, and be a notorious citizen. etc. According to Sadridin Ainiy, only graduates who studied in Bukhara madrasas for 19 years could meet such requirements. In cases of necessity, the judge appointed one or more deputies from citizens who met the requirements of the judgeship.⁶ Women were not appointed to the post of judge. The judge was not only required to know the teachings of the Hanafi school, but also to have a scientific degree, i.e. the science of fiqh and the right to interpret the norms and laws of the Sharia.

We should note that in the Emirate of Bukhara, as witnesses in court proceedings: minors, slaves, strangers, slanderers, provocateurs, liars, swearers, sentenced persons, close relatives and others who could not participate.⁷ In some civil and criminal cases, there were two men, and in large-scale criminal cases, four men were required to participate as witnesses. Instead of one male witness, two female witnesses were required. According to the rule, the witnesses had to be recommended by the claimant or the complainant. It should be noted that the defendant had the right to reject the witness, taking into account the motive of legal incapacity. If during the trial, there are different views between the witnesses, especially in the content of their testimony, all of them are prosecuted for perjury. If the participants in the court process do not recognize the right of another person or certain circumstances, the method of swearing is used to prove it. It is recognized that there is no sufficient basis for making a decision on the case if the written evidence is not confirmed by the testimony of the witnesses during the trial. Usually, the judge made a decision on a specific case without rejecting the case at this meeting itself. Speedy implementation of court cases was considered the most favorable qualities of the court. Those who were dissatisfied with the judge's verdict had the right to appeal to the judge or amir. "The judge's sentence can be annulled by the judge, and only the emir can cancel his sentence".⁸ In the Emirate, in addition to

⁶ Юшков С.В. История государства и права СССР. Ч. I. – М.: Наука, 1940. – С.138.

⁷ Лунёв Ю.Ф. Государство и право узбекских ханств с XVI по XIX века. – М.: Аст, 2004. – С.105.

⁸ History of Uzbekistan: development of state and society / Sagdullayev A., Aminov B., Mavlonov O', Norkulov. –



discussing court cases, the judge has the following duties: For example, 1) appointment of guardianship and patronage; 2) control issues such as inheritance and distribution of inheritance; 3) execution of the adopted decisions; 4) witnessing contracts and agreements signed by the parties and performing other notarial actions.⁹

Analyzing the judicial system of the Bukhara Emirate, it is possible to point out the following specific features: First, local or other agencies could not interfere in the activities of the judiciary in the Emirate; secondly, cases were considered openly on the basis of collegiality; thirdly, the issue of justiciability and jurisdiction is clearly defined; fourthly, the decision of jurisprudence scholars and muftis was relied upon in deciding a specific case in the emirate; fifthly, the party dissatisfied with the verdict or decision has the right to appeal to the judge's court or amir in the cassation procedure; Sixthly, crimes committed by the military were tried by separate judges, that is, military judges.

In conclusion, I can say that the court system in the Bukhara Emirate is well established. Khan supervised their work. Especially during the period of Amir Shahmurad, it can be said that the legal system was widely developed and justice was established.

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Tashkent: Academy, 2000. - B.202.

⁹ Лунёв Ю.Ф. Государство и право узбекских ханств с XVI по XIX века. – М.: Аст, 2004. – С.106.