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Formation And Functioning Of A New Judicial System In The Amudarya Department (Now Karakalpakstan)

Anvar Abdullaev

PhD in History Nukus State Pedagogical Institute

Uzbekistan

ABSTRACT: *This article examines the history of the organization and activities of the judicial system in the last quarter of the 19th and the first half of the 20th centuries in the Amu Darya department of Turkestan.*

KEYWORDS: *XIX century, XX century, Amudarya department, Turkestan, prosecutor's office, court, cassation, appeal, justice, Governor-General of Turkestan, Russia, Khiva.*

1. INTRODUCTION

After the incorporation of the Amu Darya into the Russian Empire in the last quarter of the 19th century, it became necessary to create a judicial system to solve problems that may arise between the resettled Russian population, as well as the local population and Russians.

Due to the favorable geographical location of the Amudarya, the tense relations between Russia and the Khiva Khanate, the extremely tense situation in the country, the Governor-General of Turkestan made this area the mainstay of Russia. Much attention was paid to the political and legal processes taking place in the Amudarya region.

Therefore, Article 18 of the "Temporary Regulations of the Administration of the Amudarya District" also provides that "in the event of a dispute between the local population and the Russians, the head of the Amudarya branch may appoint one of his assistants as a judge." [1]

2. THE MAIN RESULTS AND FINDINGS

The head of the Amu Darya Department was in charge of all issues related to the region, as well as issues related to the court case. From 1873 to 1880 he was directly involved

in criminal and civil cases. In most cases, the head of the Amu Darya department himself acted as a judge, setting up martial courts and pursuing a brutal policy not only against the local population, but also deporting disorderly Russians in the department and even sentencing them to death[2]. An investigation in the Amudarya branch was carried out by one of its employees at the request of the head of the Amudarya department[3].

During this period, in addition to the head of the Amudarya administration, the excise inspector of the Amudarya administration[4], the head of the Shurakhani district administration, as well as judicial supervisory authorities were involved in the court. As a result, most of the "cases" brought up by the department for various crimes were discussed without a verdict for many years[5].

The first archival information about the judge in the Amu Darya department dates back to October 1881[6] (Lieutenant Colonel Nikolai Pashch., Surname is not clear. - AA), and he had a stamp "Judge of the Amu Darya department". This stamp was also used by judges in subsequent years (Appendix 8) [7].

An analysis of the orders of the Governor-General of Turkestan, published in the newspaper *Turkestanskije Vedomosti*, also confirms that in 1881 he was a separate judge in the Amu Darya department. In addition to the order of the Governor-General of Turkestan No. 313 of November 10, 1881, the privileges granted to the Amu Darya branch for the position of judge were clarified, as well as for all senior officials in the governor's office[8].

The fact about the position of the judge also confirms the above opinion. From this period, the administration of the Amudarya branch was formally separated from the court[9]. However, the head of the Amu Darya department continued to directly intervene in court cases[10]. Also on April 15, 1882, in accordance with the order of the Governor-General of Turkestan No. 120, Sobolevsky was appointed judge of the Amu Darya branch[11].

By 1882, there were a total of 17 district judges in Turkestan - 8 in the Syrdarya region, 6 in Fergana, 2 in the Zarafshan district, and 1 in the Amudarya district (meaning the Department - A.A.)[12].

Political processes related to the Amudarya branch, special orders related to the administrative and judicial system continued to be published systematically[13].

According to the "Regulations on the Administration of the Turkestan Territory" (1886), the judge of the Amudarya branch from 1887 was named a magistrate. The strengthening of the position of the Russian judicial system in the country can also be seen in the fact that in various publications the articles and content of the "Regulations on the Administration of the Turkestan Territory" (1886) were improved. Criminal searches and

investigations were carried out by assistant judges and peace investigators. It was noted that people's judges act on the basis of special rules for the local population. In areas where there are no magistrates, magistrates themselves conducted the investigation[14].

Control over the courts was entrusted to the Ministry of Justice and the military governor[15]. Analysis of the documents shows that the judges were appointed personally by the governor-general, were punished or rewarded if necessary[16].

Magistrates appointed by the department were given the right to consider and judge criminal cases committed by the Russians. They considered cases of violations committed not only by the Amu Darya branch, but also by Russian citizens in the Khiva Khanate[17]. At the same time, the relevant articles of the "Regulations on the management of the Turkestan region" (140-143, - 173, - 176) specify in which cases representatives of the local population will be tried by magistrates and regional courts[18].

These articles have been left unchanged in subsequent rules[19]. They were against the state (meaning the Russian state - A.A.) and for eleven more crimes[20]. The charter of 1892 also referred notarial deeds to civil courts[21].

These positions are the backbone of the Russian administration in the country and are among the most important. Disagreements between local residents, including non-local residents, as well as disputes between local residents of different nationalities were witnessed in the presence of the Russian administration, and the applications were also considered by the magistrates' court and regional courts on the basis of general requirements. As a result of civil cases heard by the people's judges, if the plaintiff and the defendant mutually agreed and wanted to be tried in the magistrate's court, the magistrate was accepted for consideration, and this was reflected in the minutes of the magistrate's court. Appeals against judges' decisions as well as individual complaints were lodged with the regional court. If the petition to cancel or reconsider the decisions of the magistrate and the district court is justified, their decisions are canceled. The petitions were considered in the regional court and in the regional court, in the Judicial Department of the Government **Senate**[22].

An analysis of archival documents shows that in recent years there has been a magistrate in every district and a district judge in every province. At the same time, it should be noted that the Minister of Justice of Russia N. Muravyov noted that the rules of the old judicial norms were applied in the practice of judicial proceedings in Turkestan. On November 20, 1864, the judicial system was reformed[23].

However, by 1894, almost 30 years after the adoption of the court regulations, the old judicial system was still in place in Turkestan. Only in 1899 in Tashkent were established

judicial chambers, Tashkent, Samarkand, New Margilan district courts. 500 meetings were held to draft a new court charter, which was to be largely completed in May 1899. Judicial regulations have caused much controversy[24].

Magistrates were appointed by the government instead of electing judges. The task of the Constituent Assembly of Judges was entrusted to the District Chamber, and appellate cases concerning magistrates were referred to the Trial Chamber[25].

The governance of the Russian Empire, the Governor-General of Turkestan, tried to accelerate the conquest of the country by improving the judicial system, as a result of which control over the management of the country was strengthened from year to year. In contrast to the content of the "Regulations on the Administration of the Turkestan Province" published in 1886, the "Regulations on the Administration of the Turkestan Province" in 1892[26], 1901[27], 1903[28], 1911[29], 1916[30] introduced a number of changes and amendments to the judicial system.

In the report of the Governor-General of Turkestan, written in 1898 and covering 1895-1897, the main attention was paid to the problems of the judiciary and the shortcomings of the Regulations on the administration of the province of Turkestan, published in 1886. The biggest drawback of the administration in the country was "the complete separation of the local population from the laws of magistrates, as well as the subordination of the population to people's judges, very poor adaptation of justices of the peace in the country". It was recommended that magistrates should be given the opportunity to reach out to the local population and that the local population should treat the magistrate with great respect. In accordance with the Regulations on the Administration of the Turkestan region of 1886, the doors of magistrates' courts were closed to local residents, and even some local residents who "understood" the supremacy of Russian law sought to appeal to justices of the peace instead of their own judges. was criticized for not being **accepted**[31].

After this and a similar analysis, the governance of the Russian Empire and the Governor-General of Turkestan tried to further improve the judicial system in the country.

In accordance with the "Regulations on the Administration of the Turkestan Territory", adopted on June 2, 1898 and entered into force on May 14, 1899, the Tashkent Court of Justice was created under the Ministry of Justice and the Governor-General of Turkestan[32]. The "world" court in the Chimbay and Shurakhan districts was subordinate to the Samarkand district court and the Tashkent court chamber[33].

Magistrates and prosecutors from both counties served on their respective territories. The first section of the Magistrate Court - subdivisions of the Shurakhon region, in

addition to Tamdy, the subdivisions of these territories, the Chimbay section, along with the subdivisions of its territory, also includes a subdivision of Tamdy. In addition, the judge of the first district of the world was given the right to consider the unrest of the Russians living in the southern part of the Khiva Khanate, and the principalities of Old Urgench and Khojayli, and the judge of the second district of the world was given the right to consider the unrest of the Russians living in the northern part of the Khiva Khanate[34].

They have the right to consider and prosecute Russians in criminal cases[35] (including local residents under some articles - A.A.). There were several states in the Tashkent judicial chamber, and with their help the judicial system in the Amu Darya branch was also controlled. The Tashkent Court of Justice oversaw criminal cases in the Amu Darya branch, including revolutionary movements, issues related to justices of the peace and their advisers, war, invasion, and appeals against decisions of district courts.

At the same time, he did not lose control over the decisions of the district courts in civil cases, appeals, inheritance cases, bonds, bills and other issues, family and marriage issues, child custody[36]. At the same time, the Statute, published in 1901, marked the end of control by the regional judges, assistant judges and prosecutors, and was replaced by the Judicial Charter of Emperor Alexander II[37].

On the issue of streamlining the judicial process, the Secretary of the Minister of Justice of the Russian Federation, the present privy councilor N.V. Muravyov[38] considered it necessary to ensure the participation of judges, prosecutors, defense lawyers and judicial advisers in court and to some extent clarified their responsibilities. The presiding judge noted that he was the person who was more responsible for all the proceedings in the court, directed the process, kept order in the court, directed the case to the rule of law and revealed the truth.

A lawyer is not an obstacle to a fair court decision, but helps not only as a personal representative of the accused, but also as a representative of the public, trying to “justify” or release the accused from punishment, no matter what. It was emphasized that he must demonstrate his knowledge, regardless of any means, without undue effort.

Judicial counselors, in accordance with their testimony, have been shown to participate in the deliberations as "judges" in their own right, without acquitting the accused or condemning the innocent without cause. He noted the separate work of courts and their bodies on the ground, the separation of the judiciary, the absence of an appellate court, the absence of a higher appellate court, and the lack of district courts[39].

Following these requirements and instructions, the Russian administration regularly monitored the judicial system in the country. From year to year, improved forms and methods

are used in the administration of the country. In the "Regulations on the Administration of the Turkestan", published in 1903, the Judicial Charter and comments of Emperor Alexander II were additionally given[40]. On the basis of these changes, a number of changes and additions were made to the "Regulations on the Administration of the Turkestan province" in 1911[41].

The second part of the "Charter" of 1916 is devoted to the management of the Amudarya branch. Amendments and additions were made to the issue of custody of the child, such as the appointment of a village, aul assembly or relatives of the deceased. On the basis of these documents, the trial continued in the Amu Darya branch.

In the section "Amu Darya" there are several examples of court cases in which the judges did not consider "cases" with the participation of the local population to the end and applied types of punishment without in-depth analysis:

The executor of the duties of the assistant judge of the Amu Darya branch E. Levitsky killed the head of the Kungrad branch Mullah Khakim "R", the "S.Kh." case Revised on March 16, 1887 by Yu. D. Yumakov, F. M. Kislinsky, N. S. Cherdantsev, P. M. Lukashevich's secretariat[42]. At the same time, an analysis of archival documents shows that the participation of the prosecutor in this case was not ensured.

An explanatory letter was received from the judge of the Amudarya branch and sent to the judge of the Amudarya branch for reconsideration[43]. On April 8, 1888, at an open session of the Syrdarya Regional Court, the chairman and members who were present at the session on March 16 reviewed the case. During the trial S.Kh. was found not guilty and acquitted[44].

The analysis of archival documents shows that the problem of finding the real culprit remained uncontrollable.

On April 24, 1888, the head of the Sheikh-Abbas-Vali district wrote to the assistant to the head of the Amu Darya department that "I" lived on the territory of Elder Shimam and said that "D.B." was intentionally killed. The criminal case was considered by the assistant judge of the Amudarya branch. The suspects in this case have been identified and are being investigated. "A.I." for up to 20 years and the wife of "I.B." "M.I." he was sentenced to 15 years in prison.

A judge of the Syrdarya region, the prosecutor of the Syrdarya region and the assistant to the governor were also involved in the case. The accused were sent to Russia to serve their sentences in a prison in the Irkutsk province, and then in a prison in the Baikal region[45].

Riots broke out in the village of Kopak-Kul in the Tallinn district of the Chimbay region during the re-election of a representative of the administration - an elder. The rebel peasants were arrested and sent to the Petro-Alexandrovskaya prison. The popular uprising against the colonialists in the Biybozor region of the Shurakhon region and the Nukus region of the Chimbay region under the leadership of Bobo Koklan took a serious turn and lasted almost ten years (1881-1891)[46].

This information is also confirmed by the following archival documents. On April 22, 1887, a group of Koklan Bobo Utuzov and 53 cartridges left in "S.A.'s" house were found in his parking lot. Two of them are marked with a state symbol. 1 cartridge and 8 revolving cartridges were seized in the interrogation room as material evidence. They were prosecuted on April 16, 1887[47]. Bobo Utuzov and others are suspected of attacking the Nukus post office. The group's existence was not established until the end of the investigation[48].

Although this criminal case was considered in the following years in October and December 1895 by a judge of the Amu Darya branch, the court decision of May 4, 1888 remained in force and was released on the grounds that there were insufficient grounds for his arrest[49]. On August 7, 1897, after the head of the Amudarya administration, Colonel S.A. Galkin, wrote a complaint to the prosecutor of the Syrdarya region, the issue began to clear up.

Cases heard by judges and magistrates in the department, in most cases, were heard in the Amudarya branch of the court, and then transferred to the Syrdarya regional court. The dispute lasted for several years[50]. Bolis leaders regularly reported to the head of the Amu Darya administration on the events that took place on their territory.

On April 15, 1893, the decisions of the judges of the Turtkul, Shurakhan and Biybozor districts of the Shurakhan district were revised due to the inconsistency of the official legal document regulating the country with the "Regulations on the Administration of the Turkestan Territory." Some of them were even spotted in the office of the Amu Darya branch[51].

The head of the Amu Darya department, as the "chief judge", considered most of the court's issues "independently". For example, despite the fact that on December 3, 1891, at the congress of judges Sheikh-Abbas-Vali of the Shurakhon section of the Amu Darya branch, the land dispute between "M.Sh." and "K.M." , this issue was considered in his office by the head of the Amudara department in 1892 on January 13 and 31, 1893 on January 15. But the problem remained unsolved.

Prosecutor P.F. Karpov examined the case in detail and on April 15, 1893 filed a

complaint with the Syrdarya Regional Court, claiming that Articles 216, 231 and 243 of the Regulations on the Administration of the Turkestan Territory were violated, and assisted in the consideration of the claim[52].

In most cases, issues that were considered at the congress of judges, but could not be resolved, were considered and decided in the Syrdarya regional court [53].

The distribution of documents on military and civil affairs of district offices was as follows: if in 1880 3745 documents on 187 cases were taken under the control of "entry", then this year 3566 documents on these cases were processed "out". In addition, in 1881, 4153 "entry" and 5119 "exit" documents were issued in 186 cases, and in 1882, 4215 "entry" documents were issued in 197 cases and 4151 "exit" documents in these cases.

If we compare the document circulation with the document circulation in other district administrations of the Syrdarya region, then in the Amudarya department it is several times higher[54]. This indicates that the country is systematically governed and has strong control.

The inspector of the head of the Shurakhan district also acted as an acting court inspector (according to the decision of the Samarkand district court of June 30, 1907, he collected 1259 rubles from Niyazbay Uchbaev and Urazbay Yusupov in favor of Grishin) [55].

In 1897, the judge of the Amudarya branch considered 234 civil cases[56], 188 criminal cases[57], 11 types of civil cases, 12 types of criminal cases and sentences. Most of the civil cases involved real estate, debt collection obligations, and so on. Most of the criminal cases involved actions against government actions, governance procedures and regulations.

The judge of the Amu Darya department was paid 1,500 rubles a year, 800 rubles for food, 200 rubles for rent, a total of 2,500 rubles. In addition, 500 rubles were allocated for the office, 600 rubles for a translator and other travel expenses[58]. Judge of the Amudarya branch Sobolevsky, chief of staff of the 13th Turkestan battalion Khidoyat-Ulla Khodja Mirbadalev, acting investigator of the Shurakhan region, was awarded by the Russian emperor for the "good" performance of his duties[59]. The heads of department administrations who did not fulfill the "requirements" of the governor-general were also personally punished by the governor-general.

In 1910, out of the total number of prisoners, 10 were convicted by people's judges, 19 district judges and court chambers, 27 men and 1 woman were convicted by justices of the peace and were held in the Petro-Aleksandrovska prison[60]. The number of prisoners is increasing every year[61]. They were paid negligible wages or, in most cases, not paid. Some

"criminals" have escaped "lack of control." They also expressed their dissatisfaction with government policies in a similar way. There were reports of "refugees" even in the newspapers.

For example, it was announced that a judge of the Amudarya District Court had put on the wanted list a resident of the Chimbay District, T.D. and a resident of the Kazalinsky district S.S[62]. In many cases, simple requirements were not met when citizens were brought to trial and citizens were not given the opportunity to prove their guilt or innocence. Some judges were disproportionate to their positions and did not do enough to prevent crime[63].

On June 25, 1916, Emperor Nicholas II issued a decree against the execution of the decree "On the participation of the non-Russian male population in the construction of fortifications and military communication lines in the area of an active army, as well as on any other work necessary for state defense." After the uprising, the local population was severely punished by the imperial administration.

The leaders of the Amu Darya branch have repeatedly petitioned for the military governor of the Syrdarya region to severely punish these rebels, even if they are only tried by military courts. As a result, more than 100 arrested participants in the freedom movement were closely monitored by the military prosecutor of the Turkestan Military District Court and sentenced by the Samarkand District Court, prosecutors of the Skobelevskiy District Court, and the Skobelevskiy District Court and sentenced to severe punishment[64].

At the end of 1917, 3 magistrates - L.L.Silvestr, N.G.Loginov, V.M.Samborsky, 2 additional magistrates N.M.Kirilenko and V.M.Bushnov, 1 acting court investigator was A.A. Parshin and other staff (candidates) were A.B. Boleslav, M.A. Kazansky [65].

3. CONCLUSION

In general, the analysis of archival documents shows that the civil courts of the Amudarya branch conducted a preliminary investigation, interrogation, and arrest of a person who had committed a civil or criminal offense. He even did house arrest and other work. Judges Mirovoy made decisions on the basis of articles of the "Regulations on the Administration of the Land of Turkestan" published in different years, the "Code of Laws" of the Russian Empire, the "Charter of the Court"[66].

The governor-general personally supervised the proceedings. The head of the Amudarya department was also directly involved in the case, supervising the case and systematically appealing the case to the Syrdarya Regional Court, which resulted in several retrials. There have been cases in which marital, family, and marital issues have been

considered more than once following the decision of a judge and jury. The head of the department, the prosecutor, investigated each case and went on to protest. The goal was, on the one hand, to increase the dependence of the population on the laws of the imperial judicial system, the official government, and, on the other hand, to prevent the population from becoming more active, to keep them dependent.

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