



## From in the of the Judicial System in Turkestan

*Ismoilova Dilfuzaxon Abdujalilovna*

*Navoi State Mining Institute, Department of Social Sciences and Humanities associate professors,  
candidate of historical sciences*

**Abstract:** The article provides information about the judicial system of Turkestan, its structure, types of courts. There is information about the activities of positions (judges) in the judicial system, requirements for the position of a judge. It also covers the study of the regional judicial system of the Russian Empire, its policy towards it, changes in the courts and the attitude of the local population towards them.

**Keywords:** Turkestan region, Russian Empire, courts, Kazi courts, kazi, kazikalon (senior judge) kazi ul-kuzzot, kazi al-askari, kazikalon (judge-chairman), sharia

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Today, in the framework of building a democratic state governed by the rule of law and a strong civil society, the country is consistently implementing reforms to ensure the rights and freedoms of citizens, the development of the judicial system.

In accordance with the Action Strategy for the five priority areas of development of the Republic of Uzbekistan for 2017-2021, radical reforms are being carried out in the judicial sphere of the country.

We know that the judiciary in our country operates independently as one of the three existing governments. Has the judiciary operated independently at all times?

The following is information about the activities of courts and judges (judges - I.D) in the Turkestan region in the late XIX - early XX centuries and the changes in this area.

During the reign of independent khanates, courts were engaged in litigation.

Senator Count K.K., sent from St. Petersburg to inspect the Turkestan court cases. According to Palen, in the early twentieth century, the court consisted of two rooms, one of which housed the judge himself and his advisers (mufti, alam), and the other the secretary (mirza). In the cauldron sat all the carpet and felt spread.[1] Russian ethnography A. Shishov said no date or time had been set for locals to attend the trial. People who came to the treasury came from early morning to late afternoon. The workers in the cauldron were also ready to receive their applicants at this time.[2]

The dictatorial government has also made a number of changes in the judiciary. Despite the existence of a judiciary, three other types of courts have been established in the country.

1. Courts established for the residents of Fergana, Ettisuv, Samarkand and Syrdarya settlements.
2. Courts established for the nomadic population of these regions.

### 3. Courts established for the local population of the Caspian region.

The courts of the nomadic and sedentary populations were different. The Shariah-compliant judges of the settled population ruled on the basis of general and unchanging Sharia norms, following the evidence established in the trial. The courts of nomadic peoples, on the other hand, judged not only by the passage of time, but also by custom, which varied from place to place.

The explanatory letter to the draft Regulation on the Administration of the Turkestan Province states that". The Commission explains: "The failure of the British to enforce their laws in India is a clear example of this. "After a long struggle, Britain was forced to give in to the demands of the local people and to establish a local people's court with a number of restrictions." [3] That is why the government of the Russian Empire retains judges in Turkestan. Although the right of judges to apply Sharia law during this period was not restricted, their powers over the right to hear criminal cases were limited.

The dictatorial government established a court of judges in Uzbek-populated towns and villages, and a court of judges between the Kyrgyz and Kazakh peoples. In the Regulations on the Administration of the Province of Turkestan, the courts of judges and magistrates were named people's courts. [4] The colonial authorities tried to gain a false reputation with this, but the name of the people's court did not gain popularity among the population. They continued to call these courts the courts of judges and magistrates as before. One of the most prestigious religious positions in the country is the judiciary, which has ruled the Uzbek state since the Islamic era. The word judge means "decisive", "judgmental". [5] In the khanates, trials were conducted by judges on the basis of Sharia. Including; There were 4 types of judges in the Tashkent principality of the Kokand khanate: a) qaziqalon, b) qaziul-quzzot, c) qazi al-askari, d) qazirais.

Qazikalon, like other judges, was appointed directly by the khan. To be a judge, he had to know the Sharia well. [6] Because the fate of the people lies in the hands of the judges, the rulers of the state have thoroughly studied the personal life of a person before appointing him as a judge. [7]

Ordinary judges were subordinate to the jury. This obedience consisted in carrying out his command.

Qaziul-quzzot was a man appointed by the khan, worked as an assistant to the qaziqalon, and performed some of the duties entrusted to him. Kozikalon took his place during his temporary absence. [8]

Judge al-Askari was appointed by the bey and investigated only crimes committed by soldiers serving within the principality.

The judge is told to the chairman who is the chairman of the board of directors. He was also appointed by Beck. This career consists of 2 tasks: as chairman, the judge performs the post of mirshablik. He was setting order in the streets, in the markets. The proper performance of religious ceremonies, people's prayer reading, fasting, the fulfillment of Sharia laws and other similar works were controlled. In addition, the chairmen supervised the upbringing of young people, the proper conduct of trade in city shops and stalls, markets. [9] They were also right to interrogate women who went out into the street alone. [10] In addition to the above, a'lam and Muftis were also involved in court cases. A'lam was considered the head of the Muftis and his task was to investigate the Sharia narratives brought from the fatwas. They were considered consultants and assistants of the veterans.

Muftis are lawyers of judges, commentators on Sharia law. Muftis were not attached to a particular cauldron, but took part in the work at the invitation of the people. Their main task was to provide information about the rules of Shari'a and to show the Shari'ah the way in which such a case would be resolved in practice, in accordance with the rules of what the claim was not in accordance with, which was called narration.

The colonialists, like other religious scholars, sought to downplay the socio-economic status of judges among the local population. Various measures have been taken for this purpose. On August 6, 1865, the "Temporary Regulations on the Administration of Turkestan Provinces" were adopted. According to the charter, judges are elected by the people and approved by military governors.[11] The Regulations on the Administration of the Ettisuv and Syrdarya Regions of 1867 also introduced that judges and biys be elected by the local people and approved by military governors.[12]

As a result of such changes in the judiciary, some bureaucrats began to bribe voters to become judges and turn the judiciary into a form of wealth-making. Those who became judges through bribery robbed ordinary people in order to get back the money they had spent on elections and to amass wealth.

One of the peculiarities of the charter of 1867 is that if the judges of the khan's time were assigned a certain area to see the case. When people turn to judges who seek to justify their trust, Article №185 of the statute stipulates that "Patients shall apply to a judge in the area where they live who are responsible for resolving their claims." According to him, the jurisdiction of judges was limited, and the population was deprived of the right to appeal to any judge. Under the new statute, judges were elected by fifty chiefs. But this election was called the people's election. Nomination and election of candidates took place with the participation of government officials. It was the control of the government over the election. Judges will now be appointed by representatives of the dictatorial government. As a result, in most cases, not fair people were appointed to this position. Bribery has become a very common practice in the judiciary. M. Behbudi, one of the progressive thinkers of that time, also said, "A mullah was both a judge and a teacher and an elder, and he sold the affairs of students and the people. On the other hand, our scholars, who are talented for judges and teachers, are hungry." [13]

The new Statute on the Administration of the Land of Turkestan, signed by Alexander II in 1886, also paid special attention to the judiciary.

There was also the intention of the colonialists to gradually turn the judiciary into general courts.

As a result of the policies of the Russian Empire towards the judiciary, the judiciary began to become one of the sources of wealth for the upper class. Judges and dancers plundered the people, plundered everything, and acted in the interests of the upper class. Those who became judges in unclean ways were oppressing people. They did not take responsibility for what they did. For example, the judge of Andijan Said Jalal in 1881, while reviewing the case of a man named MaqsudSufiev, got angry and beat him with a whip and hung him on a tree. MaqsudSofiev died from his injuries. But the judge will not be held accountable.

It is no coincidence that the injustice of the scholars was sharply criticized in the works of Uzbek poets who lived and worked at that time. Among them are such humorous poems of Uzbek poets as Muqimi's "Dodkhohim", Zavqiy's "Voqeaqazi-i seilot", Shavkiy's "Ahliiriyo", OchildiMuradMiri's "Ghazalidaretiroz". Unjust judges have angered not only the people but also the unjust judges. For example, the poet AchildiMuradMiri, who worked as a judge, criticized corrupt judges and lamented that they thought only of their own interests. In the following verses, Miri states that while working as a judge, he stopped the dirty deeds of the judges around him:[14]

I don't put much in the dark judgment of the face,  
Do not suffocate the immortal hand and slaughter the nation without a knife,  
From the blackness of my face to the blackness of my hands,  
This sadness that pierced my eyes, do not pierce my eyes too much.  
I struck myself with force, set myself on fire,  
Don't burn this grass again.[15]

Ishaq Khan Ibrat was another just judge like Miri who cared about the interests of the people. He saw the judiciary as a responsible position that defended the truth, the interests of the people. Ibrat served as a judge in the villages of Turakurgan and Khanabad from 1900 until the end of the rule of the Russian Empire in the country. In 1910, the country held elections for judicial positions. In his articles on the subject, Ibrat writes that as a result of government regulations, Sharia law is being handed over to people unworthy of their work. This was stated in an article published in the 22nd issue of the Turkestan regional newspaper in 1910. "It is mentioned in Chapter 223 of the Regulations on the Administration of the Province of Turkestan (D.I.) that there is a person (judge) who has not been detained for more than 7 days, has not paid a fine of more than 30 soums and is not younger than 25. The scholar did not say that he was either an uncle, a fool, or an ignorant person, or that he knew the Shari'ah, or that he knew the rules ... You will see in whose hands they hand over this great Shari'ah ruling.

The idea is that there is no one to worry about ... according to the pologenesis chapter, whoever gets the most balls will write exactly. Whatever they do, if they do it this way, it's in accordance with the pologenesis. If you are careless, my friend, you will die of need." [16]

It is obvious that in any Shari'a, the faith of all judges and religious leaders has been able to maintain its prestige among the people with their justice and populism. The people supported them in every way. For example, in Kokand, 25 judges wrote a letter to the Governor-General of Turkestan asking that the old cemeteries not be demolished. In response to the letter, government officials fired several judges. Aware of the incident, Kokand's influential people defended the judges, protested to the government and filed a complaint. It read, in part: "... In the time of the khans, judges were rewarded for their knowledge of Sharia law. But the people still do not know that judges have been removed from office for no reason. Because they have never done anything against the law." [17]

After hearing the story of the measures taken by the colonialists against the judges, most of the people of Kokand also began to defend the judges. As events unfold, there is a danger of an uprising in Kokand.

Military Governor A. K. Abramov says the judges will be deported to Siberia if a revolt breaks out in order to prevent a possible revolt. Despite public outcry, imperial officials arrested 10 of the complainants and 8 others who defended them. In such a situation, the population could not remain indifferent to the fate of the judges, the protests intensified and reached the level of the beginning of the uprising. To prevent a revolt, the governor has no choice but to release the detainees. Apparently, the people could not stand by and watch the oppression of the clergy, knowing the consequences if they revolted against the government. They risked their lives to free the scribes.

Although the position of a judge was not actually given to anyone for life, in many cases, well-known judges in the country have been able to hold their office for years. The position of judge is sometimes inherited from father to son, depending on the ability of the son. One of such judges was Hakimkhoja, the mayor of Tashkent, and his son Muhiddinkhoja, who had a great reputation in Tashkent. [18] When Tashkent was occupied by the Russian Empire, Kazikalon, along with many judges, clerics and officials, decided to decide the fate of the city of Tashkent. G. Negotiates with Chernyaev. The interim governor of Tashkent, F.I. Romanovsky. In the confrontation between Romanovsky and Hakimkhoja, F.I. Romanovsky's response to Hakimkhoja's threats to tarnish his reputation shows how fair and determined he was. [19]

Kozikalon told F.I. Romanovsky that everything depends on the will of Allah, that no one can do anything unless Allah wills it, and that if Allah wants to punish Hakimkhoja, no one can save him from this punishment, so F.I. Romanovsky's intimidation says he cannot dissuade Hakimkhoja from following the path of Sharia. F., who saw that Kozikalo would not back down from anything in the

way of Sharia. I. Romanovsky realizes that if he does anything bad to Kozikalon, he may face strong public outcry, and has embarked on a path of reconciliation with Kozikalon.

After hearing Hakimkhoja's description, von Kaufmann visited him from the very first days of his stay in Tashkent and asked him to advise him on state affairs. Of course, von Kaufmann did not need the advice of Kozikalon, it was just a manifestation of his own insidious policy to find common ground with Kozikalon. Nevertheless, K.P. von Kaufmann described Hakimhoja as "a wonderful man who feared no one but God." [20]

Government officials were well aware that the majority of clerics did not serve the dictatorial government wholeheartedly, but obeyed them because they could not afford it. For this reason, the colonialists, under various pretexts, sought to curtail the system of religious rule in the country. One such position was that of Qaziqalan, and the other was that of Sheikh ul-Islam. [21]

After the conquest of Tashkent by the Russian Empire, the position of Kazakh remained. The appointment of Qazikalon to religious positions, General M.G. Chernyaev had to confirm it. But some officials in the governor's office don't like it. [22] For example, N.P. Ostroumov General M.G. Chernyaev was believed to have given Kazykalon many privileges. [23]

After the arrival of von Kaufmann in the country, under various pretexts, he removed Hakimhoja from the post of Qaziqalan and appointed no one in his place. Thus, the position of Kazykalon in Tashkent was abolished.

The cossack of Samarkand was also awarded a silver medal by von Kaufman during the first occupation of Samarkand and remained in office. He was later fired on the grounds that he had received many complaints from the government. [24] No one was appointed to replace him.

The mayor of Kokand, one of the largest cities in Turkestan, was fired under various pretexts. With the occupation of Kokand by the colonialists, Qaziqalan and Sheikh ul-Islam General M.D. He was arrested on the pretext of disrespecting Skobelev and sent to Khojand. When General von Kaufmann was informed of this, he replied, "The Kokand cossacks and the sheikh ul-Islam should be severely punished, and it would be better if these posts were completely abolished without appointing anyone in their place." [25]

After that, the Kokand Cossack and Sheikh ul-Islami Nasriddin Khan, Abdurrahman Ohtobachi and 9 other influential people in Kokand were exiled to the European part of Russia. [26]

In short, in the late nineteenth and twentieth century's in the Turkestan region, the judiciary did not diminish its influence in society under the tsarist administration. No matter how much the Tsarist administration tried to demonstrate its superiority over the local courts by issuing "fair judgments" of the imperial courts, the judiciary remained a source of legal support for the people. After the establishment of the Soviet government, the judiciary was completely abolished.

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