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Research Article

THE KOKAND'S JUNG AS AN IMPORTANT SOURCE FOR THE STUDY OF THE HISTORY OF LAW OF THE KOKAND KHANATE

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ABSTRACT

The article deals with the issue of jung, i.e. the code of shariah laws according to which muftis and qadis of Kokand khanate were governed. A huge amount of literature created by the khanate period Hanafi of Central Asia is still mostly at the discovery stage of the lists of their works. In the course of our research, we found lists that served as a “code” of Sharia law for muftis or qadis given the right to make decisions on religious and legal issues. In the jung we find, in addition to the main Sharia decisions, biographical information about the life of the compiler of the Mufti, which was a rarity for the life history of the qadis and muftis of the Kokand Khanty of that time.

KEYWORDS

Qadi, mufti, jungs, the code of sharia law, codex, biography, the kokand khanate.

INTRODUCTION

Specialists in the study of the history of law of a certain region and period most often turn to more well-known works on fiqh or to archival documents available to researchers. However, these materials do not always provide an answer to the question of interest, for example, when we set a goal to study the legal activities of muftis or qadis in the qazihan (dar al-qadi), we do not know what they were guided by and what sources they relied on in making their rulings. Even a cursory review of the catalogs of fiqh manuscripts stored at Al Beruni Institute of Oriental Studies of

Uzbekistan shows that although such works cataloged contained detailed descriptions of fiqh and were accessible, understandable and had specific titles, they also did not provide clarify on the question of whether they served as “guidance” for judges during the Khanate period. It should be recognized that the huge mass of literature created by the Hanafis of Central Asia is, for the most part, still at the stage of discovering lists of their works, attribution and preparation of publications, i.e. at the level of heuristic research [3, 6]. During the process of working on

manuscripts on fiqh in several manuscript collections of Uzbekistan, we came across some collections of Sharia issues, which were called jungs, masa'il fikhiya. These manuscripts still remain uncatalogued. In this article we have made an attempt to briefly analyze the collections that were created in the Kokand Khanate.

THE MAIN FINDINGS AND RESULTS

Manuscript fund of the Institute of Oriental Studies of the Academy of Sciences of Uzbekistan with collections of questions on fiqh (masa'il fikhiya), i.e. the so-called jungs [4; 5, 464-466], The compilers of the jungs were mainly practicing judges (qadi/qudat), as well as jurists-theologians occupying different positions in the established hierarchy of lawyers - alam and mufti. The compilers of the jungs claimed that they included practiced prescriptions (ma'mulat) in their collections. That is, we can say that these were a practical guide for legal consultants (muftis). During the examination of the jungs stored in the Institute of Oriental Studies of the Academy of Sciences of Uzbekistan, it turned out that most of them originate from the territory of the Bukhara Khanate. There are also jungs of the Khiva and Kokand Khanates. Before the complete liquidation of the Kokand Khanate and its inclusion in the Turkestan Governor-General (1876), collections of fatwas were compiled which were guidelines for local judges. For example, in the Institute of Oriental Studies of the Academy of Sciences of Uzbekistan there are two fatwas collections compiled in the Kokand Khanate. The first of them, numbered No. 12713, was compiled by a certain Mullah Kholmuhammad ibn Mullah Artiq al-Margilani in 1115/1703. According to his nisb, apparently he was from Margilan. Margilan is a city in eastern modern-day Uzbekistan Fergana Region. The second fatwa collection was created, that is, created before the

annexation. Among them there are fatwa collections (jung) of the Kokand Khanate

After the conquest of the Kokand Khanate by the Russian Empire, and then as a result of the creation of the Turkestan Governorate of the Russian Empire, a number of works were carried out in the direction of the judicial system.

In the process of research work on the jungs, it turned out that in the fund of the Institute of Oriental Studies of the Academy of Sciences of Uzbekistan there are two manuscripts of the jungs of the Kokand Khanate. They are stored under numbers 8388 and 12713. Consider the first jung manuscript under number 8388.

This jung manuscript is accompanied by the text of Mukhtasar al-wiqay by Ubaydullah b. Mas'uda al-Mahbubi al-Bukhari (d. 747/1348). In the card index, the title of this work is given as al-Masa'il al-Shari'at al-zaruriyya fi hashiyat al-mukhtasar (Necessary Sharia questions for commentaries Mukhtasar [al-wiqaya]). The composition of this jung, in addition to the main text, included numerous added glosses, accompanied by many texts, extracted extracts from various legal works, also related to the issues under consideration, and sometimes written in different handwritings of naskh and nasta'liq. It is the added texts that are based on local life practice.

There are two colophons at the end of this jung manuscript. The first contains the following entry: "This work was rewritten in 1261/1845. And the name of the copyist is given below in the print." Indeed, at the end of the manuscript there are three imprints: two of them are the same octagonal seal, on which the name "Rais Mufti Mulla Khudayar ibn Aman-qul" appears, the third is this round seal, on which the name of the famous qadi of the Shaykhantakhur area of the city of Tashkent is recorded "Muhammad Sharif Khwaje Qadi

ibn Podshokh Khwaja Umari Shaykhantakhuri” [2, 185b].

The second colophon provides information that this work of Mukhtasar [al-wiqaya] was also edited and supplemented from beginning to end at the behest (ishora) of Khwaja Qadi ibn Podshoh Khwaja Umari Shaykhantakhuri with the most necessary Sharia issues that were known among those knowledgeable in Sharia sciences who studied with them in dar al-qada in Shash or Chach. It was further reported that the book was intended for experienced practicing scholars so that they would issue a fatwa for those asking (mustafti) based on the law of ethics of the muftis (Adab al-Muftiin), and the book was completed in 1303/1885-86 by Mufti Muhammad Qurban [2, 185b].

From the above data it is clear that the preparation of the jung manuscript was carried out by the compiler of Rais Mufti Mulla Khudayar in 1261/1845. Half a century later, this collection was supplemented on the advice of the leading qadi of Tashkent, Muhammad Sharif Khwaja qadi Shaikhanturi. This jung served as a guide for muftis when making Sharia decisions on vital issues.

In this jung we find, in addition to the main sharia decisions, also biographical information about the life of the compiler, mufti Mulla Khudayar ibn Aman-qul, which was very rare for the life history of the qadis and muftis of that time. And so, the biography of the compiler, Mulla Khudayar b. Mulla Aman-qul Shahrikhan, was placed on the flyleaf. [2, 02b-03a]. Mulla Khudayar here talks about his past life (vaqi'at umri guzari) and describes in detail his difficult fate. As we know, very little information has been preserved in the sources about the biographies of muftis and qadis, with the exception of some qadis and 'ulama' [6; 7]. Historians pay the least attention to legal manuscripts, apparently believing that they set forth only legal religious norms. Let us return again to the content of

Mulla Khudayar story. Mulla Khudayar b. Mullah Aman-qul Shahrikhani was born in 1236/1816 - 1817. He is from the Kipchak tribe, originally (Vataniy asliy) from the village of Muhammad Sharif Mergan. In 1252/1836 in the month of Ramadan, in order to gain knowledge, he arrived in Kokand at the Berdi Qulbek madrasah, stayed there for four months and acquired knowledge, but wanted to go to Bukhara to make a pilgrimage (ziyarat) to holy places. First he went to Khujand, stayed there for six months in the Shokhi Qush Begi madrasah, then went to Samarkand, where he stayed until the end of winter, and after the holy holiday of qurban khayit, he went to Bukhara on foot along the Miyan-kol road, where he reached in eleven days. Arriving in Bukhara, he rented a room (hujra) near the madrasah of caliph Husayn, lived there for one year and six months and studied with the mudarris of the madrasah Fathullah Qushbegi, master Khwaja Kalan. Then he returned on a chariot (arba) along the road along the desert (chul) for six days to Samarkand, stayed there for five months, then went back to Bukhara, after eight days he arrived there and settled in the Niyazquli madrasah, it was the month of Dzu al-Hijja 10th day of the holiday Eid qurban 1255/1839, and Khwaja Ishan, the mayor of Samarkand, also the son of Rashid Abu Said Khwaja Qadi Kalan, stayed here. And he received knowledge before the start of the long holidays, and then he returned to Samarkand at the beginning of summer. At the request of the hakim of the Azizan area near Samarkand, Eshan Abu al-Hayya Khwaja Hakim, he served as an imam in a mosque in the town of Aziza near Samarkand. Then he was appointed as a preacher in the khanaka near the Khudaydad mazar by Hazrat Azizan. After the death of Khudaydad Wali Hazrat Azizan, during the war between the Bukhara and Kokand Khanates, Mullah Khudayar entered the service of Abdujalil Khwaja. A year later, he leaves for Samarkand, where he receives knowledge at the Sherdar madrasah. During this period, the Emir of

Bukhara attacked Kokand. This war causes Mulla Khudayar to flee to the area of Zhifor (جفار) where he joins the Aylatan community - one of the families of the Kipchak tribe. After almost ten years of separation, in 1261/1845-1846 he returned to his homeland in his village (watan asli) Muhammad Sharif Mergan. After his return from Bukhara (meaning the Bukhara Khanate - S.M.), his father Mulla Aman-qul held one of the leading posts in the Kokand Khanate for two years, and Mulla Khudayar's son was a mufti. During various events, his father became a military qadiy (qadi al-askar) in the Andijan vilayat, and his son was a mufti and mutawali in the Kholbek Qushbegi madrasah. Endless strife among groups of different tribes, as well as the struggle against all Kipchaks in general, had an extremely negative impact on the life of Aman-qul and his son Mulla Khudayar. So, in 1265/1848-1849. Aman-qul lost his post as qadi askar in the province of Andijan and returned to his native village (vatani asli). In the middle of the month of Muharram 1269/1852 at the end of October, the struggle against the Kipchaks began in the khanate and some worthy people left Andijan [2, 02b-03a]. At this point the story of jung author Mulla Khudayar breaks off here.

Thus, we have biographical information about the difficult life of Mullah Khudayar Mufti, who received knowledge in unstable times from several mudarris of several cities - Kokand, Samarkand and Bukhara. After Mullah's return, Khudayar becomes a mufti and mutawalli. The subsequent fate of this person remains unknown. Thus, the internecine wars between the wars of Bukhara and Kokand began to negatively affect the fate of the lives of Mulla Khudayar and his son.

CONCLUSION

Thus, on the basis of the manuscript of one jung, one can assert their role in highlighting various aspects of

the socio-economic life of Central Asia in the context of religious prescriptions, as well as in studying the history of the manuscript on Hanafi fiqh of Central Asia. Legal manuscripts, especially in the jungs, contain not only legal norms, but even, albeit occasionally, biographical information about the life of religious figures, which makes it possible to study the history of individuals in the context of social history. The study of short stories of individuals introduces new factors that make it possible to determine their influence on the formation and development of personality and to assess crisis situations in their life.

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