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Ethno-religious and Legal Aspects of the pre-Soviet Government of the Dagestan Region

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Abstract. The article studies ethno-religious / confessional and legal aspects in the pre-Soviet practice of government of the Dagestan region. The Russian Empire was one of the most varied in the world with regard to the ethnic and religious relations. By the end of the 19th century, the Russian Empire covered an area of almost 22.5 million square km., and its 125.7 million population included, in addition to Russians (about 42.0%), two hundred peoples, followers of various religions and beliefs, including Islam (11.1%), Judaism (4, 2%) and Buddhism (0.5%). With the incorporation of Dagestan into Russia, in 1868 the feudal form of government or the Khanate(s) was abolished. The institutions of civil self-government of rural societies were adapted to the general imperial goals of government and subordinated to the tsarist administration. In general, administrative and territorial delimitation at grassroots level corresponded to the traditional divisions of rural societies. The former administrative division into “*naibstva*” (administrative units, from Arabic *نائبان* (nā’ib) assistant, deputy head) was retained. The elected village administration was restored; the rural and district courts, as well as the regional Dagestan people’s court were created. The judges were elected, but under the supervision of the Tsar’s administration. In the social sphere, there was a conscious desire of Dagestanis to assert themselves locally as representatives of the royal power, to assimilate into the military and economic elites of the Russian Empire, to receive Russian education, and to master Russian culture. The new government model of Dagestan, like any administrative system, could not satisfy the interests of all segments of Dagestan society and, from this point of view, was far from ideal. However, in that particular historical period nothing more acceptable was offered by the Tsarist strategists to maintain regional stability and order. In any case, the Dagestanis received a more or less understandable form of government. The administrative structure and the new order of legal process, as legalized by the Regulation on the Administration of the Dagestan Region of April 5, 1860, in general, corresponded to the traditional system of governance and, from the point of view of political stability did not cause much concern to the Tsar’s administration.

Key words: Adat, Shariat, political culture of Dagestan, Imperial governing experience

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Этнорелигиозные и правовые аспекты досоветского управления Дагестанским регионом

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Аннотация. Статья посвящена изучению этноконфессиональных и правовых аспектов в досоветской практике управления Дагестанской областью. Российская Империя являлась одной из самых колоритных в этническом и конфессиональном отношениях стран мира. К концу XIX века Российская империя охватывала территорию почти в 22,5 млн. кв. км., а её 125,7-миллионное население составляли русские (около 42,0 %) и ещё две сотни последователей различных религий и верований, в том числе ислама (11,1 %), иудаизма (4,2 %), буддизма (0,5 %). С включением Дагестана в состав России феодальная форма правления (ханства) была ликвидирована (1868 г.). Институты гражданского самоуправления сельских обществ были адаптированы к общеимперским целям управления и подчинены царской администрации. Административно-территориальное размежевание на низовом уровне в целом соответствовало традиционному делению на сельские общества. Было сохранено прежнее административное



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деление на наибства (административные единицы, от арабского *بئان* (nā'ib) помощник, заместитель главы). Было восстановлено выборное сельское управление, созданы сельские и окружные суды, а также областной Дагестанский народный суд. Судьи избирались, но под надзором царской администрации. В социальной сфере прослеживается осознанное стремление дагестанцев к самоутверждению на местах в качестве представителей царской власти, к инкорпорации в военную и экономическую элиты Российской Империи, к получению русского образования, освоению русской культуры. Новая модель управления Дагестаном, как и всякая административная система, не могла удовлетворять интересы всех слоёв дагестанского общества и, с этой точки зрения, была далека от совершенства. Однако в тот конкретный исторический период ничего более приемлемого для удержания края в стабильности и спокойствии никем из царских стратегов предложено не было. Во всяком случае, дагестанцы получили более или менее понятную им форму правления. Административное обустройство и новый порядок судопроизводства, узаконенные Положением об управлении Дагестанской областью от 5 апреля 1860 г., в целом соответствовали традиционной системе управления и, с точки зрения общественного спокойствия, не вызвали особого беспокойства царской администрации.

Ключевые слова: Адат, Шариат, политическая культура Дагестана, имперский опыт управления

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Introduction

This paper was inspired by the discovery in the Dagestan archives of a large number of judgments from the Temir-Khan-Shura higher court covering 1864 to 1917, which demonstrated a co-existence of Russian law with Shariat and Adat.

The questions of the correlation of Adat, Shariat and Russian laws, and their correspondence to the ideals and ideas of Dagestanis have been of interest to Caucasian historians for more than a century and a half [Komarov, 1868; Leontovich, 1882; Kovalevsky, 1890; Bobrovnikov, 2002; Magomedkhanov, 2004; Musaev, 2009; Abdulmazhidov, 2017; Matochkina, 2017 and others].

For adherents of Shari'a, the Adat remained a relic of the times of ignorance ("jahiliyya"). Nevertheless, the liberal attitude of the Dagestanis like that of the tsarist authorities, toward Adat was maintained throughout the nineteenth century.

Attempts to conform to Sharia norms and limit the scope of application of Adat were made throughout the 19th century, and possibly in earlier periods. For a number of reasons, and not least because of the conservative nature of the mentality of the Highlanders, even Imam Shamil failed to resolve this problem. The highlanders, as Shamil himself as well as the nineteenth-century Russian authors noted, cherished their Adats. They did not perceive them as something contrary to Sharia. Rural societies, which the Imams demanded to "accept" Sharia, were convinced that they had been following Sharia for a long time and could not comprehend the true meaning of the Imams' admonitions about "establishing" Sharia.

Blood feud compensation

Replacing blood feud with material compensation ("diyat") was practiced long before the reign of Shamil. This is evidenced by individual articles of Adats as well as a detailed example of the custom of reconciliation of bloodfeuds. It is further notable that in none of the known Adats of "volniye obshestva" (free societies) and of khanates, the tukkhum (clan that is often the wider extent of blood feud involvement) acts neither as a claimant, nor as a defendant for any crime. Shamil only strengthened this principle, giving a special meaning to the personal responsibility of each Muslim, not only for the crime,

but also for any deviation from the Sharia. Shamil's efforts in this direction contributed to the fact that in the Imamats (courts), cases of blood feud in which whole tukkhum were involved happened most rarely.

Among the positive consequences of the adoption of Sharia law, it should be recognized that there was alignment of measures of guilt and severity of punishment. The destruction of the house of the murderer and the spread of blood feuds to his relatives was prohibited. Also advanced methods of inquiry and evidence of guilt, based on Muslim law (fiqh), etc. were introduced.

The Russian general and contemporary historian A.V. Komarov emphasized the "importance of a strong power in stopping "krovomoscheniya" (blood feud). In support of this he referred to the fact that from 1860 to 1868, "In the districts of Avar and Andy, which were until 1859 under the close supervision of Shamil" there was not a single case of blood feud [Komarov, 1868, 48]. From XIX century researchers, we also note that murders in Dagestan happened, as a rule, for moral, but not self-serving motives.

Tsarist versus Traditional law in Dagestan after 1860

With the formation of the Dagestanskaya oblast' in 1860, the parallel practice and delineation of the spheres of application of different legal systems (Adat, Sharia, Russian law) took place under the conditions of "voenno-narodnoe upravleniye" (military-national government). This combined the justification of general imperial rule with traditions for Dagestan in a new political and legal culture.

Administrative and territorial delimitation corresponded to the traditional division into rural societies. The former administrative division "naibstva" was retained, elective rural administration was revived, and rural courts with elected judges (deputies) and rights to practice both Adat and Sharia laws were established. The powers of the appointed or elected officials were determined by legislative acts and decrees of the tsarist administration. The khanates by that time were only a semblance of "independent" political entities having been for more than half a century under the jurisdiction of the Empire. "In the conditions when Dagestan was finally conquered, the Khan's power became an alien element in the all-Russian state organism" [History of Dagestan, 1968, 122].

By the time of adoption on April 26, 1868 of the "Polozheniye o sel'skom upravlenii v Dagestane" (Provision on rural management in Dagestan) all the khanates were liquidated.

Although at the most decisive points, power and law were concentrated in the hands of the tsarist administration, the often repeated thesis that "military-people's government contained nothing national in itself" does not seem to be entirely correct [Aglarov, Magomedkhanov, 2015, 314].

ADAT and SHARIAT in divide and rule policy

As noted by F.I. Leontovich (1833–1910), "the Russian government in many cases took the side of Adat in its struggle against Sharia, first of all, tried to weaken the action of Sharia, and with it to paralyze the power of the Muslim clergy <...> always representing one of the main hindrances in pacifying the region" [Leontovich, 1882, 35].

But hopes that by the revival of Adat and Sharia laws could be gradually forgotten and then the universal Empire law system would be easily implemented, perfected and well mastered by the Dagestanis, turned out to be not so bright. Ranks, insignia, awards, sizable pensions, offerings and gifts were all acquired by the rulers, the mountain aristocracy. These rewards for their direct service cited, "for courage and prudent stewardship in matters against hostile <...> Highlanders". Of course, this kind of encouragement should have been compensated by the submissiveness and service of the local rulers, and the people "entrusted" to them. However, "with the decline of the national spirit", they began to realize that the power in the country was changing. The Beks or Beks – in Dagestan, Khan's nephews, and Chankas – (Bek's sons from marriage with Uzden (independent) woman) – showed special sensitivity to these changes. Their previous claims to their relatives from the Khan's house for a maximum share of power and property rights were supplemented by nagging and petitions to the Russian authorities about material incentives, promotions, income places for their children, etc. The consequences of the "bounty" distributed to this class during the military events, the tsar's administration in Temir-Khan-Shura (re-named Buinaksk in 1922) and Tiflis, the Caucasian Committee (1845–1882) in St. Petersburg, had been tediously and unsuccessfully continued until the October Revolution of 1917.

Slight reasons for blood feud

The insignificance of the reasons which led Dagestanis to bloody strife shocked the Russians.

As background in the Caucasus, the cart continued to be used at the beginning of the 20th century. The Caucasian arb used wheels without spokes. Moreover, the wheels rotated with the axle. Such an amazing construction echoed the Asian chariots and carts of the 2nd millennium BC.

There have been cases when the elementary unwillingness of one Arbakesh (Arba driver from Persian *حبارا* [arābe], a four-wheel vehicle in the Caucasus) to give way to another, (an early version of road-rage) led to injury and blood revenge, as in the following Russian contemporary comment:

“No matter how respectfully so jealously supported by everyone’s self- esteem, no matter how respectful is the fear of public opinion” – wrote A.I. Lilov (1832–1890, director of the Tiflis Classical Gymnasium) – “but the solution of all questions of honor only with the help of a dagger, therefore, the replacement of all religious and moral concepts with concepts of bloody violence <...>, – involuntarily makes every person in a different sphere shudder” [Lilov, 1892, 31].

Apparently, the motives that prompted the highlanders to bloodshed consisted not only in their “fervor”, “boiling blood and jealousy” or other psychological characteristics, but also in a “not entirely Muslim” understanding of the difference between prowess and crime, in what the Dagestani folklorist A. Akhlakov (1932–1975) called “the motive of insulted honor” [Akhlakov, 1981, 80].

Maksud Alikhanov-Avarsky (1846–1907) – Russian lieutenant general, wrote: “Murders, injuries and other crimes in general never have a mercenary motive, at least in the mountainous part of Dagestan. Moreover the mountaineers of this region, if in exceptional cases they are sentenced to exile, it is usually for deeds that in their understanding are not something reprehensible, but – on the contrary– directly commendable. The weak understanding of legality and the habits of the traditional Adats, which are more in keeping with their attitudes and temperament, lead to the fact that even street quarrels about the most empty excuses, which outside of Dagestan would peter out, here virtually all end with blood spilt. Not to mention more serious insults, but even when given a sharp scolding, the mountaineer responds with a dagger, and cannot do otherwise. He knows that in that case, as a person who could not stand up for himself, he will be ridiculed, and will not be able to continue to live in his village. If he did not hesitate to punish his offender, risking, of course, his own life, and for that he escaped only with a walk to Siberia, then all sympathies are on his side, and he is considered as a young man who has fulfilled his sacred duty. The duty of personal vengeance is so ingrained among the Dagestanis, and hence the habit of arbitrariness is so strong between them that it would never occur to any Highlander to turn to the authorities with a complaint of insult suffered by him, since, according to local opinion, this would mean diminishing himself to the degree of a woman.

“It’s not the business of Qazi, the judges, the Naib, or the boss to wash off the insult inflicted on me,” the mountaineer said. “It is my duty: for that Allah supplied me with heart, and my father with a dagger” [Alikhanov, 2005, 260–261].

Robbery

In Dagestan, as elsewhere, there were many sorts of robbers. They were called “khachag’al” (Avar), “khachagatal” (Laki), “kachaglar” (Kumyk), and so on in the 31 languages of Dagestan. “To the credit of Dagestanis, it should be mentioned that in the upland districts there are no robberies and robbers,” said one of the official reports on the Dagestan region. M. Alikhanov commented on this fact as follows: “Where the multi-battalion detachments with guns did not risk to pass before, now the batman was walking freely, even without a stick, and one can be sure that such security will prevail in the region until they will not lose the primitive purity of their morals <...> So, weapons in the hands of everyone, the inevitable revenge hanging like the sword of Damocles and, most importantly, the people’s pride or public opinion that controls all the actions of their members – these are the reasons for the complete absence of looting and robbery of environments and those people who for some reason so readily are usually called rigands” [Alikhanov, 2005, 263].

Religious activity

The level of religious activity in the Russian Empire was measured as follows. In 1913 in Tatarstan and Bashkortostan there were more than 6,000 mosques and 7,000 religious schools. By 1917 only in Dagestan with the then population of just over 1 million people, there were 2,060 mosques and about 1,000 mektebs (preliminary religious schools) and madrasas (secondary religious schools). There were also many in the Crimea (729), Chechnya (more than 1000) and other parts of the North Caucasus. For comparison, by 1980 less than 50 mosques functioned in the entire North Caucasus and the Volga region, and those were under the close supervision of state and party structures.

In 1924 in Dagestan, according to Sh.G. Magidov's calculations, there were 2,000 Muslim schools with 50,000 students and 151 secular schools with 10,721 students [Magidov, 1979, 92]. According to G.Sh. Kaymarazov, for the 1924/25 school year in Dagestan, there were 211 secular schools with 16,783 students [Kaymarazov, 1989, 190]. By 1931, all of these Muslim schools, and almost all mosques were closed.

The above information suggests the inconsistency of the widespread Soviet propaganda opinion that the Soviet government, carrying out a cultural revolution in Dagestan, only dealt with illiteracy.

Crackdown on crime

Pre-revolutionary researchers of Dagestan have repeatedly pointed out that the basis of the highlander's commitment to law and order was not fear of the severity of the authorities or the severity of punishment, but the fear of being condemned by public opinion and consequent shame.

The authorities were very serious about fighting crime, ensuring the political trustworthiness of their subjects, and keeping them in their obedient place. To achieve these goals, the intelligentsia offered to expand the network of educational and cultural institutions. Supporters of harsh methods of combating crime insisted on toughening judicial punishments, and on accepting extrajudicial, administrative repressions in the form of expulsion to Siberia. Massacre of rebels was complemented by deportation to Siberia as an administrative punishment, i.e. without trial, from 1860 – in the Andy okrug (administrative region) in 1862; Unkratle district in 1863 and 1871; Zakatala okrug in 1866, Gumbet district in 1866, and Kaitago-Tabasaran and Avar okrugs in 1871 [Musaev, 2005].

In 1866, the village of Shilyagi of the Kaitago-Tabasaran District was burned down, and the inhabitants and their families were sent to Siberia. The fate of the rebels in 1877 was also tragic [Kovalevsky, 1912; Magomedov, 1940; Gasanov, 1997; Musaev, 2005]. After the brutal suppression of the centres of the uprising that engulfed almost the whole of Dagestan, repression followed. 300 people were subjected to public execution, and 1,000 families (4,875 people) were exiled to Saratov, Novgorod and Pskov provinces [Musaev, 2012].

Deep changes in public life due to the Russian revolution of 1905–1907, the First World War of 1914–1918, the October Revolution of 1917, and the Civil War of 1918–1921, led to a crisis of law and order. Robbery and looting spread to Dagestan, as elsewhere in Russia, precisely during the first quarter of the twentieth century.

“Dagestan was always a country of order and long-established traditions and customs,” wrote the last Chairman of the Mountain Republic, General Minkail Khalilov (1869–1935), from exile in 1919. The same was claimed by his former political opponent Nazhmutdin Samursky (1913–1938): “Not long ago, before the Revolution, which introduced a lively current into petrified forms of family relationships, the highlander's family was a solid and coherent organization in which each member was given a certain place, role and responsibilities. These duties were carried out by each of the family members with the highest conscientiousness, with clockwork precision, as the Adats of their ancestors command” [Samursky, 1925, 42].

Traditional commitment to order

The Tsar's administration soon came to understand that the motivation of the highlander's commitment to order (a'dlu – Arabic, which in all Dagestan languages also means “discipline”) was not his fear of the severity of his superiors and the severity of punishment, but self-respect, the fear of being condemned by public opinion.

“A highlander, a man with a highly developed sense of his own honor “demanded a proper (i.e. adopted by his society) attitude from another, equal to himself, wrote A. Akhalakov. This feeling of his was aggravated by the fact that the highlander was inherently conscious of his personal freedom and independence from others <...> Actions associated with deviations from these generally accepted norms lead to conflicts that at first glance have only a moral background. In fact, conflicts that arise on moral grounds are socially determined <...> The insult must be answered specifically – the unwritten law of society was that a person who silently swallowed an insult will be dishonored for the rest of his life in the eyes of other people. Moreover, such “low”, unworthy behavior of a man can even affect the position in society of his offspring <...> – his name will be a reproach to his children and even his grandchildren” [Akhalakov, 1981, 80].

Reluctant witnesses

The use of different legal systems (Adat, Sharia, Russian law) took place under the conditions of “military-national government,” combining both general Russian Empire laws and Dagestan traditional sources.

Since the traditional institutions of civil self-government of rural societies were adapted and subordinated to the tsarist administration, the people perceived the government’s law enforcement as a kind of “fatal reality”. Also, its representatives were not the best embodiment of the ideals of fairness and morality. The administrative arrangement of Dagestan as a whole corresponded to the traditional system of governance and, from the point of view of public order, did not cause particular concern to the tsarist administration. However, the state of legal proceedings in criminal cases, and most importantly, the attitude of Dagestanis to justice, to the courts in general, even to those that seemed to correspond to their own tradition, changed for the worse. The atmosphere of distrust of the court as such was supported not always clear to the locals by the imposition of general imperial laws in the form of “administrative reprisals”, i.e. expulsion to Siberia without investigation and trial.

S. Gabiev was one of the first to try to understand the underlying causes of the Adat courts’ incompatibility with the changes that occurred in the life and worldview of the highlanders. Seven years before the October Revolution of 1917, he wrote: “The Adats of the Caucasian mountaineers <...> are even today serve as a source of distinctive virtues of Caucasian highlanders, such as the custom of blood ruling, indispensable family solidarity and all customs which exaggerated the concept of manliness... From the sources of their origins, these “layering customs” are of three kinds: 1) Islamic law; 2) appeared among the mountaineers together with the ruling aristocracy and 3) legal norms and regulations created and artificially connected with the “Adats” of the mountaineers by the Russian administrative authority. Thus, almost all civil cases are resolved in Dagestan on the basis of Sharia, which in the case of family, marriage and hereditary completely supplanted the “Adat” and took its place under its own name. <...> Instead of the former solid principles of peculiar morality, the highlanders have not received anything and still roam in the darkness of the Military Administrative Labyrinth, from which there is no access to the light, only by destroying it” [Gabiev, 1910, 40].

The Soviet response

The questions of the transformation of the legal conscience of Dagestanis during the years of Soviet power deserve separate consideration. Here we confine ourselves to illustrating this process on the example of blood feud.

The tradition of “blood for blood” or diyat (from Arabic *ديف* a ransom) for blood or the rite of reconciliation, remained firmly in the minds of the Highlanders for a long time. Soviet justice deprived the injured party of material compensation for the murder (diyat) and thus unintentionally promoted the reanimation of the custom solely in the form of blood feud. Traditional arbitration initiatives of respected people to determine the terms of reconciliation of blood feuds, conducting the reconciliation ritual of blood feuds, was either prohibited or replaced by surrogate forms (the Soviet version of the blood reconciliation rite), or aligned with the Soviet law enforcement system that provided for the immediate arrest of the killers. Thus, the rural community was actually suspended from intervening in cases involving murder and other serious crimes. The use of traditional methods of conflict resolution was thus turned into a fiction, a private affair of the defendant and the plaintiff.

As a result, the reduction of the sentence by falsifying the circumstances of the crime, bribing the judges, i.e. phenomena that are immoral and practically impossible in a traditional society, were becoming commonplace. With all this, the attitude of the Dagestanis to the custom of blood revenge as a debt of honor remained the same, and the custom itself did not disappear, but continued in a modified form to be adapted to the conditions of Soviet reality.

The Soviet version of the ritual of reconciliation of bloodlines was imposed. The textbook attributes were a table covered with a red cloth, behind it, against the background of portraits of the leaders of the proletariat, party authorities in stalinka caps, and in front of the table two mountaineers in fur hats shaking hands. The propaganda had nothing in common either with the meaning or the ritual symbolism of the traditional rite.

On November 13, 1920, an extraordinary congress of the peoples of Dagestan was held in Temir-Khan-Shura, the then capital – since 1922 renamed Buinaksk. In a speech at this congress, Stalin, in particular, stated: “Dagestan should be governed according to its own characteristics, its own way of life, customs <...> The Soviet government considers the Shari’a the same competent, customary law that other peoples inhabiting Russia have. If the Dagestan people want to preserve their laws and customs, then they should be preserved” [Stalin, 1947, 395–396]. And they were preserved, but only until 1928, until Soviet power was consolidated. Since the problems of interfaith relations are due to the very fact of the existence of religions, then the cardinal solution of these problems was, according to the logic of Soviet theorists, in overcoming what they considered to be the obscene communist perspective of religious differences and universal communist law. The repressions had begun [Khalidova, 2017].

With the establishment of Soviet power in Dagestan, as elsewhere in the USSR, an irreconcilable struggle with religion began. During the years of Soviet power in Dagestan, “about 12 thousand people were repressed, more than 5 thousand of them were representatives of the clergy <...> And how many Sheikhs Ulamas (Islamic scholars) were humiliated and offended! <...> In the eyes of atheists and communists, they were idealists, mystics, enemies of the people... During the period of socialism, thousands of holy buildings were destroyed, 670 mosque and private libraries were destroyed, mountains of various spiritual literature and the most valuable manuscripts were burned; about 165 thousand mosque carpets, kilims, felt-carpets (arbabashes, literally cart-covers) were confiscated. In many places, they managed to build the official buildings from gravestones...” [Kurbanov, 1996, 20–21].

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