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THE PROCESS OF RECONCILING THE LEGAL SYSTEM BASED ON SEDENTARY AND NOMADIC CULTURE IN AZERBAIJAN IN THE XIII-XIVCENTURIES

Xülasə

Məqalədə XIII əsrin sonlarında Cənubi Qafqazda, xüsusilə Azərbaycanda baş verən ictimai-siyasi hadisələr fonunda aparılan hüquqi islahatlar təhlil edilir. Vergi və məhkəmə sisteminin hüquqi əsasları araşdırılır. Məqalədə həmçinin islam və monqol köçəri tayfa dinlərinin hüquq sisteminə və şəriət prosedurlarının hüquqi əsaslarına təsiritəhlil edilir.

Açar sözlər: Azərbaycan, Şərq, monqollar, hüquq sistemi, orta əsrlər, tarixşünaslıq

Резюме

В статье анализируются правовые реформы, проведенные на фоне общественно-политических событий на Южном Кавказе, в частности в Азербайджане, в конце XIII века. Рассмотрены правовые основы налоговой и судебной системы, а также влияние ислама и монгольских кочевых племенных религий на правовую систему и правовую основу шариатских процедур.

Ключевые слова: Азербайджан, Восток, монголы, правовая система, Средние века, историография.

As a result of the invasion of the South Caucasus by the Mongols in the 13th century, many changes took place in the legal and economic system that had been formed here for centuries. Administrative contacts of the nomadic Mongols with the sedentary population necessitated the implementation of joint reforms to a large extent. For this reason, Rashiduddin (1247-1247), who was the court physician during the reign of Abaga Khan (1265-1281), and during the reign of Ghazan Khan (1295-1304) and Sultan Uljaytu Muhammad (1304-1316), was the prime minister of the Elkhandid state. 1318 years) drafted a law called "Dastur al-mamlakat" to determine the type and amount of taxes, obligations and fines. Sources write that Rashiduddin wrote a long decree on tribute, gopchur, king and subject property, regulation of printing houses, expansion of construction works, improvement of cities and villages, regulation of coin currency, timely collection of taxes to be included in the treasury. He sent his copy to different parts of the country. One of the main reasons for issuing the decree was the worsening of the economic and political crisis in the Hulakul state in the last quarter of the 13th century, and the nomadic feudal lords who took advantage of the situation began to rob the population by increasing taxes and collecting additional taxes [2]. When talking about this topic, it should be emphasized that in non-Mongolian sources, a clear distinction is not made between legal decrees (yassa) and customs (yosun) [3].

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A number of fundamental works have been written in modern Mongolian literature related to the legislation of the Mongol period. In these works, information about the Caucasus and Azerbaijan is mentioned in general [4].

In 1254, all men from 10 to 60 years of age were listed in Azerbaijan. This census served to further exploit the population in addition to creating rules for the collection of taxes and duties. In this period, the number of taxes and duties was more than 40. Arbitrariness reigned in the Supreme Court and in the tax offices. The main income of the state was determined by gopchur (life tax) and tamga (German tax on artisans and merchants). Divan received 10, and in some places 20 or 30 gopchurs per year from the subject. When the messenger came to the burning of the regional judges on a certain issue, the judge used this pretext to distribute the gopchur among the population. The more messengers came, the more they spent. In addition to this tax, Hakim collected a lot of money and goods from the population under the name of "importance, bounty, export, commitment, and multamisat". During the time of Hulaku emir Argun, a lot of taxes were demanded from the population in Tabriz under the name of "begayayi-mal" (remaining taxes). According to the sources, the oppression had exceeded the limits, the commissioner who collected taxes in every house demanded gold without mercy. They even taxed widows and orphans. The population demanded from Argun to put an end to the arbitrariness of the officials. Finally, Argun, fulfilling the demands of the bankrupt people, orders that some help be given to them from the treasury. Argun also regulates the tax on the swindler. So, according to the ability of each person, a breaker is appointed. By his order, he did not take 10 dinars per person from the rich, and one dinar from the poor. It is interesting that tax collection in the state of the Hulakus was not entrusted to the state's vassals, but to the owners (iltizamchilar) of the local feudal lords. Thus, the divan tax collected in Tabriz city was given to big feudal lords - owners of purchase for a long time, who exploited the population with taxes and duties as they wanted. Large feudal lords gave a certain amount of the income to the divan and appropriated the rest. The owners of the ransom were appointed by the decree of the rulers of the time. This position was so important that sometimes the town stamper was also the town judge. During the reign of Arghun Khan, Amir Ali held the position of Tamghachi and Governor of Tabriz at the same time. Goods brought to be sold in the city were subject to a stamp tax at the gate. Therefore, the gates had a special economic importance for the feudal state. These gates were considered an important source of income. The gates and fence also greatly restricted the entry or exit of contraband into the city without paying customs. Trade caravans were allowed to enter the city after goods were inspected and stamp duty collected. Trade goods were not sold in the city, only when they passed through the city, they were taxed.

In 1300, judicial reform with the decrees "On the Court", "On Granting the Rank of Qazi", "On the Prevention of Fraud and Groundless Claims, as well as on the Elimination of Cases of Breach of Covenant by Unsecured Borrowers and Other Debtors", the reform covering various issues was carried out with the decree "On instructions to ascetics, scholars and believers". With the judicial reform, the previously existing order of assigning the duties of a court judge was abolished. According to those decrees, judges, emirs, and feudal lords had to report all issues related to Sharia to the ghazi, and the ghazi had to resolve those issues with his own judgment. It was stated that no one else could get involved in this case, and it was unacceptable for anyone to free the person arrested by the gasie. [1] Court judges were exempted from obligations, they did not pay taxes, they were exempted from staying in their houses and being freed from kopchur. Any action that would raise the dignity of veterans was severely punished. According to the new decree, the cases of the parties involved in the gas fire should be considered without their supporters, disputes between Mongols and Muslims should be considered twice a month in the mosque with the presence of planters and maliks, and the verdict should be signed by all of them. The property that was the object of the claim could not be alienated. The provincial governor appointed local governors and inspected their work every month. Appointed gazis were required to be fair, and a copy of the decisions was sent to the provincial gazi every month.

Local courtiers could only hear cases about debt obligations, but they had to hear real estate and other complex cases together with the city courts. Gazi had to hire a secretary to write court decisions and register. If the secretary betrayed his work, he was executed. The iltizam received from the veterans was drawn up in a special form, and it was noted that if the claims with a term of more than 30 years were considered, punishment would be given. Judges received a fee determined by the state for the cases they decided. Clerks had to receive one dirham for a document worth 110 dinars, 1 dinar for a document over 111 dinars, and the court clerk had to receive half a dinar for a document whose execution was approved. A secretary or manager who already received a salary was removed from his position by having his beard shaved. According to the requirement of the law, the judges carefully checked the witness statements and interpreted all the cases based on those statements in the verdict. The possibility of passing judgment based on the testimony of two existing witnesses was eliminated. As a task, the judges were assigned to clarify the identity of the witnesses, whether they are interested in the case, their relationship with the plaintiff and the defendant, and evaluate the testimony from this point of view. In the statements, attention should be paid to the truth, not to external pomp, a fair and legal sentence should be passed, and no one's rights should be trampled upon. If differences of opinion, quantity, quality, space, or time are found in witness statements, they should be carefully checked, and each witness should be interrogated separately. Court judges were required to observe the principle of relevance when considering cases, they were prohibited from considering cases outside their jurisdiction, and from approving documents related to territories outside their jurisdiction without checking them. Samples of court judgments were sent to the provinces so that judgments could be drawn up on the basis of relevant examples. The religious authority also had a special role in the administration of the state. It is known that the religious policies of the first Elkhans created conflicts between the local population and the newcomers. Pagan Mongols fought seriously against Islam. They did not recognize the position of the head of the country, occupied the waqf lands and weakened the position of Islam in the state apparatus. However, as a result of Ghazan Khan's religious reform and re-declaration of Islam as the state religion, most of the pagan Mongols accepted Islam. According to his decree, Mongols who did not accept Islam had to leave the country. Gazi-ul-Guzzat (Qazis) was responsible for the administration of religious affairs of the country. At his disposal, the "quartet of veterans", regional and city veterans worked. The head of the government judged on the basis of Sharia laws, expanded religious views, increased income, and was involved in the protection of foundation property. Collection of zakat and jizya, maintenance of order among the population, management of mosques, madrassas and medical facilities were the responsibility of religious administrations. Gazan Khan's judicial reform was aimed at preventing the legal arbitrariness prevailing in the country, over-complexity of court cases, leasing the position of "gazi" and eliminating its negative consequences. Claims with a 30-year term were declared to have lost their legal force. Court fees were specified. It was recommended to take appropriate measures to punish the criminal. Kazan Khan could not fully implement the judicial reform.

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