

Introduction

Wise men have said: dominion is like a young plant, and punishment is like water; it is surely necessary and essential to keep the roots of this plant fresh and irrigated with this water so that the flowers of safety and the fruits of security come forth.

SHIR MUHAMMAD MUNIS, *Firdaws al-iqbāl*¹



1 Crime and Punishment in an Uzbek Khanate

This book sets out to shed light on the juridical field of the Khanate of Khiva at the end of the 19th and at the beginning of the 20th century. The ‘Khanate of Khiva’ is the term employed in Western historiography to denote the political formation² that was put in place by the Qonghrats. The latter were a dynasty of Uzbek origins, which ruled roughly between the last quarter of the 18th century and 1920 over the region known as Khorezm (Ar. *Khwārazm*), one of the biggest oases of Central Asia, traversed by the Amu Darya and nestled within the territory of what is today Uzbekistan, Kazakhstan, and Turkmenistan.

The main objective of this work is to show that prior to Sovietization the dispensation of justice in Khorezm depended mostly on a group of officials representing the dynasty in power, and lacking specialised legal training. It is important to pause to reflect on this aspect of the legal system developed by the Muslim principality that we refer to as ‘the Khanate of Khiva,’ for conventional wisdom says that the practice of law in pre-modern Muslim societies was usually the business of the *‘ulamā’*, i.e., the scholars of Islam. As we shall

1 Shir Muhammad Mirab Munis and Muhammad Riza Mirab Agahi, *Firdaws al-iqbāl: History of Khorezm*, translated from Chaghatay and annotated by Yu. Bregel (Leiden and Boston: Brill, 1999), p. 335. Here we slightly revised Bregel’s translation.

2 The expressions ‘Khivan Khanate’ and ‘Khanate of Khiva’ are a calque from the Russian *Khivinskoe khanstvo*, applied by Tsarist bureaucrats at least from the second half of the 17th century. The expression, of course, is not derived from the terminology deployed by local literati to address the rule of the Uzbek khanal dynasties in Central Asia from the 18th- to the early 20th-century. On this question, see B. Fragner, “Die „Khanate“: Eine zentralasiatische Kulturlandschaft vom 15. bis zum 19. Jahrhundert,” *Zeitschrift für Kulturgeschichte* 9.1 (2008), pp. 33–75.

see in detail, especially in the records that we provide here in translation, the situation in 19th and early 20th century Khorezm under the rule of the khans was entirely, and indeed remarkably different. The scholars of Islam were subject to a power system, which made them subservient to the royal court and the representatives of the dynasty. This specific aspect of post-Nadirid Central Asian legal culture has already been noted in Paolo Sartori's *Visions of Justice: Shari'a and Cultural Change in Russian Central Asia*³ and the present book is designed to serve as a companion to that work to explore further how such legal culture survived, evolved, and changed during Russian domination. Also, to examine more closely practices of dispute settlement, which involved the royal court, in Khiva may open a window to comparisons with the Khanate of Khoqand and the Emirate of Bukhara and help us appreciate the degree of diversity within Central Asia, especially in the domain of law.

As a whole, the documents presented here mirror a world that was not structured and regimented into a rigid set of legal institutions. Indeed, the variety of cultural practices and the interplay of different sets of power relations produced a very dynamic set of legal relations. This left open a space for negotiation and consensus. Moreover, the space for negotiation was not confined to the localities and provinces, but was still available even after cases had been brought for hearing at the royal palace.

In order to illustrate our argument, let us turn our attention to one example. On the spring evening of 12 April 1913, near to a farmstead in the small Khorezmian settlement of Chavandur in the vicinity of Hazarasp, an alarming series of events were unfolding. The elders of the local community gathered in the house of one of the inhabitants. They had been cast into confusion by the sudden news that the farmstead had been surrounded by a group of distinctly suspicious-looking armed men on foot and on horseback. The general demeanor of these men left no doubt that they had serious plans to break into the farmstead by force. The owners of the house and members of the community knew very well why the attackers intended to break in. It was because a minor, an orphan boy called Rajab, had been detained there by the inhabitants of the village several hours earlier on suspicion of involvement in a homicide. The people around the perimeter of the farmstead were clearly associates of the boy and were determined to have him released, if necessary by means of an armed raid, so that the other participants in the crime should not be exposed. For this reason, when the elders received the news about the siege, they quickly arranged for the gates of the farmstead to be closed from the inside.

3 P. Sartori, *Visions of Justice: Shari'a and Cultural Change in Russian Central Asia* (Leiden: Brill, 2016), chapter 1.

By the time sun began to rise and the siege had been lifted, the community leaders were exhausted with fear and nervous anticipation. They then decided to make their way to the residence of the provincial governor (*ḥākim*), in the nearest urban center. The elders took Rajab with them.

The episode just described is taken from one of the many dispatches sent from the governors of the provinces of Khorezm to the royal court in Khiva in the early twentieth century. The letter is a routine report from the governor of Hazarasp, a small town in the southern part of the oasis which was subject to the Khanate of Khiva, and it informs the central agencies in the capital, specifically the office of the *yasāvullbāshī* (see *infra*), about the incident just described and about the details of the preceding and subsequent events.⁴

Further on, we learn from the same report that a few days earlier the elders of the community called Chavandur had reported to the *ḥākim* about a bloody raid carried out by a group of armed men on the farmstead of a local inhabitant called Khudāy Bīrgān b. Ismāʿīl. Besides the robbery of property, the raid had resulted in the murder of the head of the family, Khudāy Bīrgān himself, while members of his household had suffered severe knife wounds. Some days later, near another farmstead located within the territory belonging to the same community, a boy was arrested while begging for alms. One of the villagers was observant enough to recognize the youngster as an infamous thief who had previously worked in the bazaars of Petro-Aleksandrovsk. The latter was the administrative center of the 'Amu-Darya Department' (*Amudar'inskii otdel*), which had been organised out of the former lands of the khanate located on the right bank of the Amu Darya river,⁵ and was now under the jurisdiction of the Russian Empire. The boy was swiftly handed over to members of the communal militia (*il-qarāvullārī*) and to the elders (*il-kadkhudālārī*), who gathered in the home of a respected resident, in preparation for their journey to the provincial governor the next morning.

The contents of the report also inform us about how events developed at the governor's residence on the morning after the night raid. Further inquiries by the *ḥākim*, and the confessions extracted from the boy under duress, led to the capture of the head of the criminal group, a man called Safā. On his arrest, several firearms were also confiscated: a Berdan rifle, a pistol and cartridges. The head of the group confessed that the weapons had been obtained on the Russian side of the Amu Darya, from soldiers quartered there. The *ḥākim* carried out some supplementary inquiries and drew up a detailed protocol of

4 See below, Doc. 40.

5 *Āryāq* (lit.: 'that side') was a term used in Khiva for the territory on the right bank of the Amu Darya, under the jurisdiction of the Russian Empire from 1873.

the circumstances surrounding the other raids, and then sent all the arrested members of the criminal group under convoy to the khan's palace in Khiva for further investigation.

The legal case described here is part of an extensive collection of records written in Chaghatay (otherwise known as Central Asian Turki) called 'the *yasāvulbāshī* documents,' held in the Central State Archive of the Republic of Uzbekistan in Tashkent. The name of the collection comes from Soviet archival taxonomy (*dokumenty iasaulbashi*) and reflects the fact that most of its constituent parts (c. 5000) are rescripts (*fatak*) issued by the chancery of the *yasāvulbāshī*, which was one of the highest posts in Khivan courtly hierarchy in the early 20th century.⁶ In 1948 the records were transferred to the Central State Archive from Urgench, where they had been first gathered at the Khorezmian Provincial Archive together with other collections of documents crafted at the chancery of the Khanate of Khiva under the Russian protectorate (1873–1920).⁷ Zoia Agafonova, one of the archivists involved in the process of rearranging the records for the Central State Archive, explained that, even if the collection in question came into being after the Russian subjugation of the khanate, 'the *yasāvulbāshī* documents' had to be included into a larger inventory of records, which reflect scribal practices in Khiva *prior* to the Russian conquest.⁸ What led archivists to proceed in this fashion, says Agafonova, was the fact that 'all these records were written in the Arabic script, and that small notes were assembled in folders in a primitive way, without any order and without any attempt to determine their contents.'⁹ In other words, Soviet archivists in Tashkent assumed that, by dint of their purported unrefined form, 'the *yasāvulbāshī* documents' were more reminiscent of local writing traditions than reflective of later chancery practices introduced by the Russians, which were thought to be more elaborate and modern-looking. As we shall see in detail, the records crafted by scribes serving the *yasāvulbāshī* represent in fact a documentary innovation, which manifested itself in full only during the period of the Russian protectorate and which left only occasional and indeed scanty records prior to 1873.

From a thematic point of view, 'the *yasāvulbāshī* documents' all concern either the hearing of grievances from the khan's subjects on a wide range of

6 We shall discuss the office in question in greater detail later in the book.

7 Akt ot 29 iulia 1948 g, TsGARUZ, f. I-124, courtesy of Muhayyo Ishakova.

8 The inventory of records in question is known as 'The chancery of the khan of Khiva' (*Kantselariia Khana Khivinskogo*) and consists mainly of records written prior to 1873, which were carted off to St. Petersburg in the wake of the Russian siege of Khiva. The archival signature of this collection is TsGARUZ, f. I-125, op. 2.

9 Interview conducted by Muhayyo Ishakova in April 2014.

issues, or the proceedings of subsequent investigations. As noted earlier, the collection is substantial and most of the records preserved therein represent one compositional genre, i.e., rescripts. To better exemplify the complexity of the system of dispute settlement at work in Khorezm under the Qonghrats, however, we opted to bring generic diversity into sharp relief and thus decided to offer in translation a selection of 73 records, which, though small, can exemplify several compositional genres dating from 1910–1920. The reader will therefore find notifications, reports, and promissory notes (*bāyluv khaṭī*), together with rescripts.

Now that we have presented the documentary corpus used in this work, let us come back to the system of conflict resolution reflected in our sources and which was known in Khorezm as *‘arż* (or *‘arż-dād*). Here it is important to emphasize that its peculiarity lies in the central role played by the royal court (*dargāh-i ‘ālī*) in Khiva in enforcing the settlement of disputes. Taken together, the documents we selected enable us to demonstrate that the khans and their officials were the primary judicial authorities to whom most petitioners addressed their claims. This book thus sets out to explore the Islamic juridical field of 19th- and early-20th-century Khorezm, a space in which there operated various institutions and officials, at the center of which stood the royal court of the local khans. The notion of ‘juridical field’ is derived from the work of the French sociologist Pierre Bourdieu and it is here employed to refer to a power field which ‘is determined by two factors: on the one hand, by the specific power relations which give it its structure and which order the competitive struggles (or, more precisely, the conflicts over competence) that occur within it; and on the other hand, by the internal logic of juridical functioning which constantly constrains the range of possible actions and, thereby, limits the realm of specifically juridical solutions.’¹⁰ As we will show, Muslims brought their affairs to state officials because the latter had the power to coerce parties to achieve a settlement and enforce a decision, either formally or informally. Significantly, it was a clear sense of hierarchy rather than an abstract notion of jurisdiction that informed Muslims’ decisions to take legal action. Indeed, in contemporary Khorezm, the responsibility for the resolution of conflicts fell on the royal court and the governors, while *qāzīs* did not adjudicate of their own volition. The earliest attestation to this peculiar state of affairs comes from the Russian envoy to Khiva Nikolai Murav’ev who, in 1822, noted that *qāzīs* ‘do not have any right to hear cases ... [with the exception only of] conflicts of little significance’ and when they do so ‘they have to report to

10 P. Bourdieu, “The Force of Law: Toward a Sociology of the Juridical Field,” *Hastings Law Journal* 38 (1986–87): 816.

the khan about any given wrongdoing or crime.¹¹ In fact, judges usually heard cases when the royal court or the governors instructed them to do so, mostly in cases in which defendants denied a claim (*inkār*) against them. As we shall see, a denial activated the transferal of a case to a *qāzī*. We shall return to this topic and discuss the subordination of *qāzīs* to Qonghrat court officials as we move to analyze legal proceedings.

Seeking Justice at the Court of the Khans of Khiva is based on a cachet of records mainly produced by the bureaucracy of a khanate and consequently adopts a state-centric approach. Nevertheless, the documents that we selected for this volume allow us to do more than just look at the juridical field in a Central Asian oasis from the narrow confines of a royal court. When and where possible, we equally considered the actions of people that moulded the everyday life of the khanate in the center and at the margins. Indeed, our records present us with a range of different individuals: a courtier in Khiva, a Qaraqalpaq fisherman on the shores of the Aral Sea, a Turkmen pastoralist in the riparian forests of the Amu Darya, a merchant from Urgench, a provincial governor in Khoja-eli, as they all moved around, took initiatives to defend their rights and pursued their own goals. The documents that we selected, open up a world in motion, where each individual case casts light on various microcosms of the Khanate of Khiva at the beginning of the twentieth century. It is our hope that the documents collected here will allow readers to feel that they are *witnessing* something of everyday life in Khorezm and thus appreciate their extraordinary cumulative effect. Furthermore, the records here assembled also allow us to uncover a complex world of social and legal relations in an Uzbek khanate over the course of the second decade of the twentieth century: a time of great political turbulence. The Khanate of Khiva had been a protectorate of the Russian Empire for around four decades by the time described in these documents. It was a protectorate with a very undefined and elusive status: it had no right to its own foreign policy or armed forces, but it had retained, albeit only partially, its right to preserve established forms of governance and ‘traditional’ institutions and practices.¹² At the same time, although formal interventions of imperial and colonial agencies in the internal life of the khanate were minimal, various Khivan agencies and khanal subjects regularly encountered Russian bureaucratic practices and could thus liaise with Russian institutions

11 N.N. Murav'ev, *Puteshestvie v Turkmeniiu i Khivu v 1819 i 1820 godakh gvardeiskogo general'nogo shtaba kapitana Nikolaia Murav'eva, poslannogo v sii strany dlia peregovorov*, pt. 2 (Moscow: Tipografiia Avgusta Semena, 1822), p. 35.

12 For more information on this, see U. Abdurasulov and P. Sartori, “Neopredelennost' kak politika: razmyshliaia o prirode rossiiskogo protektorata v Srednei Azii,” *Ab Imperio* 3 (2016), pp. 139–155.

at both informal and official levels. Read in this light, the records are a bricolage of small stories of right and wrong coming from Muslim communities in Khorezm. Unedifying as some of the stories are, however, they should be read against the backdrop of historically meaningful events such as the First World War, the overthrow of the Romanovs in February 1917, the October Revolution and the establishment of the Bolshevik dictatorship. Although the epicenters of these events were far from Khorezm, the shockwaves quickly rippled out to a region which, seen from St Petersburg and the offices of imperial ministries, seemed like a distant periphery. Each and every topic just mentioned is significant to make sense of the broader socio-cultural context in which our records were crafted, and they require extended and dedicated reflections, an exercise which falls out of the purview of this book.

Before we turn to a detailed description of the legal procedure in Khorezm known as *‘arż-dād*, a term that denotes a formal ceremony in which a subject submits a grievance to the ruler and files a claim with the royal court, several notes of caution are in order. First, as elsewhere in the Islamic world, a petition (*‘arż*) represents a default mode of communication between the chancery and a subject, whether an officeholder or a member of the general populace. Indeed, any form of communication with the royal court, whether a plea of allegiance or a news report (*vāqī‘a*),¹³ was formulated as a petition and crafted in compliance with the requirements of this genre. However, under the Qonghrats, the terms *‘arż-dād* and *‘arż* were used specifically to denote a system of justice at the center of which were the khan and his court. It would be misleading to characterize this system as a ‘petitioning system,’ a term that connotes a larger body of textual practices that includes, but it is not co-extensive with, the legal institutions under consideration. When it comes to examine ‘petitions’ as an instrument to seek redress when confronting official malfeasance, historians of Islam usually regard such records as the output of the so-called *mazālim* system. This has to do with the fact that, under the rule of other Islamic dynasties elsewhere in the history of the Middle East, the term *mazālim* has been deployed by scholars to refer to a situation in which the royal court operated as a court of second instance.¹⁴ But this was not the case in Khorezm, where

13 On news reports (*vāqī‘a-navīstī*) and the ensuing compositional genre, see P. Sartori, “Seeing Like a Khanate: On Archives, Cultures of Documentation, and 19th Century Khorezm,” *Journal of Persianate Studies* 9.1 (2016), pp. 241–250.

14 J. Nielsen, *Secular Justice in an Islamic State: Mazālim under the Bahri Mamlūks, 662/1264–789/1387* (Leiden: Nederlands Historisch-Archaeologisch Instituut te Istanbul. 1985), p. 9. Several recent studies, however, have pointed out that, in different historical contexts, the *mazālim* courts did not operate as a court of second instance for cases of judicial misconduct alone. See C. Müller, “*Mazālim* Jurisdictions at the Umayyad Court of Córdoba

Qonghrat subjects brought their claims directly to the court of the khan, without filing their lawsuits with the judges. In this context, the Khivan royal court seldom served as a higher court with powers of judicial review. In addition, the term *mazālim* is conspicuous by its absence from 19th- and early-20th-century Khivan bureaucratized.¹⁵

Second, Khivan subjects presented their complaints to the khan *orally*, not in writing.¹⁶ This marks a substantive and decisive difference from other legal practices attested in the history of the Islamic world, which required that Muslims present their complaints to the ruler in form of a written petition.¹⁷ Of course, it is possible that the Qonghrat polity also welcomed written petitions and that Qonghrat chancery practices may have been as elaborate as elsewhere in the region. Indeed, the Qonghrats promoted a culture of documentation that has left to us the richest repository of Arabic-script texts from Central Asia covering the period from the late eighteenth century to the year 1873, the so-called 'Archive of the Khans of Khiva'.¹⁸ This archive contains numerous records that may well fall within the generic rubric of 'petitions'.¹⁹

(Eighth-Eleventh Centuries CE)," in A. Fuess and J.-P. Hartung (eds.), *Court Cultures in the Muslim World: Seventh to Nineteenth Centuries* (London and New York: Routledge, 2011), pp. 93–104; Y. Rapoport, "Royal Justice and Religious Law: *Siyāsah* and *Sharīah* under the Mamluks," *Mamluk Studies Review* 16 (2012), pp. 71–102; Baldwin, "Petitioning the Sultan in Ottoman Egypt."

- 15 To date we know only of one occurrence of the term *mazālim* in a Khorezmian context. We observe it in an endowment deed dating to the eighteenth century. The record refers to an episode when a man applied to the Khivan ruler Abu'l-Ghāzi Khān (1603–1663) to review the status of lands, which had earlier been the hereditary properties of his ancestors. The place where the khan received the petitioner in question is named in the document the *divān-i mazālim*. See *Vaqf-nāma-yi khanaqāh-i Shaykh Sulaymān Ḥaddādī*, MS Khiva, GMIQ, inv. no KP-1326.
- 16 *khalqlār kilib khāngha 'arżini āghzākī sūzlāb*, 'Abdullāh Bāltāev, *Khivada Tāsh ḥawli bināsīning tāpāgrāfiyasī*, Khiva 1950, MS Tashkent, IVANRUZ, inv. no. 9321, fol. 24a.
- 17 Y. Ben-Bassat, *Petitioning the Sultan: Protests and Justice in Late Ottoman Palestine* (London: I.B. Tauris, 2013), pp. 24–28; M. Alam and S. Subrahmanyam (eds.), *Writing the Mughal World: Studies on Culture and Politics* (New York: Columbia University Press, 2012), p. 160.
- 18 This is the term of art to refer to a collection of records, which Russians found in the royal citadel during the siege of Khiva in 1873. Together with a collection of codices, which most probably belong to the khalnal library, the records were carted off to St. Petersburg. Nobody studied them until the Soviet Orientalist Pavel Petrovich Ivanov 'rediscovered' them in the vaults of the Public Library of the city (then Leningrad). For more on the history and the main features of this collections, see Sartori, "Seeing Like a Khanate: On Archives, Cultures of Documentation, and 19th Century Khorezm."
- 19 For a preliminary attempt to assess the scope of the Archive of Khiva in relation to the archives of other Central Asian polities, see P. Sartori, "On Khorezmian Connectivity: Two or Three Things I Know about It," *Journal of Persianate Studies* 9.1 (2016), pp. 133–157.

Third, besides matters concerning the study of law and society in Central Asia and court protocol typical of an Uzbek khanate, the documents which we offer here in translation also help us illuminate aspects of the culture of documentation which the Qonghrats developed throughout the 19th century as well as changes in such culture, which manifested themselves after the establishment of the Russian rule in the region, and more specifically the creation of the Amu-Darya Department. What we mean by ‘culture of documentation’ inheres in a mesh of chancery practices and record-keeping activities at the state-level. Accordingly, a culture of documentation primarily manifests itself in the output of texts, which were conceived of as items of bureaucratic consumption. Clearly, if one does not attempt to understand the purposes for which a bureaucracy kept archives, one simply risks misrepresenting the function of the records one finds therein. As noted earlier, the systematic record keeping of rescripts issued by the office of the *yasāvulbāshī* began only after the Russian takeover and therefore one could say that our source base is mainly the product, though indirect, of Russian bureaucratic influence. What we mean by this is that, following the establishment of the Amu-Darya Department, scribes employed in Khiva were exposed to practices of record-keeping and the documentary regime of the Governorship-General of Turkestan. They therefore had plenty of possibilities to acquaint themselves with the Russian bureaucratic *habitus*. In turn, this might activate new documentary sensibilities leading to the production of records of a nature that did not exist prior to the Russian takeover, merely for preemptive purposes.²⁰ However, occasionally one can find records, though scanty, which suggest that the system of conflict resolution called ‘*arż-dād*’ produced a documentary output. The latter must have been connected to other scribal and archival practices in Khiva, which we see reflected in ‘The Archive of the Khans of Khiva.’ In an effort to understand the documentary value of records produced and preserved by the Qonghrats, our previous studies of Arabic-script records produced in Khorezm, and especially of ‘The Archive of the Khans of Khiva,’ suggested that we should think of documents as constitutive elements within some larger archival project and thus advocated a holistic approach to the study of documentary collections. The latter assumes that *all* the texts contained in an archive may reflect a specific utilitarian purpose by dint of their preservation by khalal agencies; and this requires that one consider how each and every text within that repository is somehow representative of the forms of governance adopted by the Qonghrats. The overall objective of this method is, thus, to move away from the usual tendency to

20 P. Sartori, “Murder in Manghishlaq: Notes on an Instance of Application of Qazaq Customary Law in Khiva (1895),” *Der Islam* 88.2 (2012), pp. 217–257.

approach to Islamic archives simply as repositories of data to be extracted at will. Our purpose in the present volume, however, is not to cast a holistic gaze at the available documentary corpus.²¹ While we have analyzed, of course, ‘the *yasāvulbāshī* documents’ collection as a whole, we equally thought it would be more useful for students of the history of the Uzbek khanates to pause to reflect on individual documentary items that exemplify behavioral patterns and forms of governance rather than on aspects of scribal and archival culture. Again, to the latter we plan to devote separate studies.

Fourth, our sources shed light on a system of conflict resolution that functioned in the region at least from the beginning of the nineteenth century. Since similar practices existed in the Emirate of Bukhara and the Khanate of Khoqand, this system may be regarded as representative of post-Chinggisid Central Asia:²² it is with the demise of the ‘Arabshahid empire that we observe a shift from earlier political configurations that centered on notions of shared sovereignty – whereby a territory was divided in appanages and assigned to different dynasts in the fashion of a condominium²³ – to a highly centralised and bureaucratised state formation, which came into being in the wake of Nādir Shāh Afshār’s military campaign in Central Asia (1740). It would be misleading, in our view, to explain the prominence of Qonghrat officials in the local system of conflict resolution in light of a Chinggisid tradition, which had otherwise informed patterns of governance in Central Asia prior to the rise of the Uzbek khanates. Indeed, there is little of Chinggisid pedigree in the ways in which Qonghrat officials articulated their legal authority over the resolution of conflicts in Khorezm, unless one wants to superimpose a Chinggisid tradition on all things Central Asian regardless of the very meaning that we accord to such tradition. We learn from a 18th-century Russian observer that prior to the rise to power of the Qonghrats ‘adjudication belonged exclusively to the clergy, but with the establishment of dynastic rule in the khanate, the clergy lost almost all its judicial power.’²⁴ This statement suggests that the system that we see reflected in the available evidence, where the khans of Khiva and their officials enjoyed more legal authority than the *qāzīs*, was certainly an innovation of the Qonghrats, at least in the oasis of Khorezm.

21 Ibid.

22 Sartori, *Visions of Justice: Shari‘a and Cultural Change in Russian Central Asia*, pp. 40–103.

23 M. Dickson, “Uzbek Dynastic Theory in the Sixteenth Century,” in *Trudy XXV Mezhdunarodnogo Kongressa Vostokovedov* (Moscow: Izdatel’stvo Vostochnoi Literatury, 1960), pp. 208–217; E. Binbaş, “Condominial Sovereignty and Condominial Messianism in the Timurid Empire: Historiographical and Numismatic Evidence,” *Journal of the Economic and Social History of the Orient* 61.1–2 (2018), pp. 172–202.

24 Anon., “Turkmeniia i Khiva,” *Vsemirnyi puteshestvennik* 8 (1870), p. 120.

It must also be added that, more broadly speaking, the Qonghrats perceived their rule as disconnected from and, to a certain extent, in opposition to the political history of the Chinggisids. Indeed, in his magnum opus the court historian Muḥammad Rizā Mirāb Āgahī described the rise of the Qonghrat dynasty as the moment in which ‘the light of majesty and the candle of power of the Chinggisid *sultāns* stopped to shine and be resplendent.’²⁵ Rather than just offering an apologetic eulogy for the dynasts in power, here Āgahī is looking back at the history of Central Asia, and Khorezm in particular, and emphasizing that, starting from the first Qonghrat ruler Īltūzār (r. 1804–1806), the Uzbek khanate brought about a major discontinuity with earlier practices of governance, which consisted of doing away with the Chinggisid dispensation of shared sovereignty. Indeed, under the rule of Allāh Qulī Khān (1826–1842) the Qonghrats began in fact openly to associate themselves with the imagery of the Khorezmshahs, the Muslim dynasty ruling over Khorezm between the 12th and the early 13th century, which had attempted to resist the Mongol conquest.²⁶ By the end of the 19th century, the Qonghrats’ identification with the Khorezmshahs had become a powerful and evident attribute of their sovereignty. Indeed, in his *Tawārikh al-khawānīn*, an unofficial chronicle of the Qonghrats written between the years 1885 and 1894, the Khivan literatus and the Qonghrat prince Sayyid Ḥāmid Tūra Kāmyāb claimed that, when in 1770 Īltūzār’s grandfather Muḥammad Amīn ‘Īnāq returned from Bukhara and subdued Khorezm, ‘he sat firmly in power on the throne of the Khwarazmshahness’ (*Khwārazmshāhliq takhtida bar qarār kāmgār irdi*).²⁷ Also, when introducing Īltūzār Khān to his readers, Kāmyāb argued that the Qonghrat dynast ‘sat on the throne of Khwarazmshahness’ (*Khwārazmshāhliq masnadida ūltūrdi*).²⁸ What was the intended meaning of the latter abstract noun? What did it mean to be a Khwarazmshah in his view? We can attempt to find an answer to these questions by looking at Sayyid Ḥāmid Tūra Kāmyāb’s further characterization of Īltūzār’s rule: ‘he provided the people with justice and put order to the military; and he sought to run *alone* [our emphasis] the government in the province of Khorezm.’²⁹ This

25 *Chingizīya sultānlārīnīng chirāgh-i shavkatī wa sham‘i dawlatī āftāb tābish[ī]dīn bī-nūr va bī-furūgh būlūb*, Muḥammad Rizā Āgahī, *Riyāz al-dawla*, MS St. Petersburg, IVRAN, inv. no. D-123, fol. 12a.

26 This was first noted by Yuri Bregel, see Munis and Agahi, *Firdaws al-iqbāl: History of Khorezm*, pp. vii–viii.

27 Sayyid Ḥāmid Tūra Kāmyāb, *Tawārikh al-khawānīn*, MS Tashkent, IVANRUZ, inv. no. 7717, fol. 84a.

28 *Ibid.*, fol. 84b.

29 ‘*adl-u-dād bila ilgā saranjām birīb lashkar-u-‘askaryighīb tartīb qildī va Khwārazm diyārīda hukmīn ‘alāhida yūrūtmāk istādī*, *ibid.*

passage offers conclusive evidence of the fact that in the historical perception of Khivan court literati, the Qonghrats introduced forms of governance (and possibly also a political ideology), which were far removed from that of the Mongols and their notion of shared sovereignty. If the 17th century was the age of Chinggisid restoration, as Robert McChesney has suggested, then the 19th was in Khorezm most certainly the century in which local constituencies came to regard Chinggisid traditions as a thing of the past.

Fifth, and finally, it should be noted that anyone reading this book hoping to get a sense of what were the philosophical premises underpinning the practice of law in early 20th-century Khorezm will likely be disappointed. There is little legal material coming from Khorezm, and especially among the records published here, that would be useful for the historian of law who would like to explain the world of moral philosophy, today identified as legalism.³⁰ To be sure, our records tell us something about power relations, practices of divination to apprehend suspects, and proceedings of dispute settlement. To call such records 'legal' requires that one thinks of law not just as a bundle of rules, however, but as a field in which discourses, moral sensibilities, and statuses, cross and influence each other. Clearly, the documentary materials that we put together in this work conjure up notions of rules, either followed or transgressed, which evoke modes of conduct as well as the legislative power of orders. Furthermore, they are entangled in a discursive field, which is above the law, or beyond it, for that matter. Read in this light, the legal records here assembled explain very little about rules, their intended meaning, and their popular reception. They do, however, point to the pervasive character of legalism in social interactions.

2 The Historical Setting

The texts presented here are documents produced by the chanceries of different agencies of the Khanate of Khiva, active in both the capital city of Khiva and surrounding regions. The documents were all produced in the period between 1910 and 1920 – the time of the reign of the last two members of the Qonghrat dynasty in Khorezm: Isfandiyār Khān (1910–1918) and Sayyid ‘Abdullāh Khān (1918–1920). The period covered by the documents thus corresponds to the final decade of the khanate: in February 1920, the Qonghrat dynasty came to an end following a pro-Bolshevik coup; the territory itself of the khanate was

30 Paul Dresch and Hanna Skoda (eds.), *Legalism: Anthropology and History* (Oxford: Oxford University Press, 2012).

formed first into the Khorezm People's Soviet Republic (KhNSR), and then in 1924 was integrated into the newly formed Uzbek, Turkmen and Kazakh SSRs.³¹

The Khanate of Khiva was a rather small state in the lower delta of the Amu Darya, in the Khorezmian oasis, and had been under the rule of members of the Qonghrat dynasty since the end of the eighteenth century. The Qonghrats came to power after an extended period of turmoil and interregna, and managed to consolidate control and establish a somewhat centralised administration within a short period of time.³² Besides the direct use of force, the dynasty's success rested in large part on the support of different population groups. To seek the consensus of various demographics enabled them not only to regulate, albeit for a relatively short time, contradictions with representatives of different communities within the oasis, but also to establish more or less stable relations with tribal groups, in particular with the various Turkmen, Qaraqalpaq and Qazaq tribes. This facilitated the settlement of the Qaraqalpaq tribes, especially on the northern and north-western edges of the oasis, extending the borders of direct Qonghrat rule up to the coast of the Aral Sea and the lower reaches of the Syr Darya in the north.³³

From the very first decades of its rule, the dynasty was forced to confront the rising ambition of the Russian Empire, which aimed to increase its colonial possessions at the expense of territories lying to its south. After some unsuccessful attempts to make the khanate submit by force,³⁴ Russian troops under the command of general-adjutant K.P. von Kaufman made their triumphal march

31 The lands on the right bank of the Amu Darya and along the coast of the Aral Sea belonged to the Karakalpak Autonomous Region (*Karakalpakskaiia Avtonomnaia Oblast'*), which was constituted in 1924 as part of the Kazakh ASSR. In 1932, it was given the status of an Autonomous Republic, initially as part of the RSFSR. Later, in 1936, the Karakalpak ASSR was formally integrated into the Uzbek SSR. For more information on the political and economic processes underwriting the formation of the Karakalpak ASSR, see N. Pianciola, "The Benefits of Marginality: The Great Famine around the Aral Sea, 1930–34," *Nationalities Papers* 48.2 (2019) Accessed online on 30 October 2019).

32 On the analyses of these events, see further Yu. Bregel, "The New Uzbek States: Bukhara, Khiva and Khoqand: c. 1750–1886," in N. Di Cosmo, A.J. Frank, P.B. Golden (eds.), *The Cambridge History of Inner Asia. The Chinggisid Age* (Cambridge: Cambridge University Press, 2009), pp. 398–400; W. Wood, "Khorezm and the Khanate of Khiva," in *Oxford Research Encyclopedia of Asian History*, <https://oxfordre.com/asianhistory/view/10.1093/acrefore/9780190277727.001.0001/acrefore-9780190277727-e-284?rsk=934BEVY&result=1#acrefore-9780190277727-e-284-div2-3> (Accessed online on 2 June 2019).

33 See, also, A. Shioya, "Irrigation Policy of the Khanate of Khiva Regarding the Lawzan Canal, 1830–1873," *Area Studies Tsukuba* 32 (2011), pp. 115–136; U. Abdurasulov, "The Aral Region and Geopolitical Agenda of the Early Qonghrats," *Eurasian Studies* 14 (2016), pp. 3–36.

34 A. Morrison, "Twin Imperial Disasters. The Invasions of Khiva and Afghanistan in the Russian and British Official Mind," *Modern Asian Studies* 48.1 (2014), pp. 253–300.

through the capital city of Khiva to the khan's palace on 29 May 1873.³⁵ The ruler of Khiva Muḥammad Raḥīm Khān II (1864–1910) was forced to sign the Gandumian (Gandūmqān) peace treaty (12 August 1873). This required him to acknowledge his own status as the 'humble servant of the Emperor of All Russia', and Khiva's status as a 'vassal' of St. Petersburg.³⁶ Among other stipulations, the Khanate of Khiva lost the right to recruit a regular army, and to carry out its own foreign policy 'without permission from the Russian authorities.' Another consequence of the treaty was the annexation of all the lands along the right bank of the Amu Darya, 'with all the settled and nomadic peoples there.' The Amu-Darya Department (*Amudar'inskii Otdel*) was formed on these territories, covering over half of the former area of the khanate,³⁷ under the Governorship General of Turkestan, with its center in the fort of Petro-Aleksandrovsk.³⁸ It is common among scholars of Central Asia to define the new status of Khiva as a protectorate, by analogy with some of the British and French holdings in South Asia and Northern Africa, although the term was never actually used either in the records defining the relations between Khiva and St. Petersburg, or in the official correspondence between governmental agencies.³⁹ The Gandumian Treaty was a freestanding and vague set of regulations that did more to complicate than clarify the status of the Khanate of Khiva and its subjects *vis-à-vis* the Russian Empire.⁴⁰ The indeterminacy of the Gandumian Treaty

-
- 35 M.A. Terent'ev, *Istoriia zavoevaniia Srednei Azii s kartami i planami*, vol. II (St. Petersburg: Tipografia V.V. Komarova, 1906), p. 260; On the circumstances of the Russian takeover of Khiva in 1873, see A. Morrison, *The Russian Conquest of Central Asia, 1814–1907. A Study in Imperial Expansion* (Cambridge: Cambridge University Press [2020]), [Chap. 7] (forthcoming).
- 36 See 'Mirnyi dogovor s Khivoi, ustanovlennii v Gandemiane 12 avgusta 1873 g.', TsGARUz, f. I-1, op. 27, d. 7, ll. 6–8; The text of the treaty is also available as an appendix to S. V. Zhukovskii, *Snosheniia Rossii s Bukharoi i Khivoi za poslednee trekhstotletie* (Petrograd: Tipografia N.I. Evstigneeva, 1915), 179–183.
- 37 The area of the annexed lands covered almost 76,000 km², i.e. around 58% of the territory of the khanate, see A.S. Sadykov, *Ekonomicheskie posledstviia ustanovleniia protektorata tsarskoi Rossii nad Khivinskim khanstvom*, PhD dissertation (Moscow, 1954), p. 38 (unpublished).
- 38 Until 1874 the *Amudar'inskii otdel* was called the *Amudar'inskii okrug* (district), see T.G. Tukhtametov, *Amudar'inskii otdel: Sotsial'no-ekonomicheskoe i politicheskoe znachenie dlia Khorezmskogo oazisa* (Nukus: Karakalpakstan, 1955), p. 64.
- 39 For a rare example of the use of this term, although in an unofficial context, see D. N. Logofet, *Bukharskoe khanstvo pod russkim protektoratom*, vol. 1–2 (St. Petersburg: V. Berezovski, 1911).
- 40 For example, A. Kalmykov, a high-ranking official of the Ministry of Foreign Affairs of Russia, wrote in 1910, that, 'the [Gandumian] peace treaty was re-interpreted several times, and was used by various representatives of the Russian and Khivan authorities in different ways at different times,' see his *Sostoianie Khivinskogo khanstva i zhelatel'nye*

may have reflected a conscious political choice. Such a form of governance was far from unique in the age of European colonialism. As Kristin Mann and Richard Roberts have noted about the history of African protectorates, ‘significant ambiguities existed surrounding the legal authority that parties possessed to conclude these protection agreements and impose the new systems of colonial rule that developed.’⁴¹ A similar indeterminacy of the status of the ‘vassal state’, a fluidity of the norms governing the Gandumian Treaty, and a vagueness about the authority invested in the Russian colonial officials who were responsible for relations with Khiva, produced an environment similar to other colonial situations.⁴² The main feature of the Russian Empire’s relationship with its distant protectorate was a fundamental ambivalence. On the one hand, preserving the semi-independent khanate with a rather uncertain status among the empire’s other remote colonial possessions seemed to be a politically very risky and costly undertaking that conflicted with imperial interests in the region. On the other hand, however, the uncertainty of the khanate’s position suited various interest groups, given that it provided broad access to Khiva’s internal resources without the need to build a complex and costly system for managing and monitoring the khanate’s domestic situation. Thus, the strategic uncertainty in the relationship between the Russian Empire and its Khivan protectorate also constituted a consistent policy.⁴³ Colonial agencies did not intervene except to assert control over the maintenance of stability in the Khivan protectorate, and to defend the interests and rights of Russian subjects in the khanate. However, they would avoid meddling directly with the internal life, administrative, fiscal, and judicial practices of the khanate.⁴⁴

reformy, TsGARUZ, f. I-2, op. 1, d. 291, l. 102. For an English translation of the Gandumian Peace Treaty, see S. Becker, *Russia’s Protectorates in Central Asia: Bukhara and Khiva, 1865–1924* (Cambridge, Massachusetts: Harvard University Press, 1968), pp. 316–318.

41 K. Mann and R. Roberts, “Slave Voices in African Colonial Courts: Sources and Methods.” In *African Voices of Slavery and the Slave Trade, vol. 2: Essays on Sources and Methods*, eds. A. Bellagamba, S.E. Green, M.A. Klein (Cambridge: Cambridge University Press, 2016), p. 134.

42 G. Balandier, “Kolonial’naia situatsiia: teoreticheskii podkhod (1951),” *Ab Imperio* 2 (2013), pp. 29–64.

43 See further, P. Sartori, U. Abdurasulov, “Imperial Strategic Uncertainty: The Promises and Perils of a Russian Protectorate in Central Asia.” In Nader Purnaqqheband, and Florian Saafeld (eds.) *Aus den Tiefenschichten der Texte. Beiträge zur tuko-iranischen Welt von der Islamisierung bis zur Gegenwart* (Reichert Verlag Wiesbaden 2019), pp. 233–264.

44 In detail, see A. Erkinov, “How Muḥammad Raḥīm Khān II of Khiva (1864–1910) Cultivated His Court Library as a Means of Resistance against the Russian Empire,” *Journal of Islamic Manuscripts* 2 (2011), p. 41.

At the same time, the khanate was located within the imperial possessions,⁴⁵ and its subjects had regular encounters with imperial institutions. Consequently, not only administrative and chancery practices, but aspects of internal politics, patterns of mobility, and monetary and legal relations in Khiva were all directly or indirectly affected.⁴⁶

On 16 August 1910, the ruler of Khiva, Muḥammad Raḥīm Khān II, died at the age of 66, having held the Khivan throne since the time of the Russian conquest. According to Russian officials, he had always managed to govern the country ‘in the old way,’ i.e., by doing everything in his power for ‘Khiva to remain as before.’⁴⁷ Imperial authorities in Tashkent and St. Petersburg used the death of the old monarch as an opportunity to initiate a so-called programme of reforms, designed to modernize the khanate, to be carried out under his successor, the hereditary prince Isfandiyār (r. 1910–1918). The programme of reforms was developed by both the imperial and Khivan authorities, and proposed, among other things, to reorganise and institutionalise the administrative apparatus and to impose order on the financial system and organs of justice.⁴⁸ However, while these transformations were widely trumpeted by both Khiva and St. Petersburg, it turned out to be an extremely difficult task to put them into practice, in the absence of any real strategies for monitoring and control. Soon after, the First World War would put an end to the majority of these hopeful beginnings. Preoccupied by events on the European stage, the Russian agencies in Tashkent and St. Petersburg largely limited themselves to attempts to maintain control over local elites, to preserve a certain degree of stability and to prevent potential disorders in this distant periphery.⁴⁹

The absence of a consistent policy of Russia towards its protectorate, sharply growing asymmetries of power between the metropole and its colonial possessions, and internal conflicts within the khanate’s elites, fed into major

45 In 1881, after the fall of Kōk-Tepe, the submission of the Akhal-Tekin oasis and formation of the Transcaspiian Region (*Oblast'*), the Khanate of Khiva was surrounded by Russian imperial possessions around the entire perimeter of its borders. On the details of Russian conquest of Transcaspiia, see Morrison, *The Russian Conquest of Central Asia, 1814–1907*, [Chap. 8] (forthcoming).

46 For other examples of the formalization of chancery practices in Khiva after the establishment of the Russian Protectorate, see Sartori, “Murder in Manghishlaq: Notes on an Instance of Application of Qazaq Customary Law in Khiva (1895)”.

47 [N.K. Glushanovskii], *Mnenie Nachal'nika Amu-Dar'inskogo otdela General-maiora Glushanoskogo*, TsGARUZ, f. 1–2, op. 1, d. 291, l. 134.

48 For more information on this, see Abdurasulov, Sartori, “Neopredelennost' kak politika: razmyshliaia o prirode rossiiskogo protektorata v Srednei Azii,” pp. 139–155.

49 U. Abdurasulov, “Konflikt kak resurs: anatomiaia ‘turkmenskikh besporiadkov’ v Khorezme, 1914–1916,” *Ab Imperio* 3 (2018), pp. 141–186.

popular upheavals in the khanate in 1915–16. Protests by inhabitants of individual towns, dissatisfied with the character of Isfandiyyār's government, in 1915, quickly spilled over into open armed resistance. The events of early 1916 had even greater resonance, when Turkmen leaders who had broken off allegiance managed to capture the capital of the khanate, and seriously threatened to overturn the order in the country. Only the intervention of Russian colonial forces, under the command of Lieutenant General A.S. Galkin, and their use of violently repressive measures against the rebels, enabled the temporary suppression of the uprisings.⁵⁰

The political landscape of Khorezm in the second decade of the twentieth century was decisively shaped by the echoes of the February revolution of 1917 in Petrograd, and the Bolshevik coup that followed in October of the same year. As a distant province of the former empire of the Romanovs, Khiva found itself in a difficult situation. The Khivan authorities no longer had the support of the Russian army,⁵¹ and were now forced to establish a new balance between the different forces that had been lifted up on the wave of recent events in the capital. In particular, these included the armed units of the Yomut Turkmen leader Qurbān Muḥammad Sardār (1857–1938), otherwise known as Junayd Khān, who, incidentally, appears in our documents.⁵² Junayd Khān was one of the leaders of the rebellion of 1916, and had been forced to flee with his supporters from the Russian authorities to Iran and Afghanistan.⁵³ In the spring of 1917, on the wave of revolutionary events in the former empire of the Romanovs, Junayd returned to Khorezm with considerable reinforcements, and began to challenge the power of authorities in Khiva and Petro-Aleksandrovsk.⁵⁴ Another active player on the Khorezmian political

50 O. Qo'shjonov and N. Polvonov, *Khorazmdagi ijtimoiy-siyosiy jarayonlar va harakatlar* (Tashkent: Abu Matbuot Konslat, 2007), pp. 239–246; Niazmetov, *Poisk konsensusa. Rossiisko-khivinskie geopoliticheskie otnosheniia v XVI-nachale XX v.*, pp. 424–433.

51 When, in January 1918, news of the Bolshevik coup reached Colonel Zaitsev's Russian units quartered in Petro-Aleksandrovsk and in Khiva itself, the troops, which had until that point followed orders from the Provisional Government, then abandoned the khanate. See T.G. Tukhtametov, *Rossia i Khiva v kontse XIX–nachale XX veka* (Moscow: Nauka, 1969), p. 126.

52 See docs. 24; 36; 45; 61.

53 Abdurasulov, "Konflikt kak resurs: anatomia 'turkmenskikh besporiadkov' v Khorezme", p. 177; on Junayd Khān's subsequent fate, see Q. Rajabov, "Xorazmda istiqloq harakat va Junaydixon", *Jamiyat va boshqaruv* 1 (2000), pp. 36–43.

54 The political allegiance of the Russians in Petro-Aleksandrovsk was far from univocal at this time. Initially, the administration was loyal to the Provisional Government, but after the Bolshevik coup of October 1917, and especially after colonel I.M. Zaitsev's withdrawal from Khiva on 5 January 1918, the influence of the SRs and Bolsheviks grew, Becker, *Russia's Protectorates in Central Asia*, pp. 254–257.

scene at this time was a group of local reformers known as the Young Khivans (*yāsh khīvalīklār*). Inspired by the revolutionary events in Russia, and actively supported by Soviet and Bolshevik agencies in Tashkent and Charjuy, these reformers also contended for power in Khorezm. The interests of the leaders of the soldiers' soviets⁵⁵ also deserves to be taken into account, while a significant political role was played by the actual commanders of the Russian garrisons quartered on the territory of the neighbouring Amu-Darya Department and in Khiva itself.⁵⁶ Isfandiyār Khān tried to balance between these centers of power, with a varying degree of success. Thus, on 5 April 1917, in a concession to the demands of the Young Khivans, the khan signed a manifesto on the proclamation of a constitutional monarchy; the monarch's power was now to be limited by a 'parliament' (*majlis*) and a council of ministers (*nāzīr*).⁵⁷ However, only a few months later, in the autumn of 1917, Isfandiyār Khān put an end to all of these initiatives, with the support of the Turkmen leader Junayd Khān and the silent approval of General H. Mirbadalov, the commissar for the Provisional Government in Khiva. The members of the Young Khivan party and their supporters were pursued, arrested, and in certain cases subjected to show-trials and executions.⁵⁸

For a while, Isfandiyār Khān managed to hold on to power in this way, making alliances with representatives of one group after another, until he was finally executed on the orders of the same Junayd Khān in autumn 1918.⁵⁹

55 To a large degree thanks to the support of the soldiers' soviets, in April 1917, the Khivan reformers managed to force Isfandiyār Khān to sign a manifesto on the proclamation in Khiva of a constitutional monarchy: Tukhtametov, *Rossia i Khiva v kontse XIX–nachale XX veka*, p. 122; I.V. Pogorel'skii, *Ocherki ekonomicheskoi i politicheskoi istorii Khivinskogo khanstva kontsa XIX i nachala XX vv. (1873–1917 gg.)* (Leningrad: Izdatel'stvo Leningradskogo universiteta, 1968), pp. 122–124; Becker, *Russia's Protectorates in Central Asia*, pp. 253–257.

56 For example, General Mirbadalov at least initially supported the pretensions of the Young Khivans. His predecessor, Colonel Zaitsev, supported revanchist anti-Bolshevik uprisings and, on 5 January 1918, left the khanate and moved with his troops to Samarkand, see Becker, *Russia's Protectorates in Central Asia*, pp. 270; Qo'shjonov and Polvonov, *Khorazmdagi ijtimoi-i siyosiy jarayonlar*, p. 307.

57 R.A. Nurulin, "Obostrenie politicheskoi obstanovki v khanstvakh." In D. Alimova, and R. Radzhapova (eds.), *Turkestan v nachale XX veka: k istorii natsional'noi nezavisimosti* (Tashkent: Shark, 2000), pp. 289–290.

58 Becker, *Russia's Protectorates in Central Asia*, pp. 269–270; R.A. Nurulin, "Obostrenie politicheskoi obstanovki v khanstvakh," pp. 290–291, 296.

59 Khivan authors give different accounts of the circumstances of Isfandiyār Khān's killing: in the view of the court historian Ḥasan-Murād Laffasī, the ruler of Khiva was shot on the order of the Yomut leader Junayd, see Ḥasan-Murād Laffasī, *Gulshān-i sa'adat*, MS Tashkent, IVANRUZ, inv. no. 7797, fol. 100b. Another author, Pahlavān Niyāz Ḥājji Yusupov,

Immediately after the execution of the khan, his brother Sayyid ‘Abdullāh Khān was placed on the throne. The latter’s rule was largely nominal, as real power was now held by Junayd and his supporters.⁶⁰

The dynasty managed to hang on to the throne for another year and a half in these conditions, before a series of pro-Bolshevik coups reached this distant frontier as well. On 1 February 1920 the forces of the Young Khivans captured the capital with support from Bolshevik detachments.⁶¹ A day later, Sayyid ‘Abdullāh Khān, the last ruler of the Qonghrat dynasty, which had reigned in Khiva for over a century, was overthrown and exiled to the city of Krivoy Rog (Ukr.: *Kriviy Rich*) in Ukraine, where he spent the final years of his life.⁶² In April 1920, on the territory of the former khanate, the Khorezm People’s Soviet Republic was proclaimed: a pro-Bolshevik quasi-state, which was destined to sink into oblivion within four years, when it was incorporated into the newly formed national Soviet republics.

Our aim here is not to provide a detailed account of all the political processes, which one should take into account if one pursues a political history of the khanate. For our purposes, the processes are important inasmuch as they provide some background knowledge to contextualize the social, documentary, and legal practices reflected in our sources. Needless to say that the political background outlined above did shape aspects of communal life, and particularly those aspects with which our documents are most concerned: instability, access to weapons, and the rise of violence within Khorezmian society. Indeed, from the very beginning of the protectorate period, we observe a constant flow of news reports from Khiva to Petro-Aleksandrovsk and Tashkent. While formally claiming to stay out of the internal affairs of its protectorate, the Russian administration had in fact vested interests in keeping key aspects of the khanate’s internal life under control. The bureaucratic pressure which the Russian colonial administration exerted on the protectorate stimulated the

reports that on Junayd’s order, one of his men ‘slit the throat’ of Isfandiyyār during an audience, see Pahlavān Niyāz Ḥājjī, [*Khāṭīralar*], MS Khiva, Private Collection of Anvar Otaboev, fol. 231b.

- 60 ‘Abdullāh Bāltāev, *Khawārazm ta’rikhīga matiryallār (Khīva 1950)*, MS Tashkent, IVANRUZ, inv. no. 9320, fol. 21; Pahlavān Niyāz Ḥājjī, [*Khāṭīralar*], MS Khiva, Private Collection of Anvar Otaboev, fols. 233b–234b.
- 61 Becker, *Russia’s Protectorates in Central Asia*, pp. 286–289; R.A. Nurulin, “Likvidatsiia Khivinskogo khanstva i obrazovanie Khorezmskoi Narodnoi Sovetskoi Respubliki,” in D. Alimova, and R. Radzhapova (eds.), *Turkestan v nachale XX veka: k istorii natsional’noi nezavisimosti*, pp. 297–305.
- 62 ‘Abdullāh Bāltāev, *Khawārazm ta’rikhīga matiryallār (Khīva 1950)*, MS Tashkent, IVANRUZ, inv. no. 9320, fol. 22a.

development of new chancery practices in Khiva such as the cross-referencing of documents. The reforms begun by the Russian and Khivan authorities in Khiva in 1910 facilitated even greater bureaucratisation and standardisation of a range of administrative and legal practices. Indeed, the reforms brought about a *formalization* of certain chancery practices for which we would otherwise have no records. One could say that such reforms were themselves responsible for the generation of the documentation under discussion here, for one unintended consequence of bureaucratisation was the increased visibility of dispute settlement in the documentary output of the khanate.

Another characteristic feature of the Russian presence was the formation of separate judicial and administrative jurisdictions on the Russian and Khivan sides of the Amu Darya. This allowed various individuals and groups, accused of having broken the law, to cross from side to side, making it harder for them to be caught and tried, as is revealed both directly and indirectly in our documentary materials.⁶³

As already been noted, Khorezm experienced exceptional political turbulence during the second decade of the twentieth century. The resulting uprisings against the central authorities, clashes between different groups of the population, and raids by Turkmen groups on the agricultural settlements in the oasis inevitably entailed a rise in the levels of violence in society. For example, in one of the documents presented here, dated to April 1918, the authorities in Khiva received a report from a group of 'elders' representing the province of Tashhawz about the sharp rise in the number of robberies and armed raids in the localities and, more generally, 'the extreme instability in the province' (*Tāshavūz tavābi'lārī kūb nādīnchdūr*).⁶⁴ In another document, also dated to April 1918, the central authorities were informed that the inhabitants and elders of another Khivan town, Khanqah, demanded the harshest possible punishments, including executions, for robbers, in order to reduce the numbers of such crimes: 'Without such measures,' the dispatch noted, 'the local communities will be unable to maintain any peaceful existence.'⁶⁵

The documents of the chancery of the *yasāvulbāshī* are also full of appeals and grievances from members of various communities about raids and attacks by Turkmen bands. The increased number of militant groups, and the flow of weapons from outside, meant an increased use of firearms,⁶⁶ which is also

63 See, e.g., Doc. 56.

64 See below, Doc. 50.

65 Doc. 41.

66 For example, after the suppression of the uprisings of 1916 in Khorezm, the Russian command requisitioned from the Turkmen clans in the western part of the oasis alone around

reflected in our documents. Local inhabitants were able to acquire weapons from Russian soldiers quartered in the khanate and on the right bank, and also, apparently, in significant quantities from across the Turkmen steppe.⁶⁷

All these factors either directly or indirectly played an important role in the production of the records which we present here. However, it would be misleading to say that it was specifically these events that defined the practices and mechanisms of dispute settlement in the khanate. Indeed, it would be perhaps helpful here to remind our readers that materials produced locally as well as Russian travelogues make it clear that the system of dispute settlement called *'arż-dād* had taken shape in Khorezm long before the Russian conquest and therefore prior to many political realignments and socio-cultural changes reflected in our records.

3 Who were the *Yasāvulbāshīs*?

Narrative sources and chancery documentation from early-20th-century Khiva are clear about one thing: the *yasāvulbāshī* reviewed the content of the appeals addressed to the khans and instructed appellants to refer to other Qonghrat court officials who would investigate cases and oversee the settlement of disputes. But the competence of the *yasāvulbāshī* also extended beyond the juridical field. In fact, our sources attribute to the *yasāvulbāshī* a broad variety of administrative functions: they organize troops⁶⁸ and carry out military raids,⁶⁹ they ensure internal order, and administer the collection of taxes; at times, they represent khal authority when dealing with Turkmen⁷⁰ and Qaraqalpaq clans.⁷¹

6,000 firearms, and 10,000 of cartridges for them, see “[A.S. Galkin] *Doklad, 12.06.1916, no 173*”, TsGARUz, f. 1-1, op. 31, d. 1104, ll. 157–160.

67 On such channels of weapon supply into Khiva, see Niazmetov, *Poisk konsensusa. Rossiisko-khivinskije geopoliticheskie otnosheniia v XVI–nachale XX v.*, pp. 422–432.

68 Munis and Agahi, *Firdaws al-iqbāl: History of Khorezm*, pp. 446, 452, 512; Muḥammad Rizā Āgahī, *Riyāz al-dawla*, MS St Petersburg, IVRRAN, inv. no. D-123, fol. 266a.

69 Munis and Agahi, *Firdaws al-iqbāl: History of Khorezm*, 475, 480, 494, 501; Muḥammad Rizā Āgahī, *Gulshan-i dawlat*, MS Tashkent, IVANRUz, inv. no. 7572, fols. 56a, 68a; Muḥammad Yūsuf Bayānī, *Shajara-yi Khwārazmshāhī*, MS Tashkent, IVANRUz, inv. no. 9596, fols. 343b, 345a.

70 Munis and Agahi, *Firdaws al-iqbāl: History of Khorezm*, p. 528; Muḥammad Rizā Āgahī, *Riyāz al-dawla*, MS St Petersburg, IVRRAN, inv. no. D-123, fol. 83a; Muḥammad Yūsuf Bayānī, *Shajara-yi Khwārazmshāhī*, MS Tashkent, IVANRUz, inv. no. 9596, fols. 330a, 333b; 343b.

71 Muḥammad Rizā Āgahī, *Gulshan-i dawlat*, MS Tashkent, IVANRUz, inv. no. 7572, fols. 45a; 58b–66b; 74a–74b; 262b–263a; [Girshfel'd and Galkin], *Voenna-statisticheskoe opisanie Khivinskogo oazisa. Sostavleno General'nogo Shtaba Kapitanom Girshfel'dom*,

In the past, the sheer variety of functions ascribed to *yasāvulbāshīs* seems to have misled scholars. Seymour Becker, for instance, characterised the responsibilities of the *yasāvulbāshīs* as those of a ‘minister of war’;⁷² ‘Abdullāh Bāltāev, for his part, called such officials the ‘heads of the secret chancery’;⁷³ while Yuri Bregel attributed to them policing functions.⁷⁴ First of all, we should clarify that the office of *yasāvulbāshī* does not seem to have featured among the prominent Khorezmian positions of state prior to the rise of the Qonghrat dynasty. For instance, while depicting the court protocol during the reign of Abu’l-Ghāzī Khān (1644–1663), local historians do not mention the *yasāvulbāshī* among the 32 higher court dignitaries who possessed the privilege of ‘seating beside the khan.’⁷⁵ If we move to the reign of the Qonghrats, i.e., the early 19th century, we notice that chronicles mention *yasāvulbāshīs* as individuals entrusted by dynasts with important tasks, such as military campaigns, irrigation works, and participation in embassies. However, it is only later, from the mid-19th century, that we begin to observe certain holders of the post identified among the senior officials of the khanate,⁷⁶ and clearly exercising significant influence on the khanate’s internal and foreign policy. Further, at the turn of the 20th century several authors listed the *yasāvulbāshī* among the most influential officials with a fairly wide and varied range of functions.⁷⁷ These officeholders, for instance, were remembered by their contemporaries

pererabotano Nachal’nikom Amu-Dar’inskogo otdela General-Maiorom Galkinym. Part 2 (Tashkent: Tipografiya Tashkentskogo voennogo okruga, 1903), pp. 21–22.

72 Becker, *Russia’s Protectorates in Central Asia*, p. 180.

73 ‘Abdullāh Bāltāev, *Daftar* (no. 22), MS Khiva, Private collection of Odilbek Abdullaev, fol. 56b; see also M. Yūldoshev, *Khiva khonligida feodal yer egaligi va davlat tuzilishi* (Tashkent: Ūzbekiston SSR Davlat nashriyoti, 1959), p. 283, fn. 6.

74 Munis and Agahi, *Firdaws al-iqbāl: History of Khorezm*, p. 612, n. 640.

75 *Ibid.*, 44.

76 In his survey of the Khanate of Khiva compiled in 1873, Alexander Kuhn provided a list of senior officials at the Khivan court, which includes the office of *yasāvulbāshī*, see A. Kun, *Ocherk istorii zaseleniia Khivinskogo khanstva s drevnykh vremen, sostav ego sovremennogo naseleniia, administratsiia i goroda khanstva*, 1873, IVRRAN, St. Petersburg, Arkhiv Vostokovedov, f. 33, d. 8, ll. 36–36 ob.

77 The Soviet scholar T. Tukhtametov named the *yasāvulbāshī* among the most senior officials in the khanate, alongside the *qūshbigi* (or *qūshbegi*), the *mihtar* and the *divānbigi*, see his *Amudar’inskii otdel: Sotsial’no-ekonomicheskoe i politicheskoe znachenie dlia Khorezmskogo oazisa*, p. 26; M. Yūldoshev suggests that in the military hierarchy the *yasāvulbāshī* occupied the place directly behind the khan and the *amir al-umarā*, who was appointed from among the close relatives of the khan. Yūldoshev, *Khiva khonligida feodal yer egaligi va davlat tuzilishi*, pp. 283–284.

as being among ‘the most senior officials in the khanate’,⁷⁸ who in some cases kept control over the whole of ‘the state’s external and internal affairs.’⁷⁹ Again, it is only in this period when chancery records refer to them with the epithet of ‘ministers’ (*vazīr*).

If the rise of the position of *yasāvulbāshī* to one of the leading offices in the Khivan court hierarchy in the early 20th century is a clearly established fact, however, the process whereby this rise occurred – a process embedded in the political dynamics of 19th- and early 20th-century Khorezm – is far from clear. In the pages that follow we shall illustrate, albeit in broad terms, the range of responsibilities of the *yasāvulbāshīs* in the Qonghrat court hierarchy and the administration of the khanate. Furthermore, we shall attempt to uncover biographical information pertaining to individuals who occupied that office throughout the Qonghrat era, with emphasis on those of them who appear among the documents published in this book.

A note of caution is here in order. The spheres of competence of officeholders operating in the Khanate of Khiva were loosely defined and imperfectly distinguished. This state of affairs reflected a variety of factors, not only the nature of an officeholder’s personal relations with the ruler, or his personal charisma, but also his ability, or inability, to manage relations within a large network and a wide variety of power groups. Such a model left room for political maneuvering by individual actors. This may explain why the sources and the scholarly literature supply contradictory information about the status and functions of the *yasāvulbāshī* in the web of power relations within the Khanate of Khiva.

The *Firdaws al-iqbāl*, a monumental history of the early Qonghrat dynasts, provides the first references to the activities of *yasāvulbāshīs* at the Khivan court. Over the reign of Muḥammad Raḥīm Khān I (1806–1825) two individuals – Qurbān Niyāz and Muḥammad Niyāz – occupied the office at the same time. Munis and Agahi, the authors of the *Firdaws al-iqbāl*, distinguished these two officials as the closest confidants of the khan (*maḥram-i rāz*),⁸⁰ who were bestowed with the epithet ‘the pillars of the attendants and the cream of the servants.’⁸¹ Both dignitaries are repeatedly mentioned also as participants in the numerous military campaigns of Muḥammad Raḥīm Khān I. More

78 [Nil Lykoshin], *Raport Nachal'nika Amu-Dar'inskogo Otdela, polkovnika Lykoshina*, 28.11.1912 g., № 52, TsGARUZ, f. I-2, op. 1, d. 289, l. 176.

79 [Ḥasan-Murād] Laffasī, *Tazkirai Shuaro*, ed. P. Bobojonov (Urgench: Khorazm, 1992), pp. 56–57.

80 Munis and Agahi, *Firdaws al-iqbāl: History of Khorezm*, p. 446.

81 *Ibid.*, pp. 512; 654, n. 1113.

often than not they acted as special commissioners at various military units.⁸² Both *yasāvulbāshīs* also accompanied the Turkmen units – the most capable detachments of the Khivan army⁸³ – in military forays initiated by Qonghrats. It is worth mentioning that Muḥammad Niyāz was in charge of the Turkmen units consisting of Yomut clan members,⁸⁴ whereas Qurbān Niyāz was primarily dealing with Chawdurs.⁸⁵

These two individuals continued to enjoy similar competences during the reign of Allāh Qulī Khān (1825–1842), son and immediate successor to Muḥammad Raḥīm I.⁸⁶ In 1839, after the death of Muḥammad Niyāz Yasāvulbāshī, his son Raḥmatullah Bāy was appointed to the office.⁸⁷ The latter appears to have held the post, with occasional interruptions, right up until his death in 1890.⁸⁸ According to some reports, not a single serious military campaign was undertaken by the Qonghrats without the involvement of this officeholder.⁸⁹

A son of the second *yasāvulbāshī* Qurbān Niyāz, a certain ‘Abdullāh, also inherited the post following his father’s death. Amongst the multiple responsibilities conferred upon ‘Abdullāh Yasāvulbāshī, the most notable was commanding military units of Chawdur Turkmens.⁹⁰ His successor in the post, Maḥmūd Niyāz Yasāvulbāshī, also had responsibility over Chawdur

82 Munis and Agahi, *Firdaws al-iqbāl: History of Khorezm*, pp. 480, 494, 512, 534. As Yuri Bregel noted, these functions of the two *yasāvulbāshīs* in the Khanate of Khiva, as military inspectors and military commanders, emerged over the reign of Muḥammad Raḥīm Khān I, see Munis and Agahi, *Firdaws al-iqbāl: History of Khorezm*, p. 647, n. 1026.

83 Iu. Bregel, *Khorezmskie turkmeny v XIX veke* (Moscow: Izdatel'stvo vostochnoi literatury, 1961), p. 180.

84 Munis and Agahi, *Firdaws al-iqbāl: History of Khorezm*, pp. 501, 533.

85 Ibid., 528. Such simultaneous presence of two *yasāvulbāshīs* in the Khivan court a few decades later was also noted by Alexander Kuhn, see his *Ocherk istorii zaseleniia Khivinskogo khanstva s drevnykh vremen, sostav ego sovremennogo naseleniia, administratsiia i goroda khanstva*, 1873, IVRRAN, St. Petersburg, Arkhiv Vostokovedov, f. 33, d. 8, ll. 410b–42.

86 Muḥammad Riżā Āgahī, *Riyāz al-dawla*, MS St Petersburg, IVRRAN, inv. no. D-123, fols. 139b, 145a, 192a, 197b.

87 Ibid., fols. 227b, 229b.

88 The interruptions occurred in 1854–1855, when Raḥmatullah Yasāvulbāshī was arrested by ‘Abdullāh Khān following a court intrigue, and again in the wake of the conquest of Khiva by the Russian army in 1873, when he was exiled to Kaluga along with Muḥammad Murād Divānbigī. In 1880, they returned to Khiva and resumed their former posts; see Muḥammad Yūsuf Bayānī, *Shajara-yi Khwārazmshāhī*, MS Tashkent, IVANRUZ, inv. no. 9596, fols. 355b, 465a, 480b–481a.

89 Yūldoshev, *Khiva khonligida feodal yer egaligi va davlat tuzilishi*, p. 284; Bobojon Tarroh-Khodim, *Khorezm shoir va navozandalari*, eds. A. Otamurodova and O. Abdurahimov (Tashkent: Tafakkur qanoti, 2011), p. 32, fn. 1.

90 Bregel, *Khorezmskie turkmeny v XIX veke*, p. 178.

detachments.⁹¹ Yet for a while, from the late 1850s to 1866, this *yasāvulbāshī* was also responsible for governing over the Qaraqalpaq clans in the Amu Darya delta, in particular for collecting taxes from them.⁹² The members of the Russian embassy to Khiva in 1858, for instance, reported about their contacts with Maḥmūd Niyāz Yasāvulbāshī, whom they called the ‘temporary governor of the city of Qonghrat’⁹³ – the northernmost settlement of the khanate. We know that the 1858 diplomatic mission advanced towards Khivan borders accompanied by a sizable military detachment.⁹⁴ This, of course, caused anxiety among the members of the Qonghrat royal court, who were concerned about the somewhat porous northern borders of their state. Their anxiety escalated when the Russian navy appeared in the Aral Sea.⁹⁵ One may plausibly infer that Maḥmūd Niyāz Yasāvulbāshī was appointed to the Aral Sea littoral in the capacity of plenipotentiary official to defend against the threat of Russian expansion. The secretary of the Russian embassy, a certain E. Kilevein, provides information about yet another *yasāvulbāshī* – Raḥmatullāh – whom he encountered at the khan’s court. Kilevein describes this officeholder as ‘the main military figure’ in the khanate.⁹⁶

Thus, one may observe that under Qonghrat rule two *yasāvulbāshīs*, who had been occupying simultaneously the post, were empowered with a range of competences, with particular emphasis on military activities. Despite the notable ambiguity and indeterminacy of the competences of the various officials of the Khanate of Khiva, one can nevertheless identify a tendency to task

91 According to Bayānī, Maḥmūd Yasāvulbāshī occupied this office until 1878, when on suspicion of abuse of power and treachery he was removed from office and put under house arrest by order of Muḥammad Raḥīm Khān II, see Muḥammad Yūsuf Bayānī, *Shajara-yi Khwārazmshāhī*, MS Tashkent, IVANRUZ, inv. no. 9596, fols. 477a–477b.

92 Muḥammad Rizā Āgāhī, *Gulshan-i dawlat*, MS Tashkent, IVANRUZ, inv. no. 7572, fols. 45a; 58b–66b; see also Iu.E. Bregel, *Dokumenty arkhiva khivinskikh khanov po istorii i etnografii karakalpakov* (Moscow: Nauka, 1967), pp. 20–21.

93 N.G. Zalesov, “Posol’stvo v Khivu i Bukharu Polkovnika Ignat’eva v 1858 godu,” *Russkii vestnik* 2 (1871), p. 446.

94 *Ibid.*, p. 427.

95 Letter of Colonel Ignat’ev to General Kovalevskii on 20 August [1858], *ibid.*, p. 472.

96 E.B. Kilevein, “Otryvok iz puteshestviia v Khivu i nekotorye podrobnosti o khanstve vo vremia pravleniia Seid-Mokhammad Khana, 1856–1860,” in *Zapiski Imperatorskogo Russkogo Geograficheskogo Obshchestva*. Bk. 1. (St. Petersburg, 1861), p. 11. The same individuals – Raḥmatullah Yasāvulbāshī and Maḥmūd Yasāvulbāshī – would be mentioned by Bayānī, a Khivan court historian, with regard to later events: both would be named among the military leaders who led the Khivan military formations during the conquest of the khanate by Russian troops in May 1873, see Muḥammad Yūsuf Bayānī, *Shajara-yi Khwārazmshāhī*, MS Tashkent, IVANRUZ, inv. no. 9596, fol. 448a.

the *yasāvulbāshīs* with crucial areas of Qonghrat policy. Such responsibilities, and the particular trust that the rulers invested in the *yasāvulbāshīs*, inevitably reinforced their status within the Khivan court and administrative hierarchy.

It is striking, however, that Qonghrat court chronicles, while describing the multiple activities played by *yasāvulbāshīs*, are often silent about their role in hearing subjects' petitions. Nor do we hear much from foreign observers. For instance, Gregor von Helmersen and Grigorii Gens, the authors of a detailed survey of the khanate in 1840, noticed that Khivan subjects who wished to submit a petition to the royal court had first to contact the *mīhtar* – one of the most influential officials in the khanate. In case of the latter's absence the appellants were expected to apply to the *qūshbīgī*, another senior official, 'and if he [too] is not present, then to the [courtier named] *Khwādjesh-maḥram*.'⁹⁷ Thus, when describing the circle of Khivan courtiers who were presently in charge of the resolution of disputes, Helmersen and Gens said nothing about any involvement by *yasāvulbāshīs*. Nor did Gregor Danilevskii and Friedrich Basiner, members of a Russian diplomatic mission to Khiva in 1841, make any mention of the *yasāvulbāshīs*' role while describing the process whereby subjects appealed to the royal court.⁹⁸

The earliest reference to the direct involvement of the *yasāvulbāshī* in the hearing of petitions and their subsequent investigation belongs to Alexander Kuhn, who was appointed to carry out a thorough inspection of the khanate in the summer of 1873, in the wake of the conquest of Khiva by Russian troops. Kuhn depicts the competences of the *yasāvulbāshī*, especially in the system of dispensation of justice as follows:

97 Georg von Gens, Gregor von Helmersen, "Izvestiia o Khive, Bukhare, Kokande i severo-zapadnoi chasti Kitaiskogo gosudarstva", in *Istoriia Kazakhstana v zapadnykh istochnikakh XII–XX vv. Tom 5: Nemetskie issledovateli v Kazakhstane. Chast' 1*, ed. I.V. Erofeeva. (Almaty: Sanat, 2006), p. 36. On Khwājash Maḥram, one of the most influential courtiers in Khiva over the first half of the 19th century, see Muḥammad Riḏā Āgahī, *Riyāz al-dawla*, MS St Petersburg, IVRRAN, inv. no. D-123, fol., 55a; Murav'ev, *Puteshestvie v Turkmeniiu i Khivu v 1819 i 1820 godakh*, pt. 2, pp. 33–34; [Iskander Batyrshin] "Zapiska mladshogo perevodchika Orenburgskoi pograničnoi komissii Iskandera Batyrshina o Khivinskom khanstve i khane Prisyrdar'inskikh kazakhov Ermukhammede (Ilekee) Kasymove," in *Istoriia Kazakhstana v russkikh istochnikakh XVI–XX vekov. Tom VI: Putevye dnevniki i sluzhebnye poezdki po iuzhnyim stepiam XVIII–XIX veka*, eds. I.V. Erofeeva and B.T. Janaev (Almaty: Daik-Press, 2007), p. 307.

98 [G.I. Danilevskii], "Opisanie Khivinskogo khanstva, sostavlennoe v 1842 g. podpolkovnikom G.I. Danilevskim," in *Zapiski Imperatorskogo geografičeskogo obshchestva*. Kn. 5 (St. Petersburg, 1851), p. 134; Theodor-Fridrich Basiner, "Estestvenno-nauchnoe puteshestvie po Kirgizskoi stepi v Khivu," in *Istoriia Kazakhstana v zapadnykh istochnikakh XII–XX vv. Tom 5: Nemetskie issledovateli v Kazakhstane. Chast' 1*, ed. I.V. Erofeeva (Almaty: Sanat, 2006), pp. 354–355.

The Esaul-bashi (=Yasāvulbāshī) is a military commander. There are two of them in the khanate: one commands the Turkmen Yomuts, the other the Chawdurs. It is their responsibility to command their forces as instructed by the khan, and in peacetime each in turn is required to be present when the khan receives *arzs* (petitions). Each Esaul-bashi has several helpers, also called Esauls. When he receives an order from the khan to investigate a specific petition, he sends one of his helpers with the petitioner to the site of the conflict. When the Esaul has finished his investigation, he takes $3\frac{1}{2}$ *tangas* – 70 *kopeks* – from the petitioner for each *tash* (18 versts) that he has travelled while following up this matter. In the past, the Esaul-bashi had as his insignia for this post a [special] wand – an *asa* – with a silver cane-head, but now he simply has a knife at his belt.⁹⁹

Kuhn's narrative therefore leaves little doubt that by 1873, at the latest, not only did *yasāvulbāshīs* take part in military campaigns and command Turkmen formations, but they also played a central role in the dispensation of justice. Kuhn's description also provides unambiguous evidence that the *yasāvulbāshī* participated in both the procedure of receiving petitions, and the subsequent activities, delegating his attendants (*yasāvul*) to the site of the conflict. The specifics of the *yasāvulbāshīs'* involvement in the resolution of conflicts, as witnessed by Kuhn in 1873, correspond to what we have reconstructed in the previous sections of the book.

A further expansion of the *yasāvulbāshīs'* status and authority can be observed during the period after the establishment of the Russian protectorate over Khiva, and especially from the early 20th century.¹⁰⁰ It is natural that tasks such as ensuring internal stability and governing over Turkmen subjects thus acquired increased importance for the Qonghrats. It does not come as a surprise that the *yasāvulbāshīs*, who were actually in command of the police forces and who possessed a long-standing institutional experience of dealing with the Turkmen subjects, gained additional authority and stature. Being promoted predominantly from among the khan's close associates (*maḥram*),¹⁰¹ the

99 A. Kun, *Ocherk istorii zaseleniia Khivinskogo khanstva s drevnykh vremen, sostav ego sovremennogo naseleniia, administratsiia i goroda khanstva*, 1873, IVRRAN, St. Petersburg, Arkhiv Vostokovedov, f. 33, d. 8, ll. 41ob.–42.

100 Becker, *Russia's Protectorates in Central Asia*, pp. 74–76.

101 For instance, Mamat Yasāvulbāshī and Dawlat Murad Yasāvulbāshī, the prominent officials who occupied this office, had started their career at the court as 'the closest associates' of the Qonghrat ruler Muḥammad Raḥīm Khān II; see Tarroh-Khodim, *Khorazm shoir va*

yasāvlbāshī furthermore tended to enjoy royal confidence and often was in charge over the execution of secret and delicate assignments of the Qonghrat dynasts.¹⁰²

We now come to the early 20th century, where we frequently encounter *yasāvlbāshīs* among the high-ranking officials of the khanate with a broad range of responsibilities and much recognised authority. Nil Sergeevich Lykoshin (1860–1922),¹⁰³ who as the newly appointed Head of the Amu-Darya Department paid a visit to the Khivan ruler Isfandiyyār Khān in May 1912, described Yasāvlbāshī Muḥammad Yūsuf as ‘one who occupies a prominent post at the court’¹⁰⁴ and who is ‘respected by all.’¹⁰⁵ A few months later, in his report to the Governor-General of Turkestan, Lykoshin named the same *yasāvlbāshī* as ‘the most important senior official’ alongside Sayyid Islām Khwāja, this latter at the time being the ‘chief minister’ of the khanate (*vazīr-i akbār*).¹⁰⁶

As a vivid indicator of the growing significance of the *yasāvlbāshī* position in the court hierarchy, in the early 20th century the designation of *yasāvlbāshī* in chancery documents is often coupled with the epithet of ‘minister’ (*vazīr*). The documents published in this work eloquently illustrate such a shift in writing practices. We thus observe instances of addressing this officeholder as ‘refuge of the vizierate’ (*vizārat-panāh*), ‘noble vizier’ (*vazīr al-kirām*), ‘most eminent vizier’ (*vazīr-i aẓām*), ‘illustrious councilor’ (*dastūr al-mukarram*).

navozandalari, p. 81; Bābājān Safarov. *Khwārazmda būlūb ütġān qūlchiliq aḥvāllārī nūng wāq‘alārī*. MS Tashkent, IVANRUZ, inv. no. 11254/11, fols. 87–90.

102 See for instance ‘Abdullāh Bāltāev, *Khwārazm ta’rikhīga matiryllār (Khīva 1950)*, MS Tashkent, IVANRUZ, inv. no. 9320, fol. 5a; Tarroh-Khodim, *Khorazm shoir va navozandalari*, p. 16.

103 Nil Sergeevich Lykoshin was an official of the Russian colonial administration in Turkestan as well as an Orientalist. He began his career in Turkestan in 1889 as a non-commissioned officer, advanced through the hierarchy, and, between 1914 and 1917, served as military governor of the Samarkand District (*oblast’*) with the rank of major general. Between 1912 and 1914 he served as head of the Amu-Darya Department and was closely involved in relations with the Khivan administration on a wide range of issues. He is also known for his historical and ethnographic interests in Central Asia, see A. Morrison, “Sufism, Pan-Islamism and Information Panic: Nil Sergeevich Lykoshin and the Aftermath of the Andijan Uprising,” *Past and Present* 214.1 (2012), pp. 255–314.

104 N.S. Lykoshin, *Zapiska Nachal’nika Amu-Dar’inskogo Otdela Polkovnika Lykoshina o sovremennom sostoianii Khivinskogo Khanstva, 1912 god*, TsGARUZ, f. I-2, op. 1, d. 314, l. 200b.

105 N.S. Lykoshin, *Sovremennoe raspredelenie vlasti v Khanstve Khivinskom, 1912 god*, TsGARUZ, f. I-2, op. 1, d. 314, l. 630b.

106 According to Lykoshin, Muḥammad Yūsuf Yasāvlbāshī and Sayyid Islām Khwāja were the only two individuals around the khan who were bestowed with ‘a special sabre with a red cloth covering,’ like the one which the Khivan ruler himself ‘wore instead of a crown when on parade;’ see: [Nil Lykoshin], *Raport Nachal’nika Amu-Dar’inskogo Otdela, polkovnika Lykoshina, 28.11.1912 g., № 52*, TsGARUZ, f. I-2, op. 1, d. 289, l. 176.

This comes in stark contract with earlier records from the 1860s, when the epithet of vizier is not employed in connection with *yasāvulbāshīs*.¹⁰⁷

Yuri Bregel noted that for most of the 19th century the epithet ‘vizier’ tended to be applied predominantly (if not exclusively) to two of the higher ranks of the khanate, namely the *mihtar* and *qūshbīgī*. He also argued that the concept of the ‘vizierate’, at least until 1860, was exclusively connected with these particular offices.¹⁰⁸ This is borne out also by local chroniclers who tended to confer the epithet *vazīr* solely upon holders of the post of *mihtar* and *qūshbīgī*.¹⁰⁹ Echoing 19th-century European observers’ reports,¹¹⁰ Bregel also identified the official duties of the *mihtar* and *qūshbīgī* as those of the ‘minister of internal affairs’ and ‘minister of war’ respectively, wherein the *mihtar*’s responsibilities included the running the civil administration and standing in for the khan in the latter’s absence, while the *qūshbīgī* was responsible for administering the armies.¹¹¹ Meanwhile, as illustrated in the preceding part of this section, by the late 19th and early 20th century, some part of those responsibilities formerly exercised by the *mihtar* and *qūshbīgī* was taken over by the *yasāvulbāshī*. Hence, we may safely conclude that the rise of the formal competence and position of the *yasāvulbāshī*, especially observable by the early 20th century, and the integration of this office into the highest echelons of the khanate’s court hierarchy, found its manifestation also in the epithets conferred upon them.

The fact that by the beginning of the 20th century *yasāvulbāshīs* held similar status to *qūshbīgīs* and *mihtars* in court hierarchy is indicated also by Pahlavān Niyāz Hājji Yusupov (1861–1936), who was one of the leaders of the Young Khivans. Describing a meeting in 1917 between the soldier-delegates of Russian garrison in Khiva and Isfandiyār Khān, the author, who was an eyewitness to the event, reported:

... on one side of the terrace sat the *qazīs* and [other] ‘*ulamā*’, and on the other – the members of the parliament (*majlis*), and above them sat the soldier-delegates – on chairs. The [three] viziers – the *qūshbīgī*,

107 In these earlier dispatches, more general epithets appear, such as ‘*izzat-panāh*, *sa’ādat-dastgāh*, ‘*izzat va sa’ādat-hamrāh*, see TsGARUZ, f. I-125, op. 2, d. 159.

108 Yu. Bregel, “The Sarts in the Khanate of Khiva,” *Journal of Asian History* 12.2 (1978), pp. 131–132.

109 See for instance, Muḥammad Rizā Āgahī, *Riyāz al-dawla*, MS St Petersburg, IVRRAN, inv. no. D-123, fols. 52b., 63a.

110 Murav’ev, *Puteshestvie v Turkmeniū i Khivu v 1819 i 1820 godakh*, pt. 2, pp. 32–33; Basiner, *Estestvenno-nauchnoe puteshestvie po Kirgizskoi stepi v Khivu*, p. 354; Stetkevich, “Ocherki Khivinskogo oazisa,” *Voennyi sbornik* 3 (1892), p. 14.

111 Bregel, “The Sarts in the Khanate of Khiva,” pp. 132–133.

the *mihtar* and the *yasāvulbāshī* – were standing... All rose from their places and loudly greeted the khan according to the long-established tradition.¹¹²

Let us now go over some details of the biography and career history of certain individuals who occupied the office of *yasāvulbāshī* over the timespan covered by our documents, i.e. 1910–1920.

A sizable number of royal rescripts (*fatak*) were sealed by Muḥammad Yūsuf Yasāvulbāshī (d. 1917), a son of ‘Awaḥ Niyāz Maḥram. The seal can be found in records issued between September 1910 and the middle of November 1917. The Russian officer Nil Lykoshin provides some important information concerning this official, whom he met in Khiva in 1912:

... Esaul Bashi Mukhammad Yusuf Afaznii az Makhrarov, 66 years. Being a childhood friend of the late khan [Muḥammad Raḥīm II] has served at the court since his youth, and was earlier a consul in Petro-Aleksandrovsk. He has been universally respected [in Khiva]. He maintains the old-fashioned way of life (*po-starinnomu*), and has not had his house altered to imitate the Russian style. [He is i]nclined to oppose reforms and innovations ...¹¹³

We find a brief reference to this Khivan official also in the work of Pahlavān Niyāz Ḥājji Yusupov. Describing the events of October 1917, the author mentions his conversation with the ‘late’ Yūsuf Yasāvulbāshī, evidently alluding here to the latter’s death shortly thereafter. This is also confirmed by information from our documents: the seals of Muḥammad Yūsuf Yasāvulbāshī are found on the rescripts right up until the middle of November 1917.¹¹⁴

Yet another figure who also occupied this office during the initial years of Isfandiyār Khān’s reign was Shaykh Naḥār Bāy Yasāvulbāshī (d. 1917), one of the sons of Muḥammad Murād Divānbigī (d. 1901). According to Laffasī, immediately after Isfandiyār Khān’s succession to the throne in 1910, a whole series of senior officials were reshuffled, and Shaykh Naḥār Bāy was promoted to the post of *yasāvulbāshī*.¹¹⁵ Although his occupation of this post during the period

112 Pahlavān Niyāz Ḥājji, [*Khāṭiralar*]. MS Khiva, Private Collection of Anvar Otaboev, fols. 103b–104b.

113 N.S. Lykoshin, *Sovremennoe raspredelenie vlasti v Khanstve Khivinskom, 1912 god*, TsGARUz, f. I-2, op. 1, d. 314, l. 630b.

114 See, e.g.: TsGARUz, f. I-125, op.2, d. 633, ll. 178, 179, 180.

115 Ḥasan-Murād Laffasī, *Gulshan-i sa’adat*, MS Tashkent, IVANRUz, inv. no. 7797, fol. 5b. According to another Khivan author, Bābājān Tarrāh, Shaykh Naḥār Bāy’s promotion to

1910–1915 was rather intermittent – during his tenure he was briefly arrested, and periodically fell out of royal favour¹¹⁶ – it appears in general that Shaykh Naẓar Bāy enjoyed considerable influence at the court¹¹⁷ and great authority among the wider population.¹¹⁸ Shaykh Naẓar Bāy's career owed much to the fact that he was a part of Muḥammad Murād Dīvānbīgī's powerful clan, whose members occupied a number of key positions and concentrated considerable resources in their hands.¹¹⁹ As a member of this family, Shaykh Naẓar Bāy had been in the khan's 'cohort' from the very beginning and could expect promotion to high office. In his capacity as *yasāvulbāshī*, besides overseeing the settlement of the disputes, Shaykh Naẓar Bāy's spheres of competence also included 'the government of all the Turkmen affairs on behalf of the khan of Khiva'¹²⁰ and, in particular, responsibility for collecting *zakāt* from the Turkmen population.¹²¹ In August 1915, in the wake of a major Turkmen uprising, Shaykh Naẓar Bāy was held responsible for the disorder and, upon the insistence of the Russian administration, removed from his post and exiled to Russian Turkestan (Chimkent).¹²² After his return from exile in December 1916, he was effectively detached from active political activities.¹²³

the office of *yasāvulbāshī* had occurred slightly earlier, during the last years of Muḥammad Raḥīm Khān II's reign, when he 'was bestowed with the rank (*mansab*) of *yasāvulbāshī* and commander of the armies of Khorezm (*askarbashilik*); Tarroh-Khodim, *Khorazm shoir va navozandalari*, pp. 76–77.

- 116 For details, see U. Abdurasulov, "Tainy khivinskogo dvora: politicheskaia bor'ba v Khive v period Rossiiskogo protektorata," *Vostok svyshe* 3 (2015), pp. 38–56.
- 117 Some authors characterize Shaykh Naẓar Bāy as the leader of an influential political grouping at the court, opposed to the powerful minister Sayyid Islām Khwāja.
- 118 According to Laffasī, a contemporary to these events, when Shaykh Naẓar Bāy returned from exile in December 1916, the whole population of Khiva, 'from the ages of 7 to 70,' went out to meet him: Ḥasan-Murād Laffasī, *Gulshan-i sa'adat*, MS Tashkent, IVANRUZ, inv. no. 7797, fol. 83b.
- 119 The brothers of Shaykh Naẓar Bāy occupied the leading positions in the khanate: Ḥusayn Muḥammad Bāy held the post of *dīvānbīgī*, Şāḥib Naẓar Bāy, that of *mihtar*, while Āmān Kildi Bāy was one of the khan's confidants (*maḥram*): Ibid., fol. 10a.
- 120 Laffasī, *Tazkirai shuaro*, pp. 52–53; Tukhtametov, *Rossia i Khiva v kontse XIX–nachale XX veka*, p. 68.
- 121 A. Shioya, "Povorot and the Khanate of Khiva: A New Canal and the Birth of Ethnic Conflict in Khorazm Oasis, 1870s–1890s," *Central Asian Survey*, 33.2 (2014), p. 239; N. Tashev, "Zanimal li Mukhammad Yusuf Baiani dolzhnost' divan-begi?," *O'zbekiston tarixi* (2009/2), p. 18.
- 122 Ḥasan-Murād Laffasī, *Gulshan-i sa'adat*, MS Tashkent, IVANRUZ, inv. no. 7797, fol. 33a; Becker, *Russia's Protectorates in Central Asia*, p. 183.
- 123 According to Laffasī, Shaykh Naẓar Bāy died in Khiva in August 1917, a few months after his return from exile, Ḥasan-Murād Laffasī, *Gulshan-i sa'adat*, MS Tashkent, IVANRUZ, inv. no. 7797, fol. 97a.



FIGURE 2 The Khivan ruler Isfandiyyār Khān sits (at the center) among his courtiers (1911). Muḥammad Yūsuf Yasāvulbāshī is in the front row, i.e., the first from the right. Shaykh Nazar Bāy Yasāvulbāshī is the second from the left

PHOTO COURTESY OF VLAD YAKOVLEV, MOSCOW, RUSSIA

Examining the seals attached on rescripts also allows us to shed light on other individuals who held the post of *yasāvulbāshī* during the reign of Isfandiyyār Khān and his successor, Sayyid ‘Abdullāh Khān, the last Khivan monarch. They also enable us to reconstruct the rough lengths of their tenures. For instance, a significant number of rescripts issued between 1911 and 1915 were stamped with the seal of Muḥammad Maḥram Yasāvulbāshī (d. 1915), a son of Muḥammad Ḥusayn.¹²⁴ Lykoshin, who happened to meet Muḥammad (Mamat) Maḥram in 1912, writes that at that time he was around 50 years old, and that he had begun his court career ‘from his early years’, as a *maḥram* (‘confidant’) of Muḥammad Raḥīm Khān II, but had ‘only recently’ been promoted to the office of *yasāvulbāshī*.¹²⁵ Along with hearing subjects’ petitions, Muḥammad

124 The earliest rescript with the signature of Muḥammad Maḥram Yasāvulbāshī is dated to 16 April 1911 (see: TsGARUz, f. I-125, op. 2, d. 655, l. 30), while the latest is dated to 15 March 1915: TsGARUz, f. I-125, op. 2, d. 656, l. 11.

125 N.S. Lykoshin, *Sovremennoe raspredelenie vlasti v Khanstve Khivinskom, 1912 god*, TsGARUz, f. I-2, op. 1, d. 314, l. 63 ob. See also Tarroh-Khodim, *Khorazm shoir va navozandalari*, p. 16, fn. 4.

Maḥram was in charge also of the collecting of *zakāt* ‘from the goods [delivered from] Bukhara as well as the [charges] due to [provision of services of] the *ughlāns*¹²⁶ (*bachchas*).¹²⁷ The Khivan author Bābājān Safar-ūghli (Safarov, 1891–1983) provides some interesting details about the provenance of this official, giving thereby a certain insight into the career trajectories of upwardly mobile courtiers in Khiva:

A boy named Mamat came from Iran [to Khorezm] from Iran, having been sold into slavery. He was handsome and comely. Muḥammad Raḥīm Khān [I1] chose him as his *bachcha*; and when he grew up, he made him his *yasāvulbāshī*.¹²⁸

Mamat Yasāvulbāshī’s seals suggest that he occupied this post over the period of time 1911–1915. Local authors also indicated that Mamat Yasāvulbāshī died in a battle with Yomut Turkmens in late 1915, wherein he was one of two commander of Khivan troops,¹²⁹ during the mass revolt against the central authorities.¹³⁰

Seals further indicate that the post of *yasāvulbāshī* was then occupied, though only for a short while, by Āmān Kildī Bāy,¹³¹ a brother of the

126 Pers.: *bachcha* or *bachchabāzī*; Turk.: *ūghlān* (lit.: ‘boy’; ‘boy play’), a term used to refer to a practice documented in various regions of Central Asia, whereby older men employed the services of boys for purposes of entertainment. Although *bachchabāzī* is closely associated with pederasty, sources in fact paint a more complex picture. Evidently, in the Khanate of Khiva *bachchas* constituted a discrete social group administered by individuals known as *sāzanda*. The latter operated upon permission of the royal court in Khiva. *Sāzandas* were expected to pay a tax to the treasury as well as a fee to the families of the *bachchas*, see Gleb Snesev, *Polevye zapisi: Khorezm, 1961*, AIEARAN, f. G.P. Snesev, d. 10. ll. 21, 29, 45. On *bachchas* in Central Asia, see I. Baldauf, “Kraevedenie and Uzbek National Consciousness,” *Papers on Inner Asia*, no. 20 (Bloomington, 1992).

127 N.S. Lykoshin, *Sovremennoe raspredelenie vlasti v Khanstve Khivinskom, 1912 god*, TsGARUZ, f. I-2, op. 1, d. 314, l. 63ob. Similar reports about this dignitary appear in Laffasī. Specifically, the latter reports that the appointment of Muḥammad Maḥram as *yasāvulbāshī* occurred at the end of 1911, after he had been relieved from his earlier post as royal treasurer (*khazīnachi*), Ḥasan-Murād Laffasī, *Gulshan-i sa’adat*, MS Tashkent, IVANRUZ, inv. no. 7797, fols. 18b, 76a–77a, 80a.

128 Bābājān Safarov, *Khvārazmda būlūb ūtgān qūlchīliq ahvāllārīning vāqī’alārī*, MS Tashkent, IVANRUZ, inv. no. 11254, fols. 87b–88a; this statement also finds support in the work by Bobojon Tarroh, see his, *Khorazm shoir va navozandalari*, p. 16.

129 Ḥasan-Murād Laffasī, *Gulshan-i sa’adat*, MS Tashkent, IVANRUZ, inv. no. 7797, fol. 28a.

130 Ibid., fol. 80a. According to Safarov, Junayd Khān ordered Mamat Yasāvulbāshī to be put to death ‘by burning’, Bābājān Safarov, *Khvārazmda būlūb ūtgān qūlchīliq ahvāllārīning vāqī’alārī*, MS Tashkent, IVANRUZ, inv. no. 11254, fol. 88.

131 Kosbergenov claims that, in light of their economic status, Qaraqalpaq bāys enjoyed the same authority as did *ātālīqs* and *bīs*, see R. Kosbergenov, “Polozhenie karakalpalskogo

afore-mentioned Shaykh Nazar Yasāvulbāshī. Although this individual often appears in our sources as operating in different capacities,¹³² there had been hitherto no information regarding his activity in the position of *yasāvulbāshī*. Our documents provide clear evidence about Āmān Kildī Bāy's occupation of this office in the period between early 1916 to March 1917.¹³³

Starting from around the autumn of 1917 the office was occupied by Muḥammad Ya'qūb Yasāvulbāshī. The latter was a son of the afore-mentioned Muḥammad Yūsuf Yasāvulbāshī, who had held this post a few years earlier. Evidently, Muḥammad Ya'qūb inherited the post from his father in 1917 and, as the seals on rescripts clearly indicate, he continued to occupy the office right until early 1920.¹³⁴

Contemporary with Muḥammad Ya'qūb Yasāvulbāshī was another *yasāvulbāshī* named Dawlat Murād Maḥram (d. 1920), a son of Īsh Muḥammad. We find evidence regarding the circumstances of his promotion to the post of *yasāvulbāshī* in the various accounts of local authors. In October 1918, after the murder of Isfandiyyār Khān by order of the Turkmen leader Junayid

naseleniia v Khivinskom khanstve v kontse XIX–nachale XX v.," in *Trudy Khorezmskoi arkhologo-etnograficheskoi ekspeditsii. III. Materialy i issledovaniia po etnografii karakalpakov*, ed. T.A. Zhdanko (Moscow: Izdatel'stvo Akademii nauk SSSR, 1958), p. 261. Yūldoshev and Bregel argued that *bāys* were representatives of the merchants and could be found among attendants of the royal court, see, respectively, *Khiva khonligida feodal yer egaligi*, p. 257 and "The Sarts in the Khanate of Khiva," pp. 126–127. Bregel also noted that 'persons to whose names was added the title *bāy* in Khivan chronicles, were often governors of towns in the southern part of the country;' (Ibid., 127). Diplomas of appointment (*yārliq*) from Khiva indicate that under the rule of the Qonghrats, *bāy* was also a title conferred upon individuals appointed to a specific administrative office. Documents courtesy of Komiljon Khudaybergenov.

132 See, e.g., Ḥasan-Murād Laffasī, *Gulshan-i sa'adat*, MS Tashkent, IVANRUZ, inv. no. 7797, fol.10b; Tukhtametov, *Rossiiā i Khiva v kontse XIX–nachale XX veka*, pp. 68–69. Akifumi Shioya notes that Āmān Kildī Bāy shared responsibility for governing the Turkmens with his brother Shaykh Nazar Bāy, Shioya, "Povorot and the Khanate of Khiva: A New Canal and the Birth of Ethnic Conflict in Khorazm Oasis, 1870s–1890s," p. 239.

133 We have a series of rescripts sealed by Āmān Kildī Bāy in the year 1913; see, e.g.: TsGARUZ, f. I-125, op. 1, d. 633, l. 196. However, such documents were a one-off, and moreover on the official seal the name is shown as Āmān Kildī Bāy, without any indication that he held the post of *yasāvulbāshī*. It could be that during this time he periodically stood in for his brother Shaykh Nazar Bāy Yasāvulbāshī to take petitions from the population when the latter was away. However, on seals from the many rescripts of 1916 to 1917, his name now figures as Āmān Kildī Bāy Yasāvulbāshī, which indicates that by the time in question he did occupy the post officially. See, e.g.: TsGARUZ, f. I-125, op. 1, d. 656, ll. 14–17.

134 See, e.g.: TsGARUZ, f. I-125, op. 2, d. 633, l. 157; d. 656, l. 44.

Khān,¹³⁵ the former's brother Sayyid 'Abdullāh Khān (1918–1920) acceded to the Khivan throne.¹³⁶ His enthronement was followed by the appointment of Dawlat Murād, who was known as a *mahram*¹³⁷ of the former Khivan ruler Muḥammad Raḥim Khān II, to the post of *yasāvulbāshī*.¹³⁸ Owing to his close relations with Junāyid Khān, Dawlat Murād Yasāvulbāshī 'kept in his hand the whole [range of] of the state's external and internal affairs,'¹³⁹ whereas Sayyid 'Abdullāh Khān, the nominal Qonghrat ruler, 'was rather a marionette' in the hands of his *yasāvulbāshī*.¹⁴⁰ Amongst Dawlat Murād's broad range of administration responsibilities, he was placed in charge of settling disputes amongst the population. The rescripts concerning the settlement of grievances with the seal of Dawlat Murād Yasāvulbāshī were issued down to the beginning of 1920,¹⁴¹ until the fall of the Qonghrat khans of Khiva. In February 1920, a pro-Bolshevik *coup d'état* in Khiva brought the ruling khanate to an end. With the fall of the Qonghrat *ancien régime*, the office of *yasāvulbāshī* also sank into oblivion.

4 *Arz* as a Form of Governance

Allāh Qulī Khān initiated a range of projects to reconstruct the city of Khiva, aiming to turn the capital into one of the key symbols of Qonghrats' sovereignty. Allāh Qulī Khān's predecessors had been forced to concentrate most of their energies on firming up the power of the new dynasty, putting down uprisings of oppositional groups, and reorganising practices of state administration.¹⁴² In some respects, Allāh Qulī Khān inherited a rather more secure regime

135 By a cruel twist of fate, Isfandiyār Khān was assassinated in the audience hall (*arz-khāna*) of his residence immediately following the conclusion of the ceremony of hearing of the subjects' petitions (*fuqarālārnī 'arzi tamām bulghānīdān sūng*), Pahlavān Niyāz Ḥājji, [*Khāṭīralar*]. MS Khiva, Private Collection of Anvar Otaboev, fols. 230b–231b.

136 'Abdullāh Bāltaev, *Khvārazm ta'rikhīga matiryallār (Khiva 1950)*, MS Tashkent, IVANRUz, inv. no. 9320, fols. 20a–20b.

137 On details of his biography, see Laffasī, *Tazkirai shuaro*, pp. 56–57; Tarroh-Khodim, *Khorazm shoir va navozandalari*, pp. 80–84.

138 Ḥasan-Murād Laffasī, *Gulshan-i sa'adat*, MS Tashkent, IVANRUz, inv. no. 7797, fol. 102a; Pahlavān Niyāz Ḥājji, [*Khāṭīralar*]. MS Khiva, Private Collection of Anvar Otaboev, fols. 230b–231b.

139 Laffasī, *Tazkirai shuaro*, pp. 56–57; Pahlavān Niyāz Ḥājji, [*Khāṭīralar*]. MS Khiva, Private Collection of Anvar Otaboev, fols. 233b.

140 *maḥz-i ism būlūb tūrgḥān*, *ibid.*, fol. 233b.

141 See, e.g.: TsGARUz, f. I-125, op. 1, d. 633, l. 75.

142 Abdurasulov, "The Aral Region and Geopolitical Agenda of the Early Qonghrats".

than his predecessors had done, together with ‘a rich treasury and a powerful state,’ as one Khivan court historian put it.¹⁴³ He was therefore able to turn his attention to the redevelopment of Khiva’s urban architecture and one of the most notable of his initial enterprises was the construction of a new royal palace in Khiva called *Tāsh Hawlī* (‘Stone Courtyard’). As part of this monumental project, the ruler commissioned the construction of a ‘chamber of petitions’ (*‘arż-khāna*) that was designed to allow the khan to receive claimants and hear their grievances directly. The chamber was built so that the hearing would be ‘suitable to the royal status’ of the rulers (*pādshāliqqa lāyiq*), whereas, previously, hearings had taken place at the old royal court (*kuhna arikda* [sic]),¹⁴⁴ which is to say, in the apartments of the khan, without any officially designated protocol.¹⁴⁵

The court historian Muḥammad Yūsuf Bayānī (1858–1923) reports that in this, and in other buildings constructed in the places of regular residence of the Khivan rulers, the khan would spend an hour every day, before sunset, ‘dispensing justice’ (*‘adl-u-dād mashghūl idīlār*) by hearing petitions from the public.¹⁴⁶ It is here that we can appreciate the importance of hearing the grievances of the populace for the Qonghrats: the dispensation of justice was not only a form of governance deployed to exploit fissures and cleavages among the populations and thus bring the ruler closer to the many concerns of his subjects, but was also a physical and permanent attribute of sovereignty, embodied in the architecture of the royal court.

Another Khivan author, ‘Abdullāh Bāltāev (1890–1966), described how the Qonghrat ruler Muḥammad Raḥīm Khān II used to visit the estates of his numerous offspring, scattered across different parts of the khanate. Such visits were usually accompanied by the hearing of petitions from the population (*‘arż surāghāndūr*), in a room specially set aside for this purpose in such

143 Muḥammad Yūsuf Bayānī, *Shajara-yi Khwārazmshāhī*, MS Tashkent, IVANRUz, inv. no. 9596, fol. 250b.

144 ‘Abdullāh Bāltāev, *Khīva-da Tāsh-hawlī binā-sīning tāpāgrafiyasī*, Khiva 1950, MS Tashkent, IVANRUz, inv. no. 9321, fols. 3b, 5b.

145 *Avval vaqtdā ‘arż sūrāsh ūchūn qilinādūrghān ‘imāratnī bāshlādī. Khīvanī pāytakhtī bülghān kuhna arik avvalghī khānlārdīn qālghān idāra bülghānī ūchūn bül jāy bitgāncha shūl kuhna arikda ‘arż-dād sūrāb ūltürdī 1839-nchī milādīdīn keyin shūl bināgha qūshūb ‘arż-khāna binālārnī ham bāshlāb āltī yil ichindā ānī ham bitkāzdī 1254-nchī hijrī yilindā khān iyindā ūltūrghān vaqtdā khalqñing ‘arzlārīnī shūl banā qūlghān ‘arż-khānadā sūrāshnī davām qūldirdī; ibid., fol. 10a.*

146 Muḥammad Yūsuf Bayānī, *Shajara-yi Khwārazmshāhī*, MS Tashkent, IVANRUz, inv. no. 9596, fol. 298a.

estates.¹⁴⁷ The same Muḥammad Raḥīm Khān II preferred to spend most of the long scorching Khorezmian summer in his suburban residence of Qibla Tāza-Bāgh. Here too he ordered the construction of an *‘arz-khāna*, worthy of its royal function (*pādshāhīqgha lāyiq*), where the sovereign also occupied himself with the settling of the grievances and suits filed by his subjects (*khalqī ‘arz-dādīnī ham shūl ḥāvlīda tīnglār īdī*).¹⁴⁸

Further eloquent attestation to the importance of the Khivan ruler's participation in the regular hearing of lawsuits is found in a description left by Bābājān Tarrāh (1878–1971), who served Muḥammad Raḥīm Khān II as court poet and scribe (*mūrzā*). Describing the last years of the khan's reign, the author reports that the deterioration of the ruler's health, especially his partial paralysis, made the regular holding of hearing grievances very difficult (*khalqnī ‘arz-dādīgha chīqīshgha yaramas buldī*).¹⁴⁹ The khan himself, according to Tarrāh, proposed that the hearing of grievances from the public be delegated to the hereditary prince, Isfandiyār Tūra. Clearly fearing rumors among the population and possible disturbances caused by the absence of the ruler,¹⁵⁰ the khan's retinue was able to ensure his continuous personal involvement in the procedure. Here, Tarrāh puts an interesting argument into the mouth of one of the courtiers addressing the khan: 'Your Majesty! You have read the history; it is not proper [for the ruler] to devolve his authority (*ikhtiyār*) to his heir during his lifetime.'¹⁵¹

147 Specifically, he did this during his visits to his sons 'Ibādullāh Tūra in Rāfanik and 'Aşqar Maḥmūd Tūra, see 'Abdullāh Bāltāev, *Khīva isdaliklārī*, MS Tashkent, IVANRUZ, inv. no. 11645, fols. 39b–40a; 82a.

148 *Ibid.*, fol. 35b.

149 Bobojon Tarroh-Khodim, *Khorazm shoir va navozandalari*, p. 30. According to the author, he was tasked by the sovereign with keeping a record of, among other things, the khanate's poets and writers (*shoir*) and their creative works. As a result, he was in close contact not only with court literary circles but also with many prominent officials who regarded the composition of poetry as an effective way to make a successful career at court. Between 1965 and 1967, Tarrāh compiled an anthology of thirty-one court poets, along with his personal recollections. The first abridged edition of the text was published in 1994 as Bobojon Tarroh Azizov-Khodim, *Khorazm shoir va navozandalari. XIX asr okhiri–XX asr boshlarida Sayid Muhammad Rahimkhoni soniy davrida yashagan shoirlar haqida esdaliklar*, ed. Davlatyor Rahim (Tashkent: G'afur G'ulom nomidagi Adabiyot va san'at nashriyoti, 1994).

150 There was a genuine threat of potential uprisings in Khiva in the last month of Muḥammad Raḥīm Khān II's life, due to the incapacity of the ruler, as the extensive correspondence of representatives of the Russian colonial administration in Petro-Aleksandrovsk, Tashkent and St. Petersburg makes clear. For details, see Abdurasulov and Sartori, *Neopredelenost' kak politika: razmyshliata o pirode rossiiskogo protektorata v Srednei Azii*, pp. 129–133.

151 Tarroh-Khodim, *Khorazm shoir va navozandalari*, p. 30. Russian officials who were with the khan at this time report that right until the end of his life, Muḥammad Raḥīm Khān treated his personal involvement in the reception of citizens' appeals with utmost solemnity and punctiliousness, refusing to even countenance the idea of entrusting the

As a result, a special ‘carriage’ (*araba*) was constructed to bring the khan to the ‘chamber of petitions’ (*‘arz-jāy*) immediately before the ceremony. During the reception of petitioners, one of the court attendants (*‘arz-dād maḥramī*), a certain Dawlat Murād Maḥram, would prop up the khan’s back as he sat on his throne. ‘Thus,’ concludes Bābājān Tarrāh, ‘Muḥammad Raḥīm Khān II heard the grievances of his subjects even within one year [of his death].’¹⁵²

The regular hearing of public grievances had to be ensured, even during periods when the supreme ruler found himself outside of the khanate. The Khivan historian Ḥasan Murād Laffasī (1880–1949) informs us, for example, that Isfandiyār Khān during his periodic visits to St. Petersburg for an audience with the Russian emperor, appointed proxies for receiving public grievances (*fuqarānīng ‘arz-dādi ūchūn*).¹⁵³ The same practice was also used by the khan when he found himself outside of the capital in extraordinary circumstances.¹⁵⁴

Thus, for the khan himself and for those around him, the *‘arz-dād* was more than simply a ritualised ceremonial. It is clear that it was an important attribute of the sovereign’s power, an indicator of his ability to rule over territories that were highly varied both in account of their ecological niches and their social geography. Another episode that is telling in this respect occurred at the end of the reign of Isfandiyār Khān (r. 1910–1918). It is described in detail in the memoirs of Pahlavān Niyāz Ḥājji Yusupov. In April 1917, against the backdrop of the revolutionary events in Petrograd, and under pressure from local reformers, the Khivan ruler Isfandiyār Khān was forced to support a range of legislative initiatives, designed to place significant limits on the power of the sovereign and, effectively, to establish a constitutional monarchy. The Young Khivans, who initiated the reform process, wanted to transfer most of the monarch’s powers to the new representative body of a ‘parliament’ (*majlis*). Nonetheless they felt unable to strip the khan of his prerogative of receiving petitions from the population. Yusupov relates how Isfandiyār Khān became ‘beside himself with anger’ during a debate with political opponents who accused him of

ceremony to any of his close associates, including the hereditary prince Isfandiyār. When Rachinskii suggested that the khan should cancel his daily reception of petitioners, the latter replied that, ‘it was not within his power,’ see *Donesenie vracha Rachinskogo*, 29.05.1910, TsGARUZ, f. I-2, op. 1, d. 291, ll. 28–28ob.

152 Tarroh-Khodim, *Khorazm shoir va navozandalari*, p. 30.

153 Ḥasan-Murād Laffasī, *Gulshan-i sa‘adat*, MS Tashkent, IVANRUZ, inv. no. 7797, fols. 8a–8b, 17b, 80b, 83b.

154 One such circumstance, for example, occurred in spring 1916, when Isfandiyār Khān travelled, with all of his officials, to Tashhawz for a meeting with Lieutenant General A.S. Galkin, governor general of the Syr-Darya Province, after the latter had suppressed a large Turkmen uprising. At that time, the Khivan *qāzi* Dāmullā Khudāy Birgān Akhund remained in Khiva in order to hear the claims of the public; *ibid.*, fol. 64a.

attempting to usurp power in contradiction of the agreed legislative initiatives. In his rage, the khan exclaimed: 'I have already given over all of my administrative powers and authority (*hukūmatning ikhtiyārī*) to the parliament. The only powers that I have retained is the daily examination of petitions from the population (*arż*).'¹⁵⁵ Thus, the *arż*, in this narrative of Pahlavān Niyāz Ḥājjī Yusupov, even in the perception of the political players in Khorezm, appears as an exceptional prerogative enjoyed by the khan, and the essential attribute of his authority, without which it was impossible for him to be presented or perceived as a sovereign.

There are plenty of examples in the Muslim tradition of the image of a just ruler, who was able and ready to take an interest in and resolve the problems of his subjects, and act as the source of justice. However, in Khiva this was far more than mere symbolism: it was an important mechanism of administration. This prerogative and duty of the khan to 'dispense justice', which was so important even in ordinary times, took on an exceptional importance in the context of the turbulence experienced by Khorezm during the second decade of the twentieth century.

Indeed, at the end of 1915, the elites of various Khivan provinces,¹⁵⁶ supported by authoritative religious leaders called *ishāns*,¹⁵⁷ initiated an uprising against the central power, leading to the overthrow of Isfandiyyār Khān and his closest associates. While accusing the authorities of various abuses, the leaders of the revolt also articulated the idea that the khan was unable to ensure the normal functioning of the mechanism of conflict resolution between his subjects. As one of the leaders of the revolt, a certain Muḥammad Amīn Dargha, put it, 'the population of the region of Manghit ... are especially unhappy that the Turkmen headmen: Junayd Khān, Khān Īshān and Khwājām Khān ... even settle the [internal] affairs of the Uzbeks, when the latter appeal to them.' In this situation, according to Dargha, 'the population undoubtedly feels the burden of the overlapping systems of authority.'¹⁵⁸ The inability of the central agencies to respond promptly and authoritatively to such petitions from their

155 Pahlavān Niyāz Ḥājjī, [*Khāṭīralar*]. MS Khiva, Private Collection of Anvar Otaboev, fol. 108.

156 The inhabitants of the Khivan provinces of Khoja-eli, Qiyat, Gurlen and Manghit took part in the uprisings; see Niiāzmetov, *Poisk konsensusa. Rossiisko-khivinskie geopoliticheskie otnosheniia v XVI-nachale XX v.*, pp. 424–426.

157 According to the Russian colonial authorities, 'all the most prominent *ishāns* of the khanate,' took part in the uprisings, 'wishing to make an 'admonition' to the Khan, about his failure to live and act according to the *sharʿā*' [Kolosoovskii] *Raport Turkestanskomu General-Gubernatoru. 21.01.1916*, TsGARUZ, f. I-2, op. 2, d. 546, l. 45.

158 [Magomed Amin Dargha Irnazarov], *Pokazaniia. 20.01.1916*, TsGARUZ, f. I-2, op. 2, d. 546, l. 63.

subjects was leading to constant breaches of social harmony. The citizens were therefore forced to seek new sources of power to whom they could turn for the settlement of their disputes.¹⁵⁹ For example, due to the weakened authority of Isfandiyyār Khān and his successor Sayyid ‘Abdullāh Khān during the years 1918–1919, the inhabitants of the regions of Khorezm were often obliged to take their grievances to the Turkmen leader Junayd Khān. Even so, our documents show that Junayd still found it worthwhile to follow the existing protocol, sending over the petitioners themselves, as well as the decisions on specific petitions for review and/or confirmation by the khan’s court in Khiva.¹⁶⁰

To ensure the hearing of grievances even in times of political turbulence represented for Khivan rulers a powerful instrument of governance. Following the death of the Khivan khan Muḥammad Amīn in 1855, for example, Sayyid ‘Abdullāh Khān was raised to the throne. The proclamation of the new khan did not follow the established dynastic tradition, which caused discontent and even open resistance from among influential court circles. In these circumstances, the Khivan chronicler Bayānī narrates, one of the first actions of the newly appointed khan was to announce to the population that, ‘whenever there are petitioners (*dādkhwāh*) [...] our gates will always be open’ to them, ‘so that they can inform [us] at any moment of their misfortunes.’¹⁶¹ Sayyid ‘Abdullāh Khān evidently aimed by this initiative (a) to send a message to the different groups of the population about his ability to carry out the key functions of a sovereign, and (b) to use his accessibility and openness to the needs of his subjects as a resource, allowing him to enlist the support and recognition of the population. This resource could then act as a counter-weight to the influence of his political opponents.

The accessibility of the khan was perhaps significantly more obvious than in other Central Asian Muslim polities of that time. But was the proximity of the Qonghrat subjects to the authorities in Khiva simply an illusion? It does not appear so. The Russian Turkologist Alexander Samoïlovich, on a mission to Central Asia in 1906 and 1907, noted that ‘the Khivan khan administers his people directly: every day he holds trials and dispenses justice, and every Khivan [subject] can attend his audience, unlike the Bukharan emir, who keeps himself far removed from his subjects behind a wall of officials and

159 As the governor of the Khiva province of Khoja-eli noted, a situation emerged where, ‘it was as if there are several khans and nobody knows which one to submit to,’ [Avez Khodja Murtaza Khodjaev], *Pokazaniia*. 20.01.1916, TsGARUZ, f. 1-2, op. 2, d. 546, l. 62.

160 E.g., see Doc. 45.

161 *Shavqat yūzīdīn amr ūdī dādkhwāhlār har qāchān kīlsalār ishikīmīz yūzlārīga āchūq būsūn hamma vaqtda kilīb ‘arzlārīn aytābīrsūnlār*, Muḥammad Yūsuf Bayānī, *Shajara-yi Khwārazmshāhī*, MS Tashkent, IVANRUZ, inv. no. 9596, fol. 356b.

paperwork.¹⁶² His contemporary A. Kalmykov, an official serving the Russian Ministry of Foreign Affairs, similarly stated in 1910, that ‘the Khanate of Khiva has maintained its patriarchal way of life to a greater degree than Bukhara. Every day the khan receives any subjects who have requests or grievances to bring to him, and he holds a firmer control over the activity of his officials.’¹⁶³

A similar image of the accessible khan eager to listen to small stories of private misfortunes, is colorful illustrated by the case of the Russian merchant Ambrosimov, who in the 1840s managed to submit a personal appeal to the Khivan ruler Muḥammad Amīn Khān (r. 1845–1855). The description is remarkable since it records one of the few instances where an ethnic Russian not only successfully visited Khiva on his own initiative,¹⁶⁴ but also managed to gain permission from the khan to carry out trade in the Khivan bazaar. His account provides some fascinating evidence about the internal life of the Khanate of Khiva and, particularly importantly for our purposes, some specific details concerning the process of the *‘arz* at the court of the Qonghrat rulers.¹⁶⁵

When Ambrosimov arrived in Khiva, he received permission to enter the bazaar. At the same time, on the personal orders of the khan, he had all of his Russian coins taken from him, in return for which the Khivan authorities were supposed to pay him in units of local currency to the corresponding amount.¹⁶⁶ When, after a certain time, however, Ambrosimov had still not received the

162 A.N. Samoilovich, *Opisanie rukopisei knig, khvaniashchikhhsia v Khivinskikh pridvornykh knigokhranilishchakh i knigo-pechatniakh*, MS St Petersburg, RNB, f. 671, op. 1, d. 145, l. 1.

163 [A.D. Kalmykov] *Sostoianie Khivinskogo khanstva i zhelatel'nye reformy*, TsGARUZ, f. I-2, op. 1, d. 291, l. 101.

164 The Khivan authorities were exceptionally suspicious of any foreigners. Even official Russian delegations were treated by the Khivan authorities with a high level of suspicion, and were strictly limited in their movements and contacts. For private individuals, especially ethnic Russians, the opportunities for visiting the khanate were extremely limited due to the opposition of the Khivan authorities. The interests of the few Russian merchants who traded with Khiva, were represented largely by Tatar and/or Armenian commercial agents, see Murav'ev, *Puteshestvie v Turkmeniu i Khivu v 1819 i 1820 godakh*, pt. 2, p. 52; Turpaev, *Dnevnik perevodchika armianina Turpaeva*, p. 276; N. Mikhailov, “Rasskaz trgovtisa Ambrosimova o poezdke ego v Khivu,” in *Materialy dlia statistiki Turkestarskogo kraia. Vol. 2* (St. Petersburg: Tipografia K.V. Trubnikova, 1873), pp. 23–24.

165 In fairness, the Russian merchant does not use this terminology. However, his description, and the sequence of events regarding the response to his petition, indicate that his description is one of the first witnesses to the *‘arz* at the court of the Qonghrat rulers of Khorezm.

166 The Khivan authorities took these steps due to the severe shortage of precious metals in the khanate. Indeed, foreign coins were taken from both local and foreign merchants and re-struck into Khivan coins, see Murav'ev, *Puteshestvie v Turkmeniu i Khivu v 1819 i 1820 godakh*, pt. 2, pp. 42, 52; “Opisanie Khivinskogo khanstva, sostavlennoe v 1842 g. podpolkovnikom G.I. Danilevskim,” p. 139. L. Meier, “Kirgizskaia step’ Orenburgskogo

promised money, he decided to remind the khan of his debt. Let us now turn to the pretext that Ambrosimov used to gain access to the monarch of Khiva:

Four days later [after my arrival in Khiva], I decided to go to the khan myself. When I entered a wing [of the palace], one of the courtiers asked me the reason why I had come. I said that I had a request for the khan, but did not specify ... When I entered the hall ... [the khan] asked me why I had come, and whether I had a request for him. I did not explain to him directly that I had come for the money, but first spoke of a claim I had against one of my Kyrgyz [=Qazaq] debtors, who did not want to pay me his debt of 36 sheep.¹⁶⁷

From the description it is clear that Ambrosimov knew perfectly well that one of the few opportunities for ordinary residents, including himself, to address the khan directly was the submission of petitions at the time of the *'arż*. Therefore, as a pretext to meet with the Khivan ruler, Ambrosimov referred not to his most actually pressing purpose, but rather to his debt dispute with a certain Qazaq merchant. It was this that he told the gatekeeper at the palace, providing him with the basis for his admission to the khan's presence. Naturally, this raises the question of how a Russian merchant, who had only just arrived in Khiva, knew about such a practice. It seems very likely that Ambrosimov received this information at the Khivan bazaar where he traded, and where, as he himself said, 'he made a fairly large range of acquaintances' and 'was friendly to everyone.'¹⁶⁸ Thus, the image of the khan whom his subjects could approach with their petitions was widely known and, in a way, a routine affair, sufficiently well known to every Khivan subject that even a Russian merchant, who had only just arrived in the city, could quickly learn about it.

Meanwhile, the narrative is no less remarkable for the way it enables us to reconstruct some of the procedural aspects of the process by which the khan heard petitions from his subjects:

In response [to my grievance], the khan said, 'If your debtor refuses to pay, how can you prove [that what you say is true] ...?' I replied that all my workers know that he [the debtor] took the merchandise, and the headman who arrived with me also knows that. The khan first ordered for

vedomostva," in *Materialy dlia geografii i statistiki Rossii, sobrannye ofitserami General'nogo shtaba* (St Petersburg: Tipografii E. Veimara i F. Persona, 1865), pp. 209, 214.

167 Mikhailov, *Rasskaz torgovtza Ambrosimova o poezdke ego v Khivu*, p. 365.

168 *Ibid.*, 19.

the headman to be sent for and asked him, whether the Kyrgyz [=Qazaq] was really in debt to me. The sultan confirmed this ... [Only after this] the khan ordered for my debtor to be sent for. When the [accused] Kyrgyz was brought by one sultan, I did not recognize him, [as] he was so frightened by the look that the khan gave him and the fierceness of his question, 'Are you in his debt?' The Kyrgyz answered in the affirmative ... Perhaps he would have denied it, if he had not noticed the mullah there, and so probably thought that he would have to testify on oath ...¹⁶⁹

Given that the version of Ambrosimov's narrative that has come down to us was set down in writing not by himself but by the traveler Mikhailov, one may be led to question the accuracy of such information. Nonetheless, the description of the hearing of a claim at the court of the Khivan khan, as presented by Ambrosimov, largely corresponds to the procedures and protocols of the system of *'arż-dād* that we find reported in later sources, as we shall see below. As is also clear from the narrative, the khan responded to the petition of Ambrosimov by clarifying the evidential basis of the latter's claim. Only once he had done so did he order for the defendant to be brought to him. The description of the interrogation of the Qazaq defendant explains the presence during this procedure of a certain mullah (presumably a *qāẓī*), who was ready if necessary – which is to say, if the defendant denied the claim – to make the latter testify on oath. This is another important feature of the procedure, which appears on several occasions in our documents, and which we will describe in more detail below. Finally, a third aspect revealed by Ambrosimov's description is the idea of communal responsibility: if the defendant fails to pay, it is incumbent upon his relatives or other members of his community to fulfil his obligations to the creditor.

At the conclusion of this hearing at the khan's court, the creditor received what he had requested. Then, once the claim had already been resolved, Ambrosimov took the opportunity to raise with the khan the question of the return of his money, thereby finally contriving to address the real reason of his visit to the khan.

Hence, the involvement of the royal court in the hearing of grievances, and the khan's direct or delegated involvement in settling conflicts between his subjects, had both practical and symbolic significance. The latter manifested itself in the ritualization of the ceremony, which reflected the khan's willingness to delve into the concerns and needs of his subjects and to administer

169 Mikhailov, *Rasskaz torgovtsa Ambrosimova o poezdke ego v Khivu*, pp. 365–366.

justice. For subjects throughout the khanate, this procedure was a unique opportunity to meet their ruler, convey their grievances to him personally, and receive assistance in the resolution of their disputes.¹⁷⁰ It is no accident that Lykoshin characterizes the procedure as ‘a ceremony of singular service to the people, which gave the khan the reputation of being available to each of his subjects, personally listening to their grievances and restoring justice through his orders and decisions.’¹⁷¹

The motivations that prompted the populace to file their claims with the royal court varied considerably. They usually reflected the widely shared perception that agencies in Khiva were more powerful than provincial officeholders, such as a *qāzī*, and that the royal court’s sanctioning of a ruling would ensure its execution. This state of affairs manifested itself well beyond the borders of the khanate. Qonghrat officials, for example, solved conflicts among the Qazaqs living in the Ust Yurt plateau and on the banks of the Uil River, who were formally Russian imperial subjects.¹⁷²

Qonghrat officials arguably devoted so much attention to the mundane affairs of their subjects because the *‘arż-dād* offered the central government the opportunity to monitor local affairs in a regular fashion and thus to make timely adjustments in response to changing social circumstances. Justice mattered to Qonghrat officials because it provided the state with knowledge about the society over which it ruled. Equally, the Khivan legal system allowed subjects to speak and be heard. Justice was contingent on participation.

Therefore, we know that at least for the duration of the Qonghrat period there was a ritualised ceremony at the court of the rulers of Khiva called the *‘arż* or *‘arż-dād*. We also know that it had real significance both for the ruling elite and for the population at large. However, what do we know about its procedures, if we exclude passing references by local Khivan authors and accounts by occasional travelers? Which individuals were involved in the proceedings of dispute settlements? How did the process work, what was the protocol, and which agencies were involved? The following sections will allow us to answer these, and other questions.

170 ‘During the *ars* (<*‘arż*) not only [big] cases are decided, but [also] small family and domestic quarrels are being settled: a neighbour [can] drag [his] neighbour to court because of a few pennies, the neighbour of the neighbour because of a stolen chicken. No one is denied [a hearing],’ A. Vamberi, *Ocherki Srednei Azii (dopolnenie k “Puteshestviu po Srednei Azii”)* (Moscow: Tipografiia A.I. Mamontova, 1868), p. 86.

171 N.S. Lykoshin, *Zapiska Nachal’nika Amu-Dar’inskogo Otdela Polkovnika Lykoshina o sovremennom sostoianii Khivinskogo Khanstva, 1912 god*, TsGARUz, f. I-2, op. 1, d. 314, ll. 15–15 ob.

172 Terent’ev, *Istoriia zavoevaniia Srednei Azii s kartami i planami*, I, p. 179.

5 On Protocol

One of the few descriptions of the procedure of the *'arż-dād*, and perhaps the most detailed, belongs to the pen of Lykoshin, an official serving the Russian colonial administration in Turkestan. In late May 1912, just after his appointment as Head of the Amu-Darya Department, Lykoshin made his first journey for purposes of intelligence gathering to the lands within the Khanate of Khiva on the left bank of the Amu Darya. On arrival in Khiva, Lykoshin was received by senior khanal officials and was lodged in one of the rooms of the diplomatic suite, within the residence of Isfandiyyār Khān. By a fortunate coincidence, one of the windows from this suite looked into the inner court of the khan's palace, where he used to take petitions from the population at this time.¹⁷³ This auspicious circumstance allowed the Russian officer to observe the entire ceremony of the *'arż-dād*, which he then described in the following account:¹⁷⁴

About six o'clock in the evening, the usually deserted courtyard, decorated with tall columns in the Moorish style, suddenly perked up ... Sometime later, the harem door opened, whence Isfandiyyār Khān Bahādir proceeded to the place where he sits to mete out judgment and punishment. Not far from the only entrance into the courtyard there is a small stone platform, covered with a large felt mat. The khan sits on the dais in Asian style (*po-aziatski*), and before him they lay out an ancient gun in its case and a small hatchet, also old: these are the insignia of power. The khan wears an expensive gold-trimmed sabre of the Asian type, and on his head, in place of the usual fur hat, he has an equally large hat of lamb fur, but with a red top; this hat is the equivalent of a crown. By the khan's hand they place a kettle of green tea and a cup. Even before the khan's entrance, a *mahram* ['khan's close associates'] takes up a position not far from the khan's dais and stands perfectly still, with his head bare. From time to time, these *mahrams* are silently replaced by others newly entered into the courtyard. The old man Yūsuf Yasāvulbāshī begins the ceremony ... The time for parsing the people's grievances has come ... The khan's subjects complain to him about each other and ask for the

173 According to 'Abdullāh Bāltāev, the diplomatic suite was located to the east of the *'arż-khāna*, and was constructed in 1874, in the 'European style' for Russian officials visiting the khanate, 'Abdullāh Bāltāev, *Khīva īsdalīklārī*, MS Tashkent, IVANRUz, inv. no. 11645, fols. 39a, 69b.

174 N.S. Lykoshin, *Zapiska Nachal'nika Amu-Dar'inskogo Otdela Polkovnika Lykoshina o sovremennom sostoianii Khivinskogo Khanstva, 1912 god*, TsGARUz, f. I-2, op. 1, d. 314, ll. 15–16 ob.

restoration of rights violated by others of his subjects. The petitioner, having entered through the door, stops at the entrance, quite far from the khan, so his grievance is pronounced in a very loud patter, the supplicant almost yelling, as if he hopes to prove the severity of his grievances and to penetrate the soul of the khan with his cries. The khan, having allowed the supplicant to finish his brief grievance, says only one word, turning to the *yasāvulbāshī*. This is probably an order to sort out the case. The petitioner exits, another enters.¹⁷⁵

For all its virtues, this description obviously comes with a heavy dose of orientalist colour. Lykoshin was not simply a colonial official but also a prolific author and he could not resist the temptation to exercise a little literary flair here. He did not simply want to give a dry account of the procedural aspects, but tried to convey the atmosphere and spirit of the ceremony, and even its emotional context. His attention was caught by the ‘tall columns in the Moorish style,’ that adorned the room of the ‘*arż-khāna*, the very way that the ruler moved, ‘not walking, but rather following,’ the details of the latter’s dress, the variety of the ‘insignia of his power,’ and emotions of the petitioners.

Nevertheless, Lykoshin’s narrative, especially on points of procedural detail, is largely confirmed by the account of Bābājān Safarov, who was a contemporary of Isfandiyyār Khān, although writing in the Soviet period. The differences between the descriptions of the ‘*arż-dād*’ in the writings of Lykoshin and Safarov are largely generic. After all, they were catering to different audiences: Safarov cobbled together an historical survey about the khanate, commissioned by Muhammadjon Yūldoshev, a famous Uzbek Soviet academic working on the Khanate of Khiva, which was full of clichés about the despotic nature of Qonghrat rule. Lykoshin, instead, wrote under Tsarist rule and gathered intelligence for colonial agencies in Tashkent. While Lykoshin’s description creates an atmosphere of wonderment summoned by the otherness of Khivan courtly culture, Safarov’s detailed descriptions about ‘executioners (*jallād*) standing with bared sabers,’ ‘guardsmen (*ishik-āghā*), armed with axes,’ or the foreman (*dahabāshī*)¹⁷⁶ accompanying the petitioner with a sabre ‘at the ready,’ conjure

175 Ibid.

176 *Dahabāshī* (‘commander of the tenth’). According to Safarov, there were ten *dahabāshīs* at the royal palace in Khiva, each of them with ten *yasāvuls* under his command. During the hearing of people’s grievances at court, the *dahabāshī* was responsible for escorting the supplicant to the audience-hall before the khan, see Bābājān Safarov, *Khvārazm ta’rikhī* (1864–1934), MS Tashkent, IVANRUZ, inv. no. 1023, fol. 15b.

up images of the purported brutality of Khivan rulers.¹⁷⁷ But let us look more closely at Safarov's description:

To receive petitions from the public (*fuqarālārnīng 'arzdādlārī*), the khan dispenses justice (*'arż-dād qilādī*) on a daily basis, sitting on his throne for one hour. Beside him sit the *qushbigī*, the *mihtar*, the *naqīb*, the *ātālik*, and the *shaykh al-Islām*.¹⁷⁸ The *mīrshab*,¹⁷⁹ together with ten other people – the *yūzbāshī*¹⁸⁰ and the *jallāds* – stand beside the khan

- 177 It should be noted that this same feeling of fear and timidity experienced by a subject when taking a complaint to the Khivan sovereign was also mentioned by the merchant Ambrosimov, discussed above. According to him, 'I had never felt [such fear] before the Russian authorities.' The face of Ambrosimov's respondent, a Qazaq merchant, was so disfigured by fear, that the Russian merchant hardly recognised him, see Mikhailov, *Rasskaz torgovtsa Ambrosimova o poezdke ego v Khivu*, p. 365.
- 178 Yuri Bregel noted that under the rule of the Qonghrats the *shaykh al-Islām* was prominent in name only, while the nature of his functions remains absolutely unclear. See Munis and Agahi, *Firdaws al-iqbāl: History of Khorezm*, p. 560.
- 179 *Mīrshab* is a term widely employed in records from 19th-century Central Asia to denote individuals fulfilling policing duties in urban settlements under the rule of the three Muslim principalities. It is important to clarify that much of the literature available on the administration of the Khanate of Khiva suggests that the *mīrshab* was on duty exclusively at night, see Urunbaev, A. et al. (eds.), *Katalog khivinskikh kaziiskikh dokumentov XIX–nachala XX vv.* (Tashkent, Kyoto: Izdatel'stvo Mezhdunarodnogo instituta po izucheniiu iazykov i mira Kiotskogo universiteta po izucheniiu zarubezhnykh stran, 2001), p. 658. There is no clear evidence which could be used in support of this argument. It should be also noted that according to Yuri Bregel, the post of *mīrshab* did not exist in the Khanate of Khiva, see Munis and Agahi, *Firdaws al-iqbāl: History of Khorezm*, p. 624, note 736, while Yūldoshev notes, instead, that *mīrshab* were on duties everywhere in Khorezm in every city and village (*shahar va daha mīrshablari būlgan*), see his *Khiva khonligida feodal yer egaligi va davlat tuzilishi*, p. 280. Bābājān Safarov adds that the *mīrshab* represented also an office at the royal court, i.e., a man who was at the head of the guards in the citadel of Khiva and who was also responsible for policing duties in other cities (*khān pāytakhtīni va shaharnī sāqlāvchī pāshshāflārnīng hamda jallādlārnīng bāshlūghī*), see his *Khwārazm ta'rikhī (1864–1934)*, MS Tashkent, IVANRUz, inv. no. 10231, fol. 15a.
- 180 *Yūzbāshī* (lit. 'commandant of one hundred'; 'centurion') was a term used to denote a middle-rank office-holder in the military hierarchy of the Khanate of Khiva. In local sources, the term is applied to commandants (*sarkār*) of units of the Khivan arm, see Munis and Agahi, *Firdaws al-iqbāl: History of Khorezm*, p. 209. Munis also refers to an episode when Muḥammad Raḥīm Khān I in 1809 conferred grants on a certain Badal for his heroism while at the head of a unit of 100 *nawkars*, see *ibid.*, 295. According to diplomas, the *yasāvulbāshī* appointed 'attendants' (*yasāvul*) to settle disputes among a pool of liegemen (*nawkar*) who usually were at the service of *yuzbāshīs* in Khiva. It seems there were ten such *yuzbāshīs* operating at the royal court, see Bābājān Safarov, *Khwārazm ta'rikhī (1864–1934)*, MS Tashkent, IVANRUz, inv. no. 10231, fol. 15. At the same time, Khivan authors more often than not failed to distinguish between civil and

with sabres bared. Two *īshīk-āghās*, armed with axes and knives, stand on either side of the gate, guarding the entrance to the reception room (*‘arż-khāna*). Summoning the [next] petitioner (*‘arżchī*), the foremen (*dahabāshī*) with unsheathed sabres, lead him into the reception room, where the *yasāvulbāshī* stands between the khan and the petitioner, who stops thirty metres from the khan’s throne. [The *yasāvulbāshī*] conveys the petitioner’s greeting and his petition to the khan and transmits the khan’s questions and decision to the petitioner. So it occurs and has become the custom (*‘urf-ādat*), that the khan should not communicate directly (*ūz tūghrisīdān*) with his subjects (*fuqarālār*).¹⁸¹

These passages from Lykoshin and Safarov offer a glimpse of early twentieth-century practices and, specifically, recount the ceremony as it was during the reign of Isfandiyyār Khān (r. 1910–18). Emphasizing the ancient origin of the ceremony that, in his words, ‘reeks of the past,’ Lykoshin evidently assumed that what he saw reflected a long-standing legal practice taking place at the royal court. Similarly, Safarov’s characterization of the ceremony as ‘custom’ (*‘urf-ādat*) attests indirectly to the perceived antiquity of this practice.

Lykoshin and Safarov illuminate two key elements of the *‘arż-dād* that point to the peculiarity of the practice. The first element, which is procedural, concerns the manner in which petitioners appealed to the ruler. Claimants always petitioned the khan orally and directly. Similarly, the ruler’s response to a particular petition was delivered orally, through the medium of the *yasāvulbāshī*. It is tempting to see in the oral dimension of such petitions a manifestation of

military offices and therefore the term *yūzbāshī* could be also used to denote administrative functions. For example, Lykoshin refers to a certain Mamat Yūzbāshī who served in the capacity of governor of Gazavat in 1912 (*Sovremennoe raspredelenie vlasti v Khanstve Khivinskom, 1912 god*, TsGARUZ, f. I-2, op. 1, d. 314, l. 64 ob.) and to another *yūzbāshī* who was at the head of Aq-Tepe and operated in the function of adjunct of the governor of Hilali (N.S. Lykoshin, *Zapiska Nachal’nika Amu-Dar’inskogo Otdela Polkovnika Lykoshina o sovremenno sostoianii Khivinskogo Khanstva, 1912 god*, TsGARUZ, f. I-2, op. 1, d. 314, l. 45 ob.). On the *yūzbāshī* being the second most important officeholder at the provincial level after the governor (*hākīm*) and working at the latter’s instructions, see also S. Navruzov, “Puteshestvenniki i uchenye ob administrativnom ustroistve Khivinskogo khanstva XIX – nachala XX veka,” *Obshchestvennye nauki v Uzbekistane* (1991/10), p. 47. On account of the information available in this report we can safely assume that Bahādir Maḥram Yūzbāshī was the governor of Tashhawz.

181 Bābājān Safarov, *Khwārazm ta’rikhī* (1864–1934), MS Tashkent, IVANRUZ, inv. no. 10231, fols. 18b–19b.

earlier juridical practices, when the khan heard public grievances; and such practices are attested during the rule of Muḥammad Raḥīm Khān I.¹⁸²

The second key element of the *‘arż-dād* is the centrality of the *yasāvulbāshī*. This element is clearly institutional, for his function was not limited to attending the ceremony or to serving as an intermediary between the khan and the petitioner. The *yasāvulbāshī* and the special office under him (*yasāvulbāshī khizmatī*) would be responsible for initiating and overseeing all subsequent investigations into petitions and their resolution, as well as for handling and archiving the resultant documentation.

Even so, for all the remarkable detail of the two descriptions, they are both quite static. They describe the procedure and the practice of the ceremony, and actions limited specifically to the room in which the reception of grievances occurred. These writings offer very limited space for the reconstruction of the legal and administrative practices, which preceded, and, especially importantly, followed the appeal of the petitioner to the khan. In this respect Lykoshin's description could well lead a potential reader astray. Let us take, for example, the following conclusion drawn by Lykoshin, regarding the procedural aspects of the *‘arż-dād*:

It is hard to say to what degree matters of grievance brought to the khan are investigated ... However, informed people have said that ... it is not rare for even the most basic pieces of evidence to be lost in this simplified oral dispensation of justice ... [It can happen that] a grievance is taken to the khan for a second time, [in that case] the khan wishes to know the current state of the matter. Then the first person, to whom the matter has been entrusted, the *yasāvulbāshī*, summons the petitioner himself, and asks him, ‘What did I tell you, when you came last time with your grievance?’ The petitioner ... says to whom he was sent the first time. They summon the official ... and then there is nothing to be done, but to ask the petitioner [about the preceding course of investigation of the petition].¹⁸³

It is unclear who is meant by the ‘informed people,’ to whose ‘authoritative’ opinion Lykoshin so readily appeals for his characterization of the hearings. However, the excerpt makes it very clear that we must confront the following questions: to what degree was the procedure of hearing petitions from subjects ‘a simplified oral dispensation of justice,’ as Lykoshin characterizes

182 Munis and Agahi, *Firdaws al-iqbāl: History of Khorezm*, pp. 423, 457.

183 N.S. Lykoshin, *Zapiska Nachal'nika Amu-Dar'inskogo Otdela Polkovnika Lykoshina o sovremennom sostoianii Khivinskogo Khanstva, 1912 god*, TsGARUZ, f. I-2, op. 1, d. 314, ll. 16–16ob.

it? Did it really have an exclusively *oral* character, and did it really leave no documentary traces outside the walls of the *‘arz-khāna*? What, in general, do we know about the further procedure, in particular from the time when, as Safarov and Lykoshin tell us, the *yasāvulbāshī* was entrusted by the khan with investigation of the matter? How was the process of following up a given episode carried out? Which agencies, whether in the capital or in the regions – at the level of the provincial governor or in local communities – could be brought into the process of hearing an appeal from a subject? Which mechanisms and practices were used to bring different sides of a conflict to a compromise? We will now turn directly to the documents of our collection, which help us to answer these questions, and to reveal the truly dynamic and complex world of relations of power, social connections, and legal processes within the Khanate of Khiva.

6 Documents

6.1 *Fataks*

The *yasāvulbāshī* had a chancery referred to in the documents as the *khizmat*. The latter was housed in its own premises at the ruler’s palace, and included scribes (*dīvān*), as well as a staff of *yasāvuls* – officials, mostly guards, with specific commissions.¹⁸⁴ The Khivan author Bābājān Tarrāh, who had himself served at the khan’s court, reported that the *yasāvulbāshī* would follow an established procedure (*tartīb*), by asking the appellant about the contents of the petition and, depending on its nature, would then define the further course of its investigation. If necessary, the petition could be sent for a further hearing to the rulers of the cities (*qal‘a hākimlārigha*), in accordance with a written order from the royal court (*būyrūq*).¹⁸⁵ Similarly to Tarrāh, Bābājān Safarov also reports that in response to an appeal from subjects to their khan, a rescript (*fatak*) was written, affixed with the seal of ‘one of the [two] *yasāvulbāshīs*,

184 A whole range of authors refer to the existence of such chanceries operating under the direction of khalal representatives. For example, Nikolai Murav’ev, who visited the khanate in 1820–21, reported that Khivan high-rank officials, ‘each have their own scribe or Mirzā, each with several officials under them, called the *dīvānbigi* ... whom they use for various tasks,’ Murav’ev, *Puteshchestvie v Turkmeniiu i Khivu v 1819 i 1820 godakh*, pt. 2, pp. 33–34; see also A. Vamberi, *Puteshchestvie po Srednei Azii* (Moscow: Vostochnaia literatura, 2003), pp. 97–98.

185 Tarroh-Khodim, *Khorazm shoir va navozandalari*, p. 30.

who were in the khan's presence on that day.¹⁸⁶ It is now to this type of record that we will turn.

Conventionally addressed to the disputing parties, *fataks* stipulated the appointment of a special attendant who, acting as a plenipotentiary court representative, escorted the plaintiff back to the locale where the wrong had occurred, initiated the investigation with the help of local Qonghrat officials (governors, jurists, and notables), and facilitated the resolution of the conflict. The results of the investigation, together with the stipulations of the settlement, were then brought to the *yasāvulbāshī* office and recorded, in brief, on the reverse of the *fatak*. All these records were deposited at the office of the *yasāvulbāshī*, for use as evidence in the event of some future reopening of the case. The outcome of dispute settlements was duly recorded also in special registries (*daftars*), containing the names of claimants (*dādkhwāhchilār*) and attendants, and some basic information about the claim, as well as a summary of the resolution of the conflict.¹⁸⁷ The following example illustrates how the *yasāvulbāshī* appointed a guard as attendant (*yasāvul*) and instructed him to settle the case by means of a *fatak*.

[*Recto*]

Muḥammad Murād, from the locality of Vazir [in the province of] Gurlen, had purchased a plot of land [sized] 1,75 *ṭanāb* together with its appurtenances (*va ḥaqqīsī bīla*) from a certain ‘Allām Birgān Chakka, who is [also] from Vazir, for 700 *ṭillā*. [The transaction] was notarised (*khatlāshīb*). He also bought [from the same individual] millet [to harvest from that plot] for [an additional] 50 *ṭillā*. Now [the seller] neither passed the land [to the purchaser], nor gave him the millet. For this reason (*vajh*), [the latter] filed a claim (*da’vā*) [to the royal court] against ‘Allām Birgān Chakka and his son, Īr Muḥammad. Let [the parties] come to royal court (*dargāh-i ‘ālī*) together with Qurbān Niyāz Yasāvul, who is the liegeman (*nawkar*) of Shukur ‘Alī Īshik Āqā, and solve [the dispute] (*ṣāflāshsūnlār*). The attendant’s fee (*yasāvul ḥaqqī*) should not exceed two *ṭanga* per parasang.¹⁸⁸

186 Bābājān Safarov, *Khwārazm ta’rikhī (1864–1934)*, MS Tashkent, IVANRUZ, inv. no. 10231, fols. 21b–22b, fol. 21b.

187 See, e.g., TsGARUZ, f. I-125, op.2, d. 100. The register’s header reads, ‘Register of *yasauls* assigned to petitioners’ complaints in the month of Muharram 1333 AH [November 1914].’

188 *Farsakh* (or *farsang*) is a measure of length in Iran and Central Asia, which is usually considered equal to 6 km. However, its length could in fact vary according to regions and depending on road conditions (like the ‘heavy’ and ‘light’ *farsakh* in Iran). In Central Asia in the 19th century *farsakh* was usually between 9 and 10 km, see E.A. Davidovich, *Materialy po metrologii srednevekovoi Srednei Azii*, Appended to V. Khints [Walter Hinz],

Conveying the royal order (*amr-i ʿālilārī*) of our lord, may his rule last forever, the warrant (*khaṭ*) was written on 25 Rajab 1336.¹⁸⁹

Let us try to reconstruct the actions presented in this rescript and the course of events. A certain Muḥammad Murād, an inhabitant of the small town of Vazir (around 50 km north-west of Khiva)¹⁹⁰ situated in the province of Gurlen, bought a plot of land from a fellow villager, as well as a part of the harvest of millet grown on the plot. Despite the fact that a *qāzī* had notarised the deal, the seller was nevertheless refusing, or most probably taking his time, to transfer property he had sold to its new owner. Muḥammad Murād had evidently not found other arguments or instruments to resolve the problem, and so had been forced to set off for Khiva to file his grievance at the khan's palace. In response to his claim, the royal court crafted a rescript (*fatak*), stamped with the seal of the *yasāvulbāshī*. This document was formulaic in its structure: it included a short description of the contents of the claim, and an identification of the parties to the dispute, and stipulated the figure responsible for its further resolution – the *yasāvul*, appointed from among the members of the palace guards.¹⁹¹ The *yasāvulbāshī* also sanctioned the sending of this person to the place of the altercation, and stipulated the sum due to be payed to the *yasāvul* for his services. The size of the payment was defined by the distance that the latter had to travel to reach the place of the conflict.

We learn about the results of the hearing in the locality thanks to a somewhat terse note subsequently recorded on the back of the same rescript by a scribe in the *yasāvulbāshī*'s chancery:

[*Verso*]

The claim of the afore-mentioned Muḥammad Murād against Allām Birgān was solved (*yarāshṭūrūb*) by community elders (*kadkhudālārī*). This was made known [to the royal court] in the letter by the governor (*ḥākīm*) of the Gurlen province. It was recorded on 2 Shaʿbān 1336.¹⁹²

Musul'manskie mery i vesa s perevodom v metriceskuiu sistemu (Moscow: Izdatel'stvo vostochnoi literatury, 1970), p. 120. See also Munis and Agahi, *Firdaws al-iqbāl: History of Khorezm*, p. 570, n. 293.

189 TsGARUZ, f. I-125, op. 2, d. 633, l. 151.

190 New (Taza) Vazir was located 7 km north of the town of Gurlen, see Munis and Agahi, *Firdaws al-iqbāl: History of Khorezm*, p. 565.

191 In most case, these were the guardsmen of the *yasāvulbāshī* himself.

192 TsGARUZ, f. I-125, op. 2, d. 633, l. 1510b.

This brief notice provides at least evidence that the sending of a *yasāvul* to the site of conflict had an effect. The contents of the instructions indicate that the different sides of the conflict were brought to some kind of agreement. This small fragment also allows us to see different provincial agencies at work while resolving the conflict alongside the representatives of the court. Indeed, this note tells us that reconciliation was made possible by the involvement of the local community leaders. The fact that the information about the resolution of the conflict was reported to the khan's palace by the governor of the province himself perhaps indicates his own involvement in the process. It should be said that similar references to the involvement of community leaders and provincial governors are found in most rescripts of this kind. It is much rarer that the back of the rescripts we find reference to the involvement of official jurists such as a *qāzī* or a *muftī*. Thus, *pace* Lykoshin,¹⁹³ there is evidence to say that the system of conflict resolution centered in the royal court generated its own writing and archival practices.

Another notable feature of such rescripts is the use of various standardised formulae. For example, although this *fatak* specifically instructed the various disputing parties to appear in the khan's palace for the resolution of the conflict,¹⁹⁴ in the vast majority of cases (judging by the contents of such records), once the *yasāvul* had been delegated, the conflicts were actually resolved *in situ*. The details of the agreement were then reported to the office of the *yasāvulbāshī* by one of the parties, the *yasāvul*, or representatives of the local authorities (*hākims*, *qāzīs*). Nonetheless, it would be wrong to suppose that everything we just described was a sequence of empty formulae without any practical consequence. In fact, as we shall see below, such procedure left a space for any side in a dispute (whether the plaintiff or the defendant), if they were unhappy with the course of the hearing in the locality, to bring their dispute once again to the khan's palace in Khiva.

Let us take another example. One Dāmullā Muḥammad Karim Ākhūnd, the administrator (*mutavallī*) of an endowment (*vaqf*) supporting a madrasa, was determined to obtain payment from tenants working on a property belonging to the madrasas, as stipulated in the endowment deed (*vaqf-nāma*). In his attempts to obtain the agreed payment, the *mutavallī* appealed (*sharī'atlāshūb*) to the local *qāzīs* and received a decision (*ḥukm*) in his favour. However, this turned out to be insufficient to force the other sides to carry out their obligations. In any case, two of the tenants stubbornly persisted in their refusal to

193 See Lykoshin's emphasis on the fact that cases did not produce any written records at p. 49 of this book.

194 *yasāvul bila mūdā darbār-i 'ālīlārīgha kīlib ṣāflāshsūnlār.*

make the stipulated payments. Finally, in the last resort, the *mutavallī* set off for Khiva. In response to his appeal to the khan, following the procedure that is by now familiar to us, the *mutavallī* received an official rescript (*fatak*), and an official representing the court was dispatched to the locale in which the dispute first took place.¹⁹⁵ Once again, we can reconstruct the further course of events from a brief note on the back of the document:

... it has been established that from now on, the tenants of the [*yaqf*] property will pay the rent (*ijāra*) in [full] accordance with the [endowment] deed. This acknowledgement was made in the presence of the *yasāvul*.¹⁹⁶

It is notable that neither the endowment deed, nor even the subsequent decision of the *qazīs* were decisive in resolving the dispute between the *mutavallī* and the tenants. It was only the former's appeal to Khiva, and the consequent appointment of a *yasāvul* to the locality that forced the different sides to reach a compromise. Therefore, there can be no doubt that the delegation of a *yasāvul*, together with the writing of rescript, could be crucial to the whole procedure of the receipt and settlement of subjects' petitions.

This raises interesting questions about the *yasāvuls* themselves. Who were they? In the vast majority of cases, the text of court rescripts indicate that the role of *yasāvul* was taken by low-ranking palace guards, from the retinue of the *yasāvulbāshī* himself or other palace officials. It is highly unlikely that such *yasāvuls* had any specific juridical training, unlike, say a *qāzī*, or a *muftī*. Their authority in the provinces was scarcely comparable with that held by provincial governors, *ḥākims*. Of course, it is also hard to imagine that they would have been as involved in the local fabric of society as the leaders and authority figures in the local communities. Nevertheless, it was specifically the presence of the *yasāvul* that forced the opposing sides to reach a settlement. Evidently, it sent a kind of signal, forcing the parties to the conflict to look for a path towards resolution. When the khan's court sent its own representatives to the site of the conflict, its direct or indirect involvement provided an additional impulse for the different local groups (not just the direct participants in the dispute) to reach a compromise. The kind of role played by the *yasāvuls* therefore did not really depend upon their personal qualities and skills: it was more

195 With the seal Muḥammad Ya'qūb Yasāvulbāshī b. Muḥammad Yūsuf Yasāvulbāshī.

196 TsGARUZ, f. I-125, op. 2, d. 656, ll. 36–36ob.

a question of the 'aura of power' which surrounded a figure delegated from the royal court to the locality. The *yasāvul* thus sent a signal to the whole community, including both the parties in the dispute and the local authorities: the royal court expected the conflict to be resolved, regardless of the conditions on which an agreement was reached.

Perhaps this also explains the character of the notes on the reverse of the rescripts. The main purpose of this slightly disjointed and sparse information was to demonstrate that the claims of the opposing sides had been satisfied (*ṣāf būlūb*), and that the different sides had reached agreement (*rižālashūb*) and reconciliation (*yarāshīb*). As a consequence, the relevant agencies in Khiva were less interested in the details of how the conflict was investigated, or even the conditions on which an agreement had been reached, than in the mere fact that an agreement had been reached and the conflict had been resolved.

Thus, the royal rescripts shed light on the proceedings of settling disputes between khal subjects. Specifically, they also show the important role played by the *yasāvulbāshī* and the *yasāvuls*, and give us a general picture of the various provincial agencies that could be called upon in an investigation. At the same time, the standardised and formulaic character of such documents somewhat limits the scope for a more detailed study of the character of the involvement of specific actors, whether that of the *yasāvul* himself, or of the various officials in the locality. In an attempt to follow up these aspects, we will therefore turn to the next group of documents: namely, the reports of provincial authorities (mainly, provincial governors) sent to the office of the *yasāvulbāshī* in Khiva in response to rescripts about subjects' petitions. This group of documents allows us to gain a more detailed picture of what happened in the provinces, after the arrival of the *yasāvul* and/or the receipt of a rescript: how the local agencies were involved and the part that the *hākims* and *qazīs* could play in the process of investigating petitions from citizens. This corpus of documents also enables us to see how different social groups were involved in reaching an agreement.

6.2 Reports

The second group of documents presented in this work are the reports (*'arīza*, *'arīza-nāma*, *'arīza-i ikhlāṣ*, *khaṭ*) sent back to the office of the *yasāvulbāshī* in Khiva from various agencies in the provinces, mostly from the provincial governors to whom the khan's court had entrusted the investigation of claims filed with the royal court. In such reports, the officials informed the central authorities in detail about the proceedings (*surat-i vāqī'a*) of the investigations underway, and the achievement of a reconciliation, or the reasons for failing to reach one. In this work we have included translations and descriptions

of 25 such reports. To illustrate their structure and contents, let us turn to the following record:¹⁹⁷

Let it be known to the office of the *yasāvulbāshī*, the noble vizier (*vazīr al-kirām*), our lord (*āqāmīz*), that when Muḥammad Yūsuf from Tashḥavuz¹⁹⁸ appealed [to the royal court], he stated that he left 1100 *manāt* in custody (*amānat*) to Muḥammad Ya'qūb Bāy from Qonghrat. [When the former] asked [the latter to return the sum, Muḥammad Ya'qūb Bāy] did not give [anything] and denied [the claim]. In the wake of the involvement of the governor (*ḥākīm āqā*) and the community elders (*kadkhudās*), [the respondent] returned to the claimant only 550 *manāts*, but he refused to pay the rest. Therefore, you instructed me to clarify whether it is true that Muḥammad Ya'qūb returned only half of the 1100 *manāt* which he was entrusted and, in such a case, to extort the money from him and let the parties reach a satisfactory settlement (*rižālashtürsün*). As I questioned the parties, Muḥammad Yūsuf [argued] that he had given 1100 *manats* to Muḥammad Ya'qūb, who refused to return [the money]. Muḥammad Ya'qūb denied (*munkir*) the claim (*da'vā*) stating that he was never entrusted the money. I thus involved the *qāzī-īshāns*. Meanwhile, the tribal elders (*biylār*) and the representatives of the town dwellers (*qal'a kāsiblārī*)¹⁹⁹ [requested] not to place the parties under oath (*ānt*). [Instead] they made Muḥammad Ya'qūb pay 550 *manāt* to Muḥammad Yūsuf and a certificate of relinquishment (*ibrā'*) was drafted before the *qāzī-īshāns*. This is what we had to report to you. Whatever is your decision, you know best. This report (*'arīza*) was compiled on 4 Rabī' al-ṣānī 1335 [27.01.1917].

Structurally, the sequence of events presented in the contents of this report can be divided into three parts. The first part narrates the actions undertaken

197 Doc. 13.

198 Tashhawz was a fortress circa 65 km north-west of Khiva on the right bank of the Shahabad canal, see Munis and Agahi, *Firdaws al-iqbāl: History of Khorezm*, p. 642, n. 972; Danilevskii, *Opisanie Khivinskogo khanstva*, p. 110; Basiner, *Estestvenno-nauchnoe puteshestvie po Kirgizskoi stepi v Khivu*, p. 348; *Ocherk istorii zaseleniia Khivinskogo khantva s drevnykh vremen, sostav ego sovremennogo naseleniia, administratsiia i goroda khantva*, 1873, IVRRAN, St. Petersburg, Arkhiv Vostokovedov, f. 33, d. 8, ll. 50–50 ob.

199 In vernacular sources from Khorezm the term *kāsiblār* is used to denote 'city dwellers.' In referring to events taking place in Tashhawz in 1915 Laffasī uses the term *kāsiblār* as a synonym of *qal'a khalqī* ('the people of the city'). See Ḥasan-Murād Laffasī, *Gulshan-i sa'adat*, MS Tashkent, IVANRUZ, inv. no. 7797, fol. 32a.

by the parties to the conflict, before their petition had been sent to the khan's court in Khiva. Then, the author of the dispatch briefly recounts the contents of the rescript he had received from the khan's court, concerning the settlement of the petition. Finally, in the concluding section, the governor informs the chancery of the *yasāvulbāshī* about the results obtained by following the instructions in the rescript. If we try to reconstruct the course of events as they appear in the report cited here from the governor, then we are presented with the following picture. A certain Muḥammad Yūsuf, an inhabitant of Tashhawz insisted that he had earlier given an inhabitant of Qonghrat, another urban center in the north of the khanate, money for safe-keeping to the value of 1,100 roubles, which the latter had refused to return. In order to resolve the dispute that had arisen, Muḥammad Yūsuf, the creditor, appealed to the local governor, and brought representatives of the communities into the matter. The examination of the dispute by these agencies led the debtor to return half of the sum demanded. The plaintiff, however, did not consider this to be a satisfactory resolution, and decided to file a suit with the royal court in Khiva for the outstanding sum owed by the defendant. In response to Muḥammad Yūsuf's petition, the chancery of the *yasāvulbāshī* gave the following instruction to the same governor: to investigate the matter and, if possible, bring the two sides to a compromise. The governor's report picks up its narrative from here, concerning the course of the investigation he had initiated on the basis of the rescript from the royal palace. Thus the *ḥākim* reports that when the parties were questioned, the defendant, Muḥammad Ya'qūb, refused outright to acknowledge the existence of an outstanding debt. The governor was forced to involve the local jurists, *qāzīs*, in the investigation, to carry out legal procedures, in this case, to make the parties swear an oath. As the author of the report tells us that at this moment, however, tribal leaders and the representatives of the urban population managed to persuade the defendant to avoid to take a cleansing oath, and instead to pay Muḥammad Yūsuf the money owed. When the latter received the whole sum owed to him, there in the court of the *qāzīs*, he notarised his acquittal of any further claims against the defendant. The governor of Tashhawz informed the central agencies of this settlement.

This particular case is instructive for a number of reasons. First of all, it clearly shows that provincial governors had the power to hear claims and resolve conflicts among the local population directly, which is to say, before the khan's court became involved. The authors of a detailed military-statistic survey of the Khanate of Khiva, prepared in the early 1900s, also mention that provincial governors held such powers. According to this source, the *ḥākims* had the right to examine a 'claim,' to resolve all minor disputes 'decisively,' and

also to 'arrest criminals.'²⁰⁰ For these purposes, according to Alexander Kuhn, the governor had under him his own staff of *yasāvuls*, on the model of the royal court.²⁰¹ Various sources indicate that the great majority of conflicts between subjects were settled at the level of the community and provincial authorities, without involving the royal court. In the case we are considering here, Muḥammad Yūsuf also appealed first to the governor of Tashhawz. It was only when the plaintiff did not receive full satisfaction of his grievance (or perhaps, because he believed that the *ḥākim* had not played a sufficiently impartial role in the examination of his case), that he decided to send his petition to Khiva, in order to involve the khan's court in the investigation of his case.

Secondly, judging by this and other similar records presented in Section Two titled 'Reports' of the present work, even once the subject had submitted a petition to Khiva and a written rescript (*fatak*) and/or a *yasāvul* from the khan's court had been sent in response, it was still the provincial governors who were responsible for the resolving of the conflict *in situ* in the majority of cases. The documents show that the hearing could take place either in the residence of the *ḥākim* with him actually present, or without his direct involvement – for example, at the place where the parties to the dispute lived – through the medium of the *yasāvul* or the local elders. Either way, the governors were kept informed about the course and content of any investigation initiated by the Khivan authorities. It is noteworthy that in the document which we have just analyzed, the case was sent to Khiva for resolution by the same *ḥākim* to whom the plaintiff had appealed initially, and with whose resolution he had been dissatisfied. Evidently, as we have said before, the instruction from the court (and equally the sending of a *yasāvul*) gave an additional impulse to the resolution of the dispute, and brought the different sides to a peaceful agreement.

Another notable feature reflected in the document is the nature of the involvement in the case of *qāzīs*, which is to say jurists. As can be seen from this and from a number of other documents presented in the Sections Two and Three of the present work, *qāzīs* were brought in to examine conflicts between citizens at the stage where concrete expert knowledge were required. This happened, for example, when the different sides in a conflict, despite admonishments from representatives of the community and the local authorities, were unable to reach a compromise and continued to stand their ground. In such cases, expert testimonies were required, and these were the prerogatives of the

²⁰⁰ [Girshfel'd and Galkin], *Voенно-statisticheskoe opisanie Khivinskogo oazisa*. Part 2, p. 23.

²⁰¹ A. Kun, *Ocherk istorii zaseleniia Khivinskogo khanstva s drevnykh vremen, sostav ego sovremennogo naseleniia, administratsiia i goroda khanstva*, 1873, IVRRAN, St. Petersburg, Arkhiv Vostokovedov, f. 33, d. 8, l. 44 ob.

qāzīs. Such procedures could include the witnessing of the notarial documents held by the different parties, the summoning and interrogation of witnesses, or, as we have seen above, making the parties swear an oath. The *qāzīs* and their trustees (*amīn*) also had to be brought in to clarify questions concerning property rights, fixation of precise boundaries of plots of land.

Document No. 16, section Two, is equally revealing for procedural aspects of the examination of citizens' petitions in the provinces. The governor of the town of Gurlen reports to Khiva that some time earlier an elderly woman had appealed to him with a grievance against her son-in-law. She claimed that the son-in-law had assaulted her daughter, Sa'adat Bika, and then fled without trace. Having received this information, the governor had found two trustees (*amīnlār*), one for him, and for the *qāzī* of Gurlen. He wrote to them with instructions to inspect the bruises on the victim's body, with the assistance of the community elders (*il-kadkhudā*). Meanwhile, the defendant, Yakshī Murāt, had learnt about the actions initiated against him by his wife's relatives, and responded by appealing directly to Khiva. He submitted a counter-claim to the khan's court, accusing his wife's relatives of holding her by force. The khan's palace had responded to this appeal by sending a rescript (*būyrūq-i 'ālī*) to the *hākim*, instructing him to examine the case and to resolve the conflict if possible. During the subsequent hearing of the case in the governor's residence, Yakshī Murāt's representatives demanded that the rest of the case be heard in the khan's palace. The governor was unable to refuse such a demand from one of the parties to the conflict, and so arranged for the girl to be escorted to Khiva (having first entrusted her to the community headman), along with the details about the *amīns'* inspection of the girl's bruises.

The report outlining this case is particularly noteworthy for the way it formulates the instructions from the officials at the khan's court to the governor on how to proceed with the case:

... should [the plaintiff's] appeal be sound, the wife and husband should be reunited, otherwise (*bāshqa sūzī būlsa*) [the conflict] should be heard before the *qāzīs*. [If they refuse to comply], they should be sent [to the royal court for further examination].²⁰²

Thus the palace offers the governor the following possible options for resolution: (i) to reconcile the sides before taking the matter to a court of law; (ii) if the parties refuse to compromise, to use legal expertise, through the involvement of *qāzīs*; and (iii) if one of the parties refuses to be put on oath as witness,

²⁰² Doc. 16.

then in the last resort to send the litigants to Khiva, for hearing by representatives of the khan's court.

As can be seen from the instructions from the court, cited by the *ḥākim* in his dispatch, the involvement of *qāzīs* in the process was quite precisely circumscribed. They would be called upon only if both sides in the conflict agreed to subject themselves to legal procedures in the *qāzī's* court. This is demonstrated not only by the document cited here, but by a whole series of other testimonies. One anonymous contemporary Russian author, when describing the legal system of the khanate, noted that 'examination according to the Qur'ān (i.e. by the *qāzīs*) occurs in relatively few cases, and only when both sets of litigants agree ...'²⁰³ Moreover, as our documents show, even once the case had been passed over for the inspection of the *qāzīs*, the parties to the conflict were in fact still able to refuse to give testimony at any stage, and to insist that the case be transferred to the khan's court in Khiva.

It is also intriguing that even an elderly female petitioner, at the very beginning of the examination of the case of her daughter's beating, preferred to appeal to the local governor, rather than to the *qāzīs*, or the *muftīs*. It was the governor who initiated the investigation of the case, and it was on his instructions that the local *qāzīs* sent their trustee to witness the victim's body. At the same time, it would be wrong to imagine the *ḥākims* were the only figures in the provinces who were able to dispense justice, or that their powers were unlimited. The case in question provides an illustration. As we can see, as soon as he learnt about the investigative activities undertaken against him, the defendant Yakshī Mūrat decided to appeal to Khiva, with a counter-petition to the khan's palace. This was answered with written instructions from the central authorities. Although the instructions were addressed to the same *ḥākim* who had been hearing the case initially, it can reasonably be assumed that the receipt of instructions from the Khivan court somewhat strengthened Yakshī Mūrat's position in the following settlement. This in no way guaranteed him unequivocal success in the settling of his case. But it evidently reduced the likelihood of unfair (biased) actions on the part of the local authorities, or, specifically, of the governor. It is notable that Yakshī Mūrat's side would take advantage of the opportunity to refer the investigation to Khiva again, during the second examination of the case. We can only guess what might have motivated the second request for the examination of the case in Khiva. It is possible that Yakshī Mūrat's side once again felt the *ḥākim* was biased in this case. It is also possible that when he saw that the investigation of his case with the local governor was not going in his favour, Yakshī Mūrat was forced to refer

²⁰³ Anon., "Turkmeniia i Khiva," *Vsemirnyi puteshestvennik* 8 (1870), p. 123.

his case to Khiva, calculating that the different mechanisms of investigation at the court, and, perhaps, his personal contacts in the capital, would ensure a more favourable outcome for him. Whatever their motives, Yakshī Mūrāt's side found it preferable to use this option, while the *ḥākim* had no choice but to agree to the demand of the defendant.

Another example of the readiness of the parties to a conflict to refer the investigation of their case to Khiva when necessary is found in the contents of Document No 18. In this text, the governor of the province of Ambar-Manaq reports the results of his investigation into a conflict between members of two communities of water-users (*davr*) in the province. The conflict flared up because the members of one of the communities had not fulfilled their obligations to clean out the irrigation channels. As a result, representatives of the neighbouring community decided to send a grievance to Khiva. In response, a rescript was sent to the local authorities on how to settle the matter. There was then an attempt to reconcile the two sides in the presence of the governor, but this was unsuccessful, so the latter had to call in *qāzīs* to carry out expert procedures. The governor's report gives an interesting description of the events that followed:

The *qāzī-ishāns* from Manaq who are skilled in *sharī'a* ordered the appellants to produce their witness (*guvāh*). When the appellants were about to bring their witness, [the defendant] Allāh Birgān Mīrshab stated that he intended to go to Khiva (*Khīvāgha bārūrman dīb*) [and address the dispute to the royal court].²⁰⁴

It is evident that procedures undertaken by the *qāzīs*, such as making the witnesses take an oath, and listening to their statements, could be a sufficient basis for making a decision (*ḥukm*) in favour of one of the parties. In such a case, the decision would, as a rule, be final and irrevocable, with practically no room for later appeals against it (or, at least, it was very unlikely any such appeals would be successful). In the present case, it appears that when the defendant's side saw the willingness of their opponents to present the requested witnesses to the court, and, consequently, foresaw that the decision of the *qāzīs* might not be in their favour, they broke off the procedure, by announcing their demand that the investigation of the case be transferred to Khiva. So, once again, we come across a case where such a demand from one of the parties is a sufficient basis both for the governor and for the *qāzīs* to end the investigation and refer the case to the khan's court.

²⁰⁴ TsGARUZ, f. I-125, op. 1, d. 498, l. 44.

However, if we turn to the questions which Khivan subjects referred to their khan (both in the rescripts from the palace, and in the reports in reply from the officials in the provinces), then we may conclude that the option of appealing to Khiva was defined not by the level of ‘importance’ of the question, the legal character of the dispute or the monetary value of the claim, but above all by the readiness and motivation of subjects to set off to the court. This is also supported by ethnographic materials related to the Qaraqalpaq tribes around the Aral Sea coast. Kosbergenov gives the following information from his respondents on the nature of legal relations among the local Qaraqalpaqs:

... by custom the Qaraqalpaqs always referred first to the local *biy* when a dispute arose. If both sides were not satisfied with the decision of the *biy* and continued their dispute ... the litigation could be heard at courts of higher instances – the *hākim* and even the khan ... [In this case] the transfer of matters of dispute to courts of higher instances was not determined by the character of the claim, but depended *exclusively* on the economic position of the disputants.²⁰⁵

The Qaraqalpaqs on the coast of the Aral Sea, who were located at some distance from the center of the khanate, used the same option of petitioning the khan in Khiva that was available to other Khivan subjects, since this enabled them to bypass both clan leaders and governors. At the same time, Kosbergenov suggests, such an appeal to Khiva not only created a possibility for conflict with local power-holders, but also required significant expenditure, which subjects were by no means always ready to make.

6.3 *Notifications*

A certain ‘Abdullāh, with the revealing nickname of *khāmbāsh* (‘puzzled’), lived in a village on the outskirts of the town of Khanqah. On an ordinary spring morning in 1918, he set off to his plot of land, located at some distance from his farmstead. As was his habit, when he arrived, he walked towards a small barn, where, among his various agricultural tools, he came across a whole series of unfamiliar objects that, it appears, did not belong to him. Surprised by such an unexpected find, ‘Abdullāh hurried to the home of Muḥammad Ya‘qūb Khwāja, the administrator (*mutavallī*) of an Islamic endowment and who most probably enjoyed a certain degree of respect within the local community. When

²⁰⁵ R. Kosbergenov, “Polozhenie karakalpalskogo naseleniia v Khivinskom khanstve v kontse XIX–nachale XX v.,” pp. 260–261.

Muḥammad Ya‘qūb Khwāja heard about the suspicious discovery by his fellow villager, he made the only proper decision he could make: to report what had happened to the governor (*bāy āqā*) of Khanqah, within whose administrative jurisdiction the community fell. The *mutavallī* and ‘Abdullāh loaded up the items they had found onto a camel, and set off to the governor’s court in Khanqah. A group of dangerous robbers who had been plundering the area around Khanqah for several years were arrested as a consequence of this unexpected find. The details and sequel to this intriguing story are presented below, in the Section Three titled ‘Notifications.’²⁰⁶ The episode described here is noteworthy since it provides an excellent illustration of the possible patterns of behavior of inhabitants of Khorezm who found themselves in a situation of emergency. What should Khivan subjects do if they were victim to a robbery or a raid, a participant in a dubious situation, or, as in this case, if they made a suspicious discovery? Inhabitants of Khorezm at the beginning of the twentieth century had a more or less clear idea: they should hurry to the home of the community elders, and later, if the case was serious enough, to the governor’s residence.

The corpus of documents presented in the third section of the book contains notifications to the office of the *yasāvulbāshī* from various agencies in the provinces, in particular from provincial governors, providing information (*ṣūrat-i vāqī‘a*) about various crimes committed on the territories within their jurisdiction and about the results of their investigations. They differ from the reports from the provincial governors, presented in Section Two, where the records were crafted as responses to undertakings to examine petitions initiated by the royal court. Section Three instead presents records issued by various provincial agencies to inform the royal court about the investigation of a range of wrongdoings, as well as descriptions of the measures undertaken to investigate and settle such matters. The records here termed ‘notifications’ shed light on cases that officials in the provinces of the Khanate of Khiva adjudicated of their own volition.

In the majority of cases of assaults, robberies, or murders, which are described in this section, the aggrieved parties appealed specifically to the provincial governors. As for the types of misdemeanors committed in the khanate, one European author reported that ‘the most commonly occurring crimes are the following: theft, fraud, fights and often also murders ...’²⁰⁷ The notifications from provincial governors included in this work present a similar impression of the crimes committed in the khanate. Notably, the documents we have stud-

206 See Doc. 41.

207 M.I. Ivanin, *Khiva i reka Amu-Daria* (St. Petersburg: Obshchestvennaia pol’za, 1873), p. 62.

ied describe such misdemeanors specifically as crimes, which are designated as *jīnāyat* ('crime') or *gunāh* ('misdemeanor') in Khivan bureaucratese.

Like rescripts and reports, the genre of notifications is of little help to disclose the rules informing decision-making, patterns of behavior and conflict resolution. Let us illustrate what we mean by turning to one such text.²⁰⁸ We learn from a missive from the governor of the province of Besh-Ariq that a thoroughbred horse was stolen from the courtyard of the property of an inhabitant of the settlement of Susalaq. When the victim learned what had happened, he quickly hired a scout, who managed to follow hot on the robber's trail, tracing them to the house of a certain Rūz Muḥammad. Having identified where the possible robber was staying, the victim took his case to the provincial governor, accompanied by the heads of his community (*ilātīnī āqsaqāl kadkhudālārī*). In response to this notification (*ma'lūm*) and the testimonies received, the governor tasked an official with bringing the suspect to him at his court. During the subsequent hearing the accused admitted under duress that he had stolen the horse, and also supplied further details of how he had committed the crime. This information led to the arrest of a further four of his accomplices (*yūldāshlārī*). These four were subjected to further interrogation under torture (*siyāsāt itūb sūrāldī*) in order to establish the extent of their guilt, and to reveal that they had then sold the stolen horse. The governor decided to place all five thieves (*ūghrī*) under arrest in special premises at their own expense.²⁰⁹ Besides the 1,200 *ṭillā* owed to the victim as compensation, the communities' heamen took on the responsibility of covering the remaining expenses for the investigation, including the pay for the scout (*izchī fulī*), reward for the heads of the communities (*kadkhudā fulī*) who had taken part in the investigation, and any remaining costs (*ghayri chiqghūn*). Then, since the details of the crime had been fully established, and the expenses had been fully compensated, the community elders asked to be the prisoners' guarantors (*kafīl*). On the basis of this appeal, the governor had sent the dispatch in question to Khiva, to the office of the *yasāvulbāshī*, asking whether the guilty parties could be entrusted to their guarantors. A short note on the margin of the document, obviously made by a scribe of the *yasāvulbāshī*, states that in response to this request from the provincial governor, the Khivan authorities approved the handing over of all the prisoners to the elders who would act in the capacity of guarantors.²¹⁰

208 Doc. 39.

209 We should note that the assessment of the value of the stolen horse is given on the basis of the victim's own words.

210 Similar scenarios for the investigation of crimes are also mentioned in other documents; see Docs. 38, 53, 55, 57. For further reflections on the institution of *kafālat* and on the notion of communal responsibility, see S. Winter, "Le rôle du *kafīl* (garant) dans la

This example, which we have chosen almost at random from the general collection of such notifications, goes some way to convey the complex process involved in the investigation of a robbery. In the description just given, we can distinguish the individual initiative of the victim, who paid an expert scout, the active involvement of the community leaders, the role of the provincial governor and his guards, and finally, the presence of the central agencies of the capital, whose approval was needed for the final resolution of the case.

Together, the collection of documents at our disposal allows us to reconstruct (albeit in very general terms) the sequence and content of the procedural arrangements undertaken by various agencies when examining crimes and legal infringements. At the same time, it obviously must be acknowledged that the organization and conduct of investigations could vary from case to case, and did not necessarily always follow the exact details of the sequence described below.

The first formal step after a crime had been committed was the notification (*ma'lūm, khabar, 'arż*) of the provincial authorities. The information was reported to the governor either by the victims themselves or by some other representatives of their community. If the incident had involved physical injury or death, the governor would have his assistant (*khizmatkār, ādam*) sent to the site of the crime, and would simultaneously instruct the local *qāzīs* to send their own trustee (*amīn*). Both trustees would then inspect the site of the crime and examine the body of the victim(s), always in the presence of representatives of the local community (*il-ādamlārī*). It is evident that the results of such examinations were recorded in written form, since the governors' notifications refer to such materials. In the case of incidents that led to death, the relatives were only permitted to bury the body once the corresponding examinations had been carried out by the authorities.

The next stage can be called the investigation (*taftīsh*), and was divided into the search operations and the inquiry. The documents presented allow us to reconstruct some procedural details and practices of investigation used by the local agencies. For example, one of the first tasks of the investigation was to define the possible range of suspects. For this the governor asked the victim for possible suspects (*gumāndār*). If names were given, then the governor instructed his mounted guards (*āṭlī nawkar*) to bring such individuals to his residence for interrogation. In such cases, representatives of the local community, or elders, would take part in the arrest of the suspects in their place of

governance locale selon les contrats d'affermage fiscal à Tripoli au XVIIe–XVIIIe siècle," *Islamic Law and Society* 23.4 (2016), pp. 392–409.

residence. They were usually also present for the subsequent hearing in the residence of the governor.

Another method for carrying out investigations, often mentioned in our documents, was the use of expert scouts called *īzchī*, who could follow the tracks of the criminals if the conditions were right.²¹¹ The use of such specialists appears to have been relatively widely practiced, especially in the case of thefts of livestock, and could often produce successful outcomes. This is indicated by a whole series of cases where the employment of a scout led to the identification of the place where the suspects lived and, in rarer cases, to the discovery of the stolen property itself. This was usually where the services of the scouts ended, since once the possible location of the criminals had been identified, the victim would then appeal to the provincial authorities to ask for someone to come and arrest the suspects and interrogate them. In this case too, the arrest of the suspects, especially if it happened in another locality, would happen in the presence of representatives of local society.

Another method of investigation mentioned in the documents is the use of informants (*āyghāq*). In this capacity, habitués of busy places such as the bazaars were often ready to share information with the victim's side for a defined reward.²¹²

The documents also point to a whole range of other more elaborate practices for hunting criminals, involving the use of rituals of fortune telling and divination. For example, one of the documents tells how a certain mullah, who offered his services to deal with a case of theft, had two boys look into the water to identify the culprit.²¹³ In another case suspects for the theft of money were

211 In the late 19th century, the colonial official A. Lomakin collected interesting reports about how the Turkmens in the Transcaspian Region used trackers in the case of thefts. Although these materials concerned Turkmens, they still correspond to the practices mentioned in our documents: '... a group of people known as *īzchī* has formed: *īz* – following, hence *īzchī* – one who follows tracks, a searcher; their profession consisted of the search, for reward, in the tracks of lost property ... One is amazed by the knowledge and skill with which an *īzchī* follows a track ... This art, of course, takes many years of practice to perfect, and provides those Turkmens who have mastered it with a substantial income,' see A. Lomakin, *Obychnoe pravo u Turkmen (Adat)* (Ashkhabad: Parovaia Russkaia tipografiia K.M. Fedorova, 1897), p. 99.

212 In many of the documents the sums which could be paid to trackers and informants for their services are recorded. So, in the example mentioned above, concerning the investigation of the theft of a horse, the services of the *īzchī* were valued at 300 *tillā*, which were to be paid by the criminals. In another document (see below), individuals who had initiated a search for thieves managed to gain important information as to the whereabouts of the latter from an informant for the sum of 100 *manāt*.

213 *har kimnī mallārī ūghūrlānsa ikkī yāsh bālānī suvgha qarātīb ūghrīnī tāpīb bīrūr irdīm*, see below Doc. 25.

found by ‘scattering sand’ (*tūfrāq tūktūrūb*).²¹⁴ The documents do not give any information as to the meaning of such practices, either legalistic or divinatory. Also they do not indicate how reliable any information gathered by such means was believed to be or whether it could be used in the subsequent process of investigating wrongdoings. However, it is clear that these practices and rituals were widespread in Khorezmian society in the early twentieth century.²¹⁵

It is noteworthy that in the great majority of cases, searches were initiated and carried out by the victims or representatives of their communities. Only once the range of suspects had been established did the initiators of the search turn to the provincial authorities. The latter were needed for help in the subsequent arrest and escort of the suspects to the governor’s residence for interrogation. It is clear that the arrest of the criminal had to be sanctioned by the provincial authorities, which helped to reduce the chance of open conflict between different groups and communities to whom the victims and suspects of a crime belonged.

Once the range of suspects had been established and they had been escorted to the governor’s residence, there followed the next stage, the *surāq* or inquiry. The texts studied here are relatively sparing in their descriptions of the procedures involved in an inquiry, and the tactics of interrogation used. They simply indicate that the interrogation was carried out by the governor himself in the presence of representatives of both the side being questioned, and the victim’s side. The governors often admitted in their notifications that during interrogations they had used force (*jazā, siyāsat*), in the form of lashes of the whip (*qāmchī*) or beating with a stick (*tayāq*). However, our texts do not allow us to define precisely how much force was considered acceptable in interrogations. Clearly, governors had the formal right to use force against suspects, but their ability to use this right could be limited by the authority of both the suspects themselves and their representatives.

If the accused did not acknowledge his or her guilt during the interrogation then they would be sent to Khiva, escorted by an armed convoy and the victim’s party, for further hearing and the settlement of the case. If the details of the crime were established, and the accused was proved guilty, then they would be placed under temporary arrest at the governor’s residence (*ūyga šālib*), until further instructions arrived from the center. If, as often happened,

214 Doc. 57. On geomancy and other occult sciences practiced in Central Asia in the period under consideration in this book, see M. Melvin-Koushki and J. Pickett, “Mobilizing Magic: Occultism in Central Asia and the Continuity of High Persianate Culture under Russian Rule,” *Studia Islamica* 111 (2016), pp. 231–284. See, also, N. Lykoshin, “O gadanii u sredneaziatskikh tuzemtsev.” In *Spravochnaia knizhka Samarkandskoi oblasti 1907 g. Vypusk IX*, ed. M. Virskii (Samarkand: Tipo-Litografiia G.I. Demurova, 1907), pp. 163–197.

215 AIEARAN, fond G.P. Snesev, *Polevye zapisi*, no. 8 (1966), ll. 16, 23; no. 15 (1955), ll. 24, 70.

representatives of the community and relatives of those arrested were present, these would pay the damages and try to have those arrested handed over to them as guarantors (*kafil*). In such cases, the governor would also ask for instructions from the court and the *yasāvulbāshī*, as to whether the criminals could be handed over to their guarantors.

To follow these procedural practices, let us turn to yet another investigation, in this case of a robbery carried out in one of the villages around Manghit in late 1916.²¹⁶ A certain elderly woman appealed to the provincial governor with a grievance against a group of people who had broken into her house and stolen some items that belonged to her, including some livestock, valuables and money. The woman identified (*gumānīm shūndīn tūrūr*) one of the robbers as a certain Sāriq Bāy. During the interrogation by the governor, the suspect denied having taken any part in the crime. Meanwhile, the leaders of the community (*āqsaqāl kadkhudālārī*) to which Sāriq Bāy belonged insisted on his innocence (*ūghrī imās*), and petitioned the governor to give them six days to apprehend those responsible for the crime. In the course of their search, the community leaders came to the opposite 'Russian' side of the Amu Darya (*āryāq*), where they managed to find an informer (*āyghāq*). For a fee, the latter gave them two names of people who had sold part of the stolen property at the bazaar a few days earlier. However, since these individuals were currently located on territory under Russian jurisdiction, the *āqsaqāl* could not initiate a formal search for them, and so patiently waited for their return to the left, 'Khivan' side (*bū tarafghacha utgūncha*). As soon as the latter turned up in the bazaar of the town of Khitay under the Khivan jurisdiction, they were immediately arrested by representatives of Sāriq Bāy's community, accompanied by an assistant (*yūzbāshī*) of the governor. During the interrogation before the provincial governor, both of those arrested admitted to having committed the robbery, and also gave the names of their remaining accomplices (*yūldāsh*), three of whom were also arrested. Although the newly arrested individuals refused acknowledgment of guilt (*tuhmat*) for having taken part in the robbery, they nonetheless expressed their willingness to pay the cost of what had been stolen. The governor had no means to prove the guilt of the latter three, and so had his trustee escort all five under convoy to Khiva for their fates to be decided there.²¹⁷ In his report on this, the governor adds that, according to the local inhabitants, one of those arrested was a certain Tangrī Birdī, who was a known thief (*yamān ūghrī*), who had managed to escape capture for

²¹⁶ Doc. 56.

²¹⁷ Sāriq Bāy, who had been arrested earlier, is not mentioned among those taken under convoy to Khiva, which suggests that the earlier accusations against him had been withdrawn.

many years, having successfully hidden on the Russian side of the Amu Darya (*hīch tāpdūrmāy āryāqda qāchīb yūrgān irdī*).

It is also striking that the true criminals were apprehended on the initiative of members of the community of Sāriq Bāy, who had earlier been arrested on the basis of the victim's statement. The gathering of information, the use of informants, and the pursuit of the suspects had all been carried out by these people, and at their own expense, as they tried to demonstrate the innocence of the suspects. The actions of the three other individuals arrested under suspicion of involvement in this crime are also worth noting: they insisted on their innocence but nonetheless expressed willingness to compensate the victim for the loss she had sustained during the robbery. In a modern context, such willingness might be taken as an informal admission of guilt on the part of the suspects. However, it is clear that according to notions of morality which had currency in early twentieth-century Khorezm, such willingness in no way indicated indirect admission of involvement. Both examples are telling: while a concept of 'presumed innocence' is one of the basic concepts of legal relations in the contemporary world, in Khorezm in the period in question, a suspect would instead have to demonstrate innocence. In the case of Sāriq Bāy, his non-involvement was proved by the efforts of members of his community, who sought out the real perpetrators of the crime. In the second case, individuals who were unable to present similar proofs of their innocence were forced to express their willingness to take upon themselves the compensation payment.

It is also important to note that in such notifications we very rarely find mentions of cases in which to deny a claim would precipitate a hearing by *qāzīs*. In light of the records and the proceedings we described above, it would be natural to expect that jurists would be called upon to bring suspects to produce testimony or witnesses to take oaths. However, the documents indicate that the *qāzīs* were only fleetingly involved in criminal investigations; their intervention was very often limited to a formal examination of injuries on the victims. Records show that subjects seem to have no particular interest in turning to *qāzīs* for help, preferring instead other mechanisms of conflict resolution.

There is no doubt that the provincial governors had a wide range of powers to initiate investigations, arrest suspects and to impose initial bail conditions. For example, the authors of a late 19th-century military-statistical survey of Khiva noted that:

... the *hākīm* has a fairly large degree of power over the population. He can imprison people suspected of crime and can place shackles upon them, he can inflict corporal punishment on the simple people, and he can decisively resolve all minor disputes. In order to ensure his orders are

carried out ... the *ḥākīm* usually has around 10 guards and a fairly large number of retainers, most of whom are his relatives.²¹⁸

Given these powers, why in the cases discussed here did the governors have to refer matters to Khiva for resolution? And why, more generally, did the *ḥākīms* craft such detailed notifications, informing the central agencies about the circumstances of the cases under investigation?

Evidently, the actions of the governors need to be seen within the dynamics of the power relations within the khanate. We find officials of various walks of life and career backgrounds among the governors whose names appear in our records. For example, among them we find individuals who inherited the post, such as 'Avāz Khwāja, the ruler of Khoja-eli, on account of his belonging to the local elite. Other *ḥākīms*, by contrast, could be just temporary appointees, selected among the relatives of senior court dignitaries.²¹⁹ The legal authority and judicial power of such dignitaries would often depend on the status and influence of their patrons at court.²²⁰ We also meet a group of governors who were appointed by the khan from among his confidants (*maḥram*),²²¹ for whom a governorship was just a jumping-off point in their career, as in the case of Shaykh Naẓār Yasāvulbāshī. The picture becomes even more complex if we take into account the members of different ethnic groups that lived on territories administered by such governors – Qazaqs, Turkmens, Qaraqalpaqs – whose leaders certainly did not always accept the authority of the *ḥākīm* who intervened in their affairs. In such circumstances, the legal authority of the *ḥākīm* was not determined by his official tasks and administrative prerogatives. On the contrary, the legal authority of the governors in many respects was contingent upon their ability to situate themselves in this complex social context, to manage relations with local power groups and elites while still taking into account the balance of power at the royal court. This was especially the case when the parties to a conflict were members of different social, especially ethnic, groups often backed up by powerful figures. It does not come as a surprise that parties to a conflict could call on their influential patrons at the court in Khiva. In such cases, as can be seen in the records, the governors were forced

218 [Girshfel'd and Galkin], *Voенно-statisticheskoe opisanie Khivinskogo oazisa*, II, pp. 23–24.

219 Allāh Birgān Bāy b. 'Avāz Niyāz Maḥram, the *ḥākīm* of Urgench, was the brother of Muḥammad Yūsuf Yasāvulbāshī; Sayyid Ismā'īl Khwāja, the ruler of Hazarasp, was the older brother of the *vazīr-i akbar* Sayyid Islām Khwāja (d. 1913).

220 For example, soon after the death of Sayyid Islām Khwāja, his brothers Sayyid Ismā'īl Khwāja and Ishāq Khwāja, respectively the governors of Hazarasp and Kunya-Urgench, were removed from their posts.

221 For example, Jum'a Niyāz Maḥram b. Maḥmūd Divān, the ruler of Tashhawz.

to weigh up their actions against the possible consequences. It often happened that the governors in the provinces were not ready to intervene in a conflict between local groups, in case they themselves became drawn into the conflict.

This was the story, for example, with the investigation into the kidnap of a Qaraqalpaq girl, later recorded by the Soviet ethnographer Rzambet Kosbergenov. According to his account, a girl from a Qaraqalpaq tribe, having already been betrothed to another member of her tribe, was kidnapped by an Uzbek boy. Hoping to escape their pursuers, the young couple was forced to seek shelter in Turkmen nomadic encampments. The girl's relatives appealed to the governor of Shumanay, under whose jurisdiction they fell, with a demand that the girl be returned to her family and the boy be punished. The petitioners called upon an authoritative fellow-tribesman called Qāzī Bekbauli, who had close contacts with Khiva, to exert additional pressure. The governor, however, 'did not want to decide this matter independently,' since any decision could bring him into confrontation with different groups, and preferred to send the matter on to Khiva, for the agencies in the capital to settle.²²²

We should also not forget that the khan's accessibility, which we have already discussed, allowed individuals to appeal against the actions of the governor. One of our documents provides an example.²²³ A person had been caught stealing and had been arrested by the victim's side. When interrogated by the local governor he not only confessed the crime, but also named an accomplice (*hamrāh*). At the same time, the leaders of his community managed to obtain his release under their guarantee (*kafil*), on the pretext that they would carry out further investigations into his activities in the locality. As soon as he was released, however, the suspect set out to the khan's court, to petition for a more objective examination of his case. This led to the *hākīm* sending his dispatch, in which he was forced to give a detailed account to Khiva to demonstrate that he had acted justly during the earlier investigation.

6.4 Qāzīs' Reports

Qāzīs are conspicuous by their infrequency of their appearance in the 'yasāvulbāshī documents'. The fourth section of this book includes only a handful of reports, which *qāzīs* addressed to the royal court in Khiva. Most of these reports reflect how *qāzīs* attended to and fulfilled tasks which the royal court assigned to them and which ranged from hearing lawsuits to inspecting corpses for traces of lethal injuries. As we noted earlier, the infrequency with

222 Kosbergenov, "Polozhenie karakalpalskogo naseleniia v Khivinskom khanstve v kontse XIX–nachale XX v.," p. 262.

223 Doc. 51.

which *qāzīs* appear reflects their lower status in the hierarchy of power within the Islamic juridical field of Khorezm. That is, Qonghrats' subjects brought their grievances to representatives of khal authority because the latter were more powerful and effective than *qāzīs* in enforcing judgments. Our observation does not amount to say that *qāzīs* did not hear cases. They usually did not hear cases of their own volition, but mostly when instructed to do so by the royal court and, especially, by the office of the *yasāvulbāshī*. It could also be that *qāzīs* did hear cases of their volition after those parties to a dispute agreed to bring their cases to judges instead of turning to the royal court officials (see Docs. nos 66 and 68). While they played a somewhat marginal role in hearing cases, *qāzīs* were central in the process of notarizing the resolution of conflicts. The records here assembled show that more often than not representatives of the Qonghrat royal court pursued reconciliation. When the latter was achieved, parties were obviously interested to secure proof of a peaceful settlement (*ṣulḥ*). *Qāzīs* therefore produced records solemnizing the stipulations of such settlements, which could include acknowledgments of acquittal (*ibrā'*) of a claim and all sorts of transactions.²²⁴ Although such records rarely include references to disputes, they should nevertheless be read as *outcomes* of disputes.

7 What was the Cost of the 'arž?

The account by Nyl Lykoshin, Head of the Amu-Darya Department, of his tour of inspection of the Khanate of Khiva in 1912 includes an intriguing story told to him by a certain Allāh Naẓar, an inhabitant of Tashhawz. The latter told the Russian official about his dispute with the local town's chief of police (*pashshāb*), which had left Allāh Naẓar with knife wounds. Allāh Naẓar submitted a petition to Khiva and, as a result of the investigation, the chief of police was found guilty and sentenced to pay 200 *tillā* (360 roubles, by Lykoshin's calculations). However, the victim only saw a quarter of that sum, since 100 *tillā* went to Muḥammad Yūsuf Yasāvulbāshī, who had investigated the case, and an additional 50 *tillā* 'was the share that went to the attendant (*yasāvul* – P.S., U.A.) for their efforts.'²²⁵ The episode is noteworthy, above all, because it

224 The phenomenon whereby 19th-century Central Asia *qāzīs* mostly operated as notaries has been the subject of a discussion in Sartori, *Visions of Justice: Sharī'a and Cultural Change in Russian Central Asia*, pp. 54–57.

225 N.S. Lykoshin, *Zapiska Nachal'nika Amu-Dar'inskogo Otdela Polkovnika Lykoshina o sovremennom sostoianii Khivinskogo Khanstva, 1912 god*, TsGARUZ, f. I-2, op. 1, d. 314, ll. 46–46ob.

gives at least a vague idea of how the sums taken from the parties to a dispute were then distributed after the hearing of the case in Khiva.

Meanwhile, one of the reports from governors to the office of the *yasāvulbāshī* presented in Section Two also illustrates the substantial financial investment that a petitioner had to make when taking one's appeal to Khiva.²²⁶ The governor informs the central agencies about the course of the examination of a petition which had earlier been submitted by a subject to the khan's palace, and reports how, during the subsequent hearing in the province, one of the defendants had insisted that the examination of the case be transferred back to Khiva. The *ḥākim* admits that he had tried to talk the defendant out of such a rash decision, since such an appeal to Khiva 'would end up costing the petitioner (*kharj*) 200 roubles (*manāt*).'²²⁷ Unfortunately, the author of the report does not say anything about what he had in mind precisely by 'costs during the trip to Khiva.' Indeed, one is only left to wonder what may have been the items of expenditure that a petitioner had to take into account, when preparing to set off for Khiva.

It is notable that a similar amount of expenditure for the handing over of a petition and its examination in Khiva is also indicated by the authors of a grievance submitted to members of the 'Senate Review' (Rus. *Senatskaia Reviziia*) that had been initiated by the Russian imperial authorities in 1908–9 for the survey of their colonial possessions in Turkestan. The authors of the letter, inhabitants of Khiva who wished to remain anonymous, describe the wrongs of the local justice system to the director of the commission, Count Konstantin Konstantinovich Pahlen. In particular, they write that the procedure for the reception and examination of petitions from subjects had become a source of income for the officials involved, such that an examination of an ordinary petition to Khiva usually cost the petitioner around 100–200 *tillā*. A slightly smaller sum – 50 *tillā*, according to the authors of the missive addressed to Pahlen – would be taken during the hearing of a petition by provincial authorities such as the *ḥākims*.²²⁸

226 Doc. 21.

227 *Manāt* was the local designation for the Russian rouble. After the Russian takeover of Khiva in 1873 the two currencies, i.e., *manāt* and *tillā*, were used in the khanate. Though the exchange rate was not stable, the average rate during this period had been fluctuating between 1,6 and 1,8 Russian roubles (*manāt*) for one Khivan *tillā*, see 'Abdullah Bāltaev, *Rivalūtsiyadīn avval qishlāq khwājaliqīdā bulghān Khwārazm dīhqanlārīnī aḥvālī va kūrgan 'azāblārī*, MS Tashkent, IVANRUz inv. no. 11978, fol. 23a; Iu.O.Ia., "Khivinskaia ten'ga v sviazi s nedavnim proshlym ten'govogo voprosa," *Turkestarskii sbornik*, vol. 464 (Tashkent, 1908), p. 122–8; [Girshfel'd and Galkin], *Voенно-statisticheskoe opisanie Khivinskogo oazisa*, II, p. 199.

228 RGIA, f. 1396, op. 1, d. 33, l. 101.

It would be tempting to treat the information coming from Lykoshin and the anonymous petitioners as part and parcel of the narrative, which was dominant in Central Asia under Russian rule, about the corrupt nature of power and, by extension, of the justice system in the Khanate of Khiva. Equally, the similarity between the figures provided by three different authors may suggest that indeed we are dealing here with established practices of corruption. At any rate, it seems obvious that, in a system without fixed payments, various official figures at both the central and provincial levels saw their involvement in the hearing of petitions as an important source of revenue.

The Khivan author Safarov emphasised that appellants would be meeting expenses as soon as they filed their grievance. One had to make a payment (*kātībāna*) to the court scribe (*divān*) for a rescript (*fatak*) to be drawn up and stamped by the Qonghrat chancery.²²⁹ Mirzā ‘Abd al-Raḥmān, the translator and assistant of Alexander Kuhn, in his records composed in 1873, wrote that the court *divāns* would take for themselves 9 *ṭangas* from everyone who came to the ‘arż.²³⁰ The *yasāvulbāshī* also expected a separate payment (*muhrāna*) for affixing his seal to the instruction. The head of the court guard (*dahabāshī*) received his share of the payment for sending a mounted guard (*ātli yasāvul*) to the site of the conflict.²³¹ The latter would often have to travel tens of kilometres from the capital. Although in the rescripts the sum to be paid for the services of the escorts was strictly stipulated in the region of 2 to 4 *ṭanga* per parasang travelled, Safarov asserts that besides this formal pay, the petitioner would also have to cover his expenses (*kharj fulī*), including the fodder for his horse (*āt āvqātī*) for the whole course of the investigation of the case.²³²

The hearing of the conflict in the locality also meant involving community elders (*āqsaqāl*) and authoritative members of the community from both sides (*il-ādamlāri*), who would expect to be hosted and given presents. Ethnographic data collected by Soviet scholars among the Qaraqalpaqs living on the northern edges of the khanate provides specific confirmation of this:

229 Bābājān Safarov, *Khwārazm ta’rikhī (1864–1934)*, MS Tashkent, IVANRUZ, inv. no. 10231, fol. 21.

230 Mirza Abdurakhman, [*Zapiski Mirza Abdurakhmana*], St. Petersburg, IVRRAN, Arkhiv Vostokovedov, f. 33, d. 134, l. 99 ob. On Alexander Kuhn and Mirzā ‘Abd al-Raḥmān, see O. Yastrebova and A. Azad, “Reflections on an Orientalist: Alexander Kuhn (1840–88), the Man and His Legacy,” *Iranian Studies* 48.5 (2015), pp. 675–694.

231 Bābājān Safarov, *Khwārazm ta’rikhī (1864–1934)*, MS Tashkent, IVANRUZ, inv. no. 10231, fol. 22.

232 Chancery expenses are not specific to Khiva and its ‘arż-*dād* procedure, to be sure. One is put in mind that in other regions of Central Asia too to secure a fatwa, or a deed for that matter, required paying similar fees. See Sartori, *Visions of Justice: Sharī’a and Cultural Change in Russian Central Asia*, pp. 63, 136, 264.

Usually a court decision about a litigation would be settled in the province. The authorities would arrive in the village and stay at the house of whoever had initiated proceedings. The plaintiff would have to slaughter his livestock and host ... his entire retinue. The examination of a case could sometimes last a week. The costs for the plaintiff would rise constantly; he would be forced to make concessions ... The higher the level of jurisdiction, the greater the scale of hospitality required ...²³³

We should also not forget the cost of involving a provincial governor, and paying for the services of *qāzīs*, regardless of whether they brought their legal expertise in the form of an interrogation of the witnesses, an oath-taking, or simply by notarising either an amicable settlement (*ṣulḥ*) or a withdrawal of the claim (*ibrā'*), following an out-of-court settlement of the conflict.

The question of the many malfeasances by senior officials, particularly in connection with the examination of petitions, was often raised by members of the colonial administration in the region. In late 1910, under pressure from colonial officials, the Khivan authorities initiated administrative reforms, designed to root out a system based on Qonghrat officials' discretion, and instead to introduce fixed payment from the treasury. For example, the first point of the so-called Programme of Reform, undertaken in January 1911, declared:

The khan of Khiva, considering the [present system of] remuneration of official persons to be old-fashioned, and incommensurate with [the demands of] the present time ... has ordered for the introduction of an arrangement of daily payments to all the officials of the khanate, commensurate with the character of the official duties they carry out.... For this reason, all payment [formerly] taken from the population [for the benefit of] the Khivan treasury and as payment for court officials is now cancelled. In particular, the following payments are cancelled: payments taken [from the population] for the Khivan treasury for fixing compensation for murder (*khūn*) to [the value of] 1/10 [of the value of the compensation], also the payment of 10 *tillā* [taken by] *yasāvuls* and *maḥrams*, on their appointment to investigate murders; the payment of 5 *tillā* during the investigation of cases of injuries; also the payment taken by *ḥākims* for investigating matters of theft and robbery [to the cost of] 1/10 [of the value of the compensation]. Besides this, for the drawing up and delivery of documents (*ḥujjat khat*), and for the making of decisions (*ḥukm*) about

233 Kosbergenov, "Polozhenie karakalpalskogo naseleniia v Khivinskom khanstve v kontse XIX–nachale XX v.", pp. 260–261.

claims (*da'vā ishlār*), [it is not permitted for] *qāzīs* to take more than 5 *ṭanga* from every 1,000 *ṭanga* [of the sum demanded in the claim] ... All of these payments are cancelled in their entirety and without exception.²³⁴

As a consequence of these initiatives, there were also attempts to fix the cost of the services of the *qāzīs* and *hākims*. We also have a written instruction from the Khivan central authorities, addressed to the *qāzīs* of one of the towns of the khanate (sealed by Sayyid Islām Khwāja – the grand *vazīr* of the khanate), regulating the sphere of powers and the pricing for drawing up documents:

[It is permitted for *qāzīs*] to take a payment in the form of *muhrāna* and *kātībāna* for the notarisation of any kind of document (*khaṭ*) in their chamber (*maḥkama*); and also *kātībāna* for registration (*daftar itūlgāndā*) of such documents, calculated at half a *ṭanga* for every 100 *ṭanga* [of the value of the transaction] and at 5 *ṭanga* from every 1,000 *ṭanga* [of the value of the transaction], but not to demand anything above the [sum] stipulated. When the documents are notarised, and no [precise value of the claim] is to be stipulated, as for example in the case of [the notarisation] of a document concerning the withdrawal by one person of a claim (*da'vā*) against another person, or equally [the drawing up of] other such documents, then the payment for such types of services is fixed at [the value of] no more than 2 *ṭanga* [per document drawn up].²³⁵

However, these initiatives were largely declarative, and they evidently did little to change things much at an institutional level. The practice of *kormlenie* ('feeding'), i.e., distributing stipends to officials, which was the central component of the system of power relations in the Khanate of Khiva, could not be replaced by fixed payments for senior officials. Attempts to regulate such a sophisticated and flexible system, even simply by introducing fixed rates, resulted in ineffective half-measures. What is more, even this formal initiative was not fully realised.²³⁶ Without realistic mechanisms for its enforcement, informal agreements continued to dominate, and so the examination of petitions, claims and conflicts between citizens continued to be seen as an important source of income for the individuals involved.

234 GMIQ, Khiva, KP-3687, fols. 2a–2b.

235 TsGARUz, f. I-125, op. 1, d. 579, l. 2.

236 Abdurasulov and Sartori, "Neopredelennost' kak politika: razmyshliaia o prirode rossiiskogo protektorata v Srednei Azii," p. 144.

Safarov notes that during the hearing of a case at the court, besides the fixed fees, it was expected that the petitioner and the defendants would make various payments to the *yasāvulbāshī*, and that they would also bring ‘gifts as a mark of gratitude’ (*pishkashlar bilān qūllūq qilandi*) to various courtiers who could have a positive influence on the resolution of the case. Even after the decision had been made, the claimant or the defendant, depending on who had been successful, would have to bring yet another present to the *yasāvulbāshī*, ‘commensurate with the value of the claim.’²³⁷

Moreover, the Khivan author writes that examination of a case in Khiva could drag on ‘for two to three months.’ Given that it was usual for ‘ten to fifteen’ authoritative fellow villagers and elders of the community to escort the litigants to Khiva, the living costs for the latter during their stay in the capital could add an additional burden for the litigants. As a good illustration, Safarov writes how during the days of the *‘arz*, there were always money-lenders (*sūdkhūrlār*) plying their trade ‘at the entrance to the khan’s palace,’ ready to provide litigants with the necessary sums at interest. Of course, Safarov’s information cannot be taken at face value; it must be remembered that the work was composed in 1957, i.e., four years after the death of Stalin, in a state where entirely different ideological and epistemological paradigms dominated. It therefore reflects a number of preconceptions, especially in the section concerning the justice system. Nonetheless, it is clear that a journey to Khiva for examination of a case at the khan’s palace was no cheap undertaking by any means.

Therefore, a somewhat ambivalent picture has emerged, wherein on the one hand the khan of Khiva was in fact reasonably accessible for subjects who wished to appeal to him, but where the practical realization of such access could end up being distinctly expensive for them.

So, once again, the question arises: why did subjects decide to go to Khiva? The answer is both complicated, and simple. Litigants usually had to pay a considerable amount of money to have their cases heard. Obviously, sometimes the larger part of the expenses would fall on the shoulders of the losing side.²³⁸ Thus, petitioners might be able to recoup their costs. Therefore, on the one hand, a claimant planning to take a petition to Khiva would have to weigh up the possible expenses that further examination of the case could incur, against

237 Bābājān Safarov, *Khwārazm ta’rikhī (1864–1934)*, MS Tashkent, IVANRUZ, inv. no. 10231, fols. 21b–22b. For comparative purposes, see A. Wilde, *What is beyond the River? Power, Authority and Social Order in Transoxania (18th–19th Centuries)*, 3 vols. (Vienna: Austrian Academy of Sciences Press, 2016).

238 Some of the royal rescripts stipulate that the *yasāvulbāshī*’s expenses should be paid by the side found guilty.

what could be won if the case was decided in their favour. Meanwhile, the defendant would also have to calculate the risks of such an undertaking. So if they felt their position was not sufficiently secure, they would be much better off trying to resolve the case in the locality, without a hearing in Khiva. They might therefore accept the claimant's conditions partially or in full in order to reach a compromise.

Still, it would be misleading to explain the motives of the people who decided to set off to the royal court solely on the basis of financial or material factors. An excellent illustration is provided by the following story, found in the writings of the mid-nineteenth-century Russian author Galkin, who carried out ethnographic research among the Turkmen tribes on the eastern shore of the Caspian Sea. Galkin presents the story of a Turkmen woman from the Caspian gulf of Qara-Bogaz, who wanted to divorce her husband. According to Galkin, this woman was well aware that such a divorce was hardly possible within the legal and ethical norms of the Turkmen locality, so she decided to petition the khan in Khiva, where she was able to secure a public divorce.²³⁹ Of course, there are good reasons to suspect this story, recorded by a Russian author, may be apocryphal. However, it is still quite telling, in the sense that it can explain why the protagonists in our documents, during an interrogation by the *ḥākīm*, or before the *qāzī*, so often opted to leave the room and set off for Khiva. With an appeal to the khan's court in Khiva, the resolution of a conflict would receive new publicity. Hence it could allow simple people the chance to receive satisfaction (which was otherwise hard to attain) for injuries to their self-worth, and to restore their sense of dignity before the community to which they belonged.

239 M.N. Galkin, *Etnograficheskie i istoricheskie materialy po Srednei Azii i Orenburgskomu kraiu* (St. Petersburg: Izdanie Ia.A. Isakova, 1868), p. 33.