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## The Emergence Of Migration Law As A Natural Right In The Central Asia

**Lukhmonjon Isokov**

Doctor Of Philosophy In Law (Phd), Senior Prosecutor Of The Academy Of The General Prosecutor's Office Of Uzbekistan

### ABSTRACT

Historical experience testifies to the fact that migration processes, which represent the harmony of objective needs and subjective interests of people, have a natural character. Population migration has long been dependent on a number of factors. Despite the fact that migration is restricted or strictly controlled by the governments of different countries, these processes have not stopped<sup>1</sup>. Indeed, this phenomenon is inextricably linked not only with the laws of civilization and anthropological development of mankind, but also with the diversity of institutions of migration law.

### KEYWORDS

Land plot, state need, public need, seizure, compensation, appraisal.

### INTRODUCTION

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<sup>1</sup> Zinchenko N.N. Mezhdunarodnoe migratsionnoe pravo: osnovi teorii i praktiki. – M.: Nauchnaya kniga, 2011. – S.8.

The formation of institutions of migration law is the gradual development of the ability of a person to move in the direction he needs, using different routes and means of movement. There is no absolute freedom in the movement of people, as there were other barriers in the form of climatic and geographical features to move from one place to another, even in the absence of restrictions by the authorities and state borders. It also depends on a person's physical ability.

We believe that the natural feature of the origin of migration right is related to the "nature" of human. Consequently, man loses the meaning of his existence without these legal possibilities.

The second stage in the formation of migration law – the period of transition from customary law to the level of natural law – begins in the early Middle Ages. The following is a chronological analysis of the specifics of the formation of institutions of migration law on the basis of historical and legal sources in the period from early feudalism to the beginning of the twentieth century.

Medieval Eastern society developed in a unique way, in contrast to the feudal Western model of development. Slavery in the East did not play an important role in social production. The common similarities in the socio-economic development of medieval Eastern countries such as Central Asia, India, China, the Arab Caliphate, Japan are that none of them have reached the European level of migration legal relations. The reason for this can be seen in the following historical evidence and analysis.

The early Middle Ages were rich in massive migration processes. The social relations

associated with population migration have not excluded the peoples of Central Asia either. According to scientist B.Mamarahimova, thousands of Sogdian migrants moved to the largest ancient city in China called Dunhuang in 534. This was due to the special legal and trade privileges granted to Central Asian migrants by the Wei dynasty.

We believe that the creation of a favorable socio-legal and economic-financial environment for Sogdian migrants in China depends not only on these benefits, but also on the political aspects of the issue. Consequently, the Sogdians took control of the Khami province near the city of Kumul, where they introduced the administration of the khanate. Kan Su-mi from Samarkand has been appointed governor (duhufusi) of Beyan district in Ordos, and migrants from Sughd continued to arrive in these areas. In particular, in 630, the "great leader" An Tukhan from Bukhara brought 5,000 Sogdians to northern China<sup>2</sup>.

Among the nearly 50,000 migrants, Sogdians are involved not only in trade but also in the administrative and military spheres<sup>3</sup>. The fact the more than 20,000 manuscripts written in the languages of the peoples of Central Asia and Asia Minor were found in caves near Dunhuang<sup>4</sup> also confirms this information (picture 1).

<sup>2</sup> Kamalov A. Kitayskie istochniki po istorii kochevikh uyghurov // Issledovaniya po uyghurovedeniyu. – Almaty, 2002. – S. 109-126; Maršak B.I. Türkler ve Soğdlular. – S.174.

<sup>3</sup> Mamarahimova B.I. Buyuk Ipak yo'li – sivilizatsiyalararo muloqot yo'li. – T.: TDSHI, 2010. – B.28.

<sup>4</sup> Uzbekiston milliy entsiklopediyasi. 3-jild. – T.: "Uzbekiston milliy entsiklopediyasi" Davlat ilmiy nashriyoti, 2002. – B.383.



Picture 1. “Sogdian Daēnās”<sup>5</sup> found in Mogao Caves in Dunhuang.

<sup>5</sup> **Sogdian Daēnās**, also known as Sogdian Deities (French: Deux divinités féminines; Chinese: 粟特神祇白畫) is a 10th-century line drawing discovered by the French Orientalist Paul Pelliot at the Mogao Caves. It was painted during the late Tang dynasty and the Five Dynasties and Ten Kingdoms period, and is probably associated with the Zoroastrian cult of the Sogdian people. See also: Gorshenina S., Rapin C. De Kaboul à Samarcande: Les archéologues en Asie centrale. – Paris: Éditions Gallimard, 2001. – P.107.

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National Library of France<sup>6</sup>.

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<sup>6</sup> Drège J.-P. Études de Dunhuang et Turfan. – Genève: Librairie Droz, 2007. – P.64. (448 p.)

In addition, the “Old Letters” once again confirm that the coins of the orientalist A.Khodjaev in Sogdian script contributed to the development of international trade, that Chach and Sogdian merchants lived as a group in foreign settlements<sup>7</sup>, and that Sogdian migrants were in constant contact with their relatives in Sughd<sup>8</sup>.

There are sources that the freedom of conscience of migrants is legally guaranteed. For example, Sogdian migrants in Loyang, the capital of the Northern Wei dynasty, built a Zoroastrian temple for themselves. In addition, the Chinese administration was in tolerant attitude to other religions<sup>9</sup>.

The Turkish Khanate, founded by the Ashina dynasty in the middle of the 6th century, emerged as a new political force in the region. Existing conditions have intensified migration and integration processes between different ethnic groups living in Central and Middle Asia, in particular, Turks and Sogdians<sup>10</sup>. Trade not only brought revenue to the royal treasury, but also gave it the responsibility to protect Central Asian migrants politically and militarily<sup>11</sup>.

One of the most important institutions of migration law in the ancient Turkish peoples was the issue of refugees. No one was able to admit to their yurt with the status of refugees who were being persecuted by the elders.

They were expelled to the desert (ostracism), which was often equated with the death penalty<sup>12</sup>. However, we consider that Z. Mukimov's equation of this persecution with ostracism is wrong. Because in the institute of ostracism used in Ancient Athens, a person had to leave the city within 10 days, and during the time of exile he retained his political and economic rights. In this regard, we agree with Aristotle that “ostracism is not a punishment for a crime, but a humane measure to prevent the seizure of power” or Plutarch's “measure to reduce the arrogance of officials”.

Due to the spread of Islam in Central Asian countries, the formation of institutions of migration law is closely linked to Muslim law, especially until the twentieth century. In particular, the legal relations of migration were regulated by the norms of Muslim law, in which its Sunni orientation and Hanafi sect played a key role.

It is known from history that in Muslim countries the population is not divided into categories according to class. Because a person's legal status is determined by his or her religious beliefs. According to Sharia, only Muslims had full civil legal status<sup>13</sup>.

As a result of the establishment of a centralized state of the Samanid dynasty in Movarounnahr, the famous Eastern scholars enriched world science with their discoveries, teachings and immortal scientific works, and raised it to the highest point, which marked the beginning of the first Eastern Renaissance. The teachings of such thinkers as Imam al-Bukhari, Abu Nasr al-Farabi, Abu Rayhan al-Beruniy, Abu Ali ibn Sina on state and law,

<sup>7</sup> Khujaev A. Sughdiylarning Khitoyga borib qolishi // Moziydan sado. – 2002. – № 2 (14). – B. 42.

<sup>8</sup> Vaissiere E. Histoire des marchands sogdiens. Paris: College de France, 2002. – P.43-67. (413 p.)

<sup>9</sup> Khujaev A. Sughdiylarning Khitoyga borib qolishi // Moziydan sado. – 2002. – № 2 (14). – B. 42.

<sup>10</sup> Otakhujaev A. Ilk urta asrlar Markaziy Osiyo tsivilizatsiyasida turk-sughd munosabatlari. Monografiya. – T.: ART-FLEX, 2010. – B.39.

<sup>11</sup> Otakhujaev A. Ilk urta asrlar Markaziy Osiyo tsivilizatsiyasida turk-sughd munosabatlari. Monografiya. – T.: ART-FLEX, 2010. – B.12.

<sup>12</sup> Muqimov Z. Uzbekiston davlati va huquqi tarikhi. – T.: “Adolat”, 2003. – B.49.

<sup>13</sup> Davlat va huquq tarikhi: IIV oliy ta'lim muassasalari uchun darslik / H.T. Odilqoriev, N.P. Azizov, H.R. Madirimov. – T.: Uzbekiston Respublikasi IIV Akademiyasi, 2013. – B.102.

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migration and citizenship have left their mark on world history. In particular, Imam al-Bukhari in his work “Al-adab al-mufrad” states that the prayer of a migrants, along with three categories of people - parents and the oppressed - will undoubtedly be acceptable in the sight of God (picture 2)<sup>14</sup>.

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<sup>14</sup> Imam al-Bukhari. Al-Adab Al-Mufrad: Khadisi Proroka o dostoyynom povedenii (17:32). – SPb.: “Dilya”, 2009. – S.19.

[ ٣٢ ] حدثنا معاذ بن فضالة قال حدثنا هشام عن يحيى بن أبي كثير عن أبي جعفر أنه سمع أبا هريرة يقول قال النبي صلى الله عليه وسلم ثلاث دعوات مستجابات لمن لا شك فيهن دعوة المظلوم ودعوة المسافر ودعوة الوالد على ولدهما

Picture 2. Chapter 17, Hadith 32, written in Arabic.

Abu Ali ibn Sina, one of the great representatives of the culture of the early Renaissance, was known not only as a great physician, writer, philosopher, naturalist, mathematician, ethicist, but also as a brilliant lawyer of his time. It is no exaggeration to say that Ibn Sina's "Risala fi tadbiri al-Musafirin", which divided citizens into three categories: rulers, soldiers, and artisans, was a practical

guide for migrants. A manuscript of this work, written in Arabic, is being kept in the British Museum. The pamphlet describes not only migrants, but also special events for sea travelers and other issues<sup>15</sup>.

V.V. Grigorev, a great expert on the history of the peoples of Central Asia, classified labels as decrees, orders, diplomas, passports, proclamations<sup>16</sup>, gift or protection sheets, letters as the most important and basic legal document established by the supreme authority<sup>17</sup>. All of these documents were listed as identical labels and were also used in the form of "command" or "decree". According to this source, an identity document - a

passport or a permit guaranteeing freedom of movement - a visa has been widely used in Central Asian countries since the early Middle Ages.

Some issues concerning the institutions of migration in Muslim law are also found in Burhaniddin Marginoni's Hidayah, written in 1178. "Hidayah" has been a major source of jurisprudence in many Muslim countries for centuries, recognized as a Sharia's guide or codex in Hanafi. Hidayah, the most accurate, consistent, and perfect work on jurisprudence, served as a judicial guide in Uzbekistan until the 1920s, when the judiciary (old Uzbek judicial system that judges judge people according to sharia rules, named "kozi sudi") was abolished and the Soviet judicial system was introduced<sup>18</sup>.

The book "Hidayah" contains a number of comments on the legal status of foreigners in the law of migration, the regulation of social relations arising from the movement of an individual from one place to another. In particular, the following examples can be listed. For example, a foreign national is not allowed to stay in the territory of a Muslim country for more than one year. Because he is entitled to a tax of one-tenth of his income for one year, he will have to pay the same amount of tax for the next year upon his return to the territory. This type of tax serves to ensure the protection of foreigners<sup>19</sup>. If a member of

<sup>15</sup> Abu ali ibn Sina. Avitsenna. Kanon vrachebnoy nauki. V shesti tomakh. Izd-e vtoroe. Tom. 1. – Tashkent: Izd. FAN Uzbeksoy AN, 1961. – S. 366-373.

<sup>16</sup> **Proclamation** (Lat. proclamare, to make public by announcement) is an official declaration issued by a person of authority to make certain announcements known.

<sup>17</sup> Grigoriev V.V. O dostovernosti yarlikov, dannikh khanami Zolotoy Ordi russkomu dukhovenstvu // Rossiya I Aziya. – SPb., 1876. – S.180.

<sup>18</sup> Uzbekiston milliy entsiklopediyasi. 11-jild. – T.: "Uzbekiston milliy entsiklopediyasi" Davlat ilmiy nashriyoti, 2005. – B.326.

<sup>19</sup> Burhanuddin Marguinani. Hidayah. Kommentarii musulmansko prava: v 2 ch. Ch. 1. T. I—11 / per. s



another religion converts to Islam and moves to a Muslim country, he or she is required to annul his or her previous marriage. A mother cannot move to another foreign country with her child<sup>20</sup>. A divorced woman cannot move to another place with her child also, but it is legal to return to the country where the marriage was registered<sup>21</sup>. It is said that a mother can move from the village to the city with her child, but moving from the city to the village is not advisable as it has a negative impact on the child's maturity<sup>22</sup>.

Furthermore, there are comments on a number of concepts in "Hidayah"<sup>23</sup>. In particular, non-religious citizen of a Muslim state "zimmiy", international Muslim law "siyar", the allowance paid during the trip "nafaka as-safar" and other similar terms are analyzed in depth (picture 3).

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angl.; pod red. N.I.Grodekova; otv. red., avt. predisl., vstup. st. i nauch. komm. prof. A.Kh. Saidov. – M.: Volters Kluver, 2010. – S.89.

<sup>20</sup> Burkhanuddin Marguinani. Hidayah. Kommentarii musulmanskogo prava: v 2 ch. Ch. 1. T. I—11 / per. s angl.; pod red. N.I.Grodekova; otv. red., avt. predisl., vstup. st. i nauch. komm. prof. A.Kh. Saidov. – M.: Volters Kluver, 2010. – S.186.

<sup>21</sup> Burkhanuddin Marguinani. Hidayah. Kommentarii musulmanskogo prava: v 2 ch. Ch. 1. T. I—11 / per. s angl.; pod red. N.I.Grodekova; otv. red., avt. predisl., vstup. st. i nauch. komm. prof. A.Kh. Saidov. – M.: Volters Kluver, 2010. – S.335.

<sup>22</sup> Burkhanuddin Marguinani. Hidayah. Kommentarii musulmanskogo prava: v 2 ch. Ch. 1. T. I—11 / per. s angl.; pod red. N.I.Grodekova; otv. red., avt. predisl., vstup. st. i nauch. komm. prof. A.Kh. Saidov. – M.: Volters Kluver, 2010. – S.336.

<sup>23</sup> Al-Hidayah fi Sharh Bidayat al-Mubtadi (d. 593 AH/1197 CE) (Arabic: المبتدي بداية شرح في الهداية, al-Hidāyah fī Sharḥ Bidāyat al-Mubtadī), commonly referred to as al-Hidayah (lit. "the guidance", also spelled Hedaya).





Picture 3. “Hidayah” work. The Kazan manuscript of 1905.

In the course of the study of the Mongol conquest, which conquered the territory from East to West in the XII-XIII centuries, it was found that some institutions of migration law were formed as customary law. According to the historian A.R.Muhammadjanov, the word "Mongol" itself means “foreigner”, “wanderer”, “immigrant”<sup>24</sup>. In a word, we think that the nomadism of the Mongol people fully proves the idea of their migration. A distinctive feature of the non-settled Mongol people was that movement or migration was considered sacred to them not only as “freedom” but also as “value”. An example of this is the constant migration from one place to another, and even the conquest of new lands.

In 1216 Khorezmshah sent ambassadors to Genghis Khan under the leadership of Bahauddin Ghazi. As a result of the negotiations, it was agreed on the free movement of traders in the territories of the two countries<sup>25</sup>. However, the rude violation of this agreement by the deputy of Otrar led to the march of the Mongols. As a result of the terrible war and the conquest by Genghis Khan, the laws of Yasak were widely introduced among the nomadic or semi-nomadic population. An analysis of historical sources on state and law has shown that there was a norm on migration law among the instructions. For example, professor H.T.Odilqoriev writes that refusing to return a refugee slave to his master or giving him asylum was classified as a criminal offense and was punishable by death<sup>26</sup>.

<sup>24</sup> Mukhammadjonov A.R. Uzbekiston tarixi. – T.: Gofur Gulom nomidagi nashriyot-matbaa ijodiy uyi, 2004. – B.312.

<sup>25</sup> Mukhammadjonov A.R. Uzbekiston tarixi. – T.: Gofur Gulom nomidagi nashriyot-matbaa ijodiy uyi, 2004. – B.168.

<sup>26</sup> Davlat va huquq tarixi: IIV oliy ta’lim muassasalari uchun darslik / H.T. Odilqoriev, N.P.

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Marco Polo, a well-known merchant and traveler, also confirmed that the first travel documents and permits to move in the territory of the Mongol Empire were issued by high-ranking officials. In particular, he testified that he kept a passport, a golden paiza<sup>27</sup>, a gift from the Mongol khan Kublai, until the last day of his life (picture 4).

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Azizov, H.R. Madirimov. – T.: Uzbekiston Respublikasi IIV Akademiyasi, 2013. – B.153.

<sup>27</sup> **Paiza** or paizi or gerege (Middle Mongolian: Гэрэгэ, Mongolian: Пайз, Persian: پایزه pāiza, Chinese: 牌子 páizi) was a tablet carried by Mongol officials and envoys to signify certain privileges and authority.



**Picture 4. Kublai Khan are giving “golden label” to brother’s Polo.  
Miniature from the manuscript of “The Description of the World”<sup>28</sup>.**

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<sup>28</sup> Marco Polo. La description du monde / Ed. L. Hambis. – Paris: Librairie C. Klincksieck, 1955. – 433 p.

Scientists have made various hypotheses about the paizas. Our research shows that paiza was used not only as a credential in Eastern countries, but also as one of the important institutions of migration law that guaranteed freedom of movement. In fact, the paizas considered as not an identity document, but a travel document that allowed to move from one place to another. In this sense, it is no exaggeration to say that the

paizas were an important medieval institution of migration law. The famous Persian statesman, physician and encyclopedic scholar, Rashiduddin Fazlullah ibn Imamuddavla Abulkhair Hamadoni (1247-1318), the minister of the Genghis Khanate of the Khuluku dynasty, mentioned this in his “Jāmi‘ al-tawārikh” (picture 5).



**Picture 5. Ruler's travel. Paiza hanging around the necks of his companions.**

**Miniature from the manuscript of “Jome at-tavorix”.**

In fact, the first information about paiza can be found in the chronicles of the Chinese Tang dynasty in the VII-X centuries. According to the source, the first paizas were made of silver, about 12 cm long and 4 cm wide, with the following inscription: "Silver plate for movement on service horses by order of the state." Hence, the paizas were originally considered travel documents for horsemen and officials.

In the countries of the East, famous examples of primitive passports such as Abdullah, Kublai, Tokhtakhan and Uzbekkhan are kept in museums around the world.

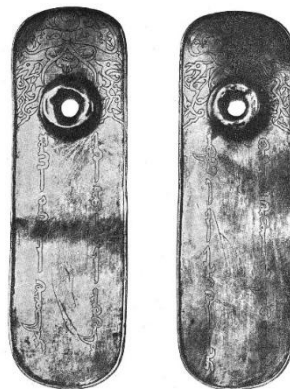
During the reign of the Golden Horde khan Uzbekkhan (1283-1341), Islam was the first officially recognized religion among the Mongols, and the legal system of the Jochi nation was significantly improved. In order to differentiate himself from others, Uzbekkhan introduced paizas 30 cm long and 10 cm wide, in which the Mongolian words in golden Uyghur script were written: “The order of the eternal sky. Uzbekkhan's decree. Anyone who disobeys is guilty and sentenced to death”. (picture 6).



**Picture 6. Uzbekkhan's paiza.**

Abdullakhan (1340-1370), the ninth son of Uzbekkhan, also continued to strike paizas. On the 26.5 cm long, silver-plated Abdullah Khan's paiza were inscribed following inscription: "By the power of the eternal sky.

Under the auspices of a great power. Those who disobeyed Abdullah's order were sentenced to material damage and death" (picture 7).



**Picture 7. Abdullakhan's paiza**

Interesting evidence has been found that the documents of movement in the countries of the Middle East were of international importance. Merchants and various migrants traveling on the Great Silk Road were also stamped with paiza, which served as travel

documents. For example, paizas written in three languages (Persian, Chinese and Old Mongol) were found near the city Beijing and on the surface of that paizas were inscribed "Announcement. Beware of the wicked" (picture 8).





**Picture 8. Paiza written in Persian, Chinese and Mongolian. XIV century.**

When we examined the Golden Horde paints, it was discovered that they directly served to confirm a written document - the labels. If the document lost its validity for any reason, its owner continued to use the payzza until he received a new label. With the introduction of Islam in the nations during the reign of the Uzbekkhan, the words "By the power of the Eternal Heaven" were replaced by the symbol of faith - the word testimony "there is no god despite of Allah, Muhammad is the Messenger of Allah".

At the same time, the constant movement of countless armies and their tribes, family members, and herds during the Mongol period, the deportation of people from rebel cities, the forced relocation of artisans, and the growing need for slave labor temporarily disrupted economic life in towns and villages<sup>29</sup>.

In such a complex historical context, the phenomenon of Amir Temur appeared on the world stage. The French Timurid scholar Jean Oben points out that Amir Temur was not stunned by the chaotic and illegal migration processes inherited from the nomadic tradition of the Genghis Khans. Amir Temur

focused all his organizational skills on solving the problems that arose, and as a result established order throughout the kingdom<sup>30</sup>.

The establishment of a centralized state by Amir Temur in the XIV century laid the foundation for the transition of legal institutions from the customary law to the level of natural law. In particular, the work "Political and Military Institutes of Tamerlane" states that Amir Temur divided his kingdom into 12 categories and acted on their basis (picture 9). It is noted that the twelfth of these categories were tourists and strangers (migrants) who knew other countries well, for whom he ordered the construction of rabats (caravanserais) on the roads and the construction of bridges over the rivers<sup>31</sup>.

<sup>29</sup> Keren L., Saidov A. Amir Temur va Frantsiya / To'ldirilgan va qayta ishlangan ikkinchi nashr. – Toshkent: "Adolat", 2016. – B.313.

<sup>30</sup> Aubin J. Comment Tamerlan prenait les villes// Sudia Islamica XIX, Paris 1963, – P.83-122.

<sup>31</sup> Khamidova M. Uzbekiston davlati va huquqi tarixi. –T.: TDYI nashriyoti. 2004. – B.80.



Picture 9. Persian version of “Political and Military Institutes of Tamerlane” in 1861-1862.

#### State Museum of Timurid History.

In addition, Amir Temur appointed observers and officers on the road, who monitored the passengers and helped them to deliver their property and other belongings from place to place, as well as ordered them to be responsible in case of loss, death or other misfortune. In addition, Sahibkiran - I took half of the world, and from one end of my kingdom to the other I established a discipline that would not harm a single child if he carried a bowl of gold on his head. In addition, Sahibkiran wrote that he had taken half of the world, and that from one end of the kingdom to the other he had established a discipline that would not harm a single child if he carried a bowl of gold on his head<sup>32</sup>. This meant that in the Timurid state, the rights of any migrant,

<sup>32</sup> Temur tuzuklari. Forschadan A.Soghuniy va H.Karomatov tarjimasini. B.Akhmedov tahriri ostida. – T.: Gafur Gulom nomidagi nashriyot-matbaa birlashmasi, 1991. – B.94-95.

their safety and freedom of movement are highly guaranteed<sup>33</sup>.

French Timur scholar Lucien Keren writes, “Amir Temur had set up police and departmental surveillance there to control the influx of transient tourists and displaced people. Because the settlement of the population in this region and the placement of masters, specialists in various fields, regardless of their origin, was one of the most important tasks of Timur”<sup>34</sup>. It is clear from this passage that a certain system aimed at regulating migration processes was introduced in the Timurid state.

Amir Temur regularly monitored the functioning of the public administration system through worthy people. For this

<sup>33</sup> Keren L., Saidov A. Amir Temur va Frantsiya / To'ldirilgan va qayta ishlangan ikkinchi nashr. – Toshkent: “Adolat”, 2016. – B.50.

<sup>34</sup> Keren L. Temuriylar davlatining asoschisi va hukmdori Temurbek elchi Clavijo nigohida // Andijonda Sohibqironni khotirlab: ilmiy-nazariy anjuman materiallari. – Andijon, 1996. – B.21-27.



purpose, special ministers have been appointed for each country. In particular, the task of arranging the property of the missing, travelers (travelers and traders), the property of the insane, the property without heirs, fines imposed by judges and shaykhulislam are entrusted to a separate minister<sup>35</sup>. He is the minister who manages the property belonging to the homeless, the dead and the fugitives, the zakat and duties levied on the property of the incoming (merchants and tourists), the livestock of the country, their pastures, and saves the proceeds from all this as a deposit<sup>36</sup>.

Based on these sources, we can conclude that this special ministry, which operated in the state of Amir Temur, was a service similar to the current General Directorate of Migration and Citizenship of the Ministry of Internal Affairs and performed most of its functions.

It is known from history that this strict discipline, established due to the just policy of Amir Temur, was continued by the Timurid princes after his death. In this regard, Hussein Boykaro said in his pamphlet: "At that time, migrant traders, foreigners and strangers, out of fear of robbers, had to go through a lot of difficulties and innumerable hardships on the way to their destination. At this time, under my rule, the winds of politics blew away the remains of those helpless people from the steppes of the countries and carried them to the fires of hell. Not only has a skyscraper been built at each stop for visitors, but a huge fort has been built to provide security that will benefit passengers in the cold weather and

provide shade to those in the heat. Apart from shade and shelter, everyone can find what they want in it, they can easily get what they want. In each of those fortresses, there are many soldiers and a group of specially trained warriors, guards, to repel a group of bad guys and destroy the roadblock"<sup>37</sup>.

After the Timurid dynasty, the disintegration of the centralized kingdom led to the emergence of khanates and the establishment of boundaries between them. This, in turn, has further complicated migration institutions in the transition from one state to another.

According to the judicial reforms carried out in the Emirate of Bukhara during the reign of Amir Shah Murad, in order to restore and develop Samarkand, many people were relocated there from Uratapa, Khavas, Tashkent, Andijan, Kattakurgan, Termez<sup>38</sup>. In this regard, this category of population can be recognized as "forced displaced persons" in modern migration law. Consequently, the term internally displaced persons applies to a person or group of persons who are compelled to leave their homes or places of habitual residence as a result of an incident caused by human activity.

From the 18th century onwards, the defeat of the Uzbek khanates against Tsarist Russia had serious negative consequences. For example, under a ceasefire agreement between the Khiva Khanate and the Russian Empire, the khanate undertook to ensure freedom of movement and security for Russian traders, as well as to prevent and extradite Russian citizens and Russian criminals who arrived

<sup>35</sup> Temur tuzuklari. Forschadan A.Soghuniy va H.Karomatov tarjimasi. B.Akhmedov tahriri ostida. – T.: Gafur Gulom nomidagi nashriyot-matbaa birlashmasi, 1991. – B.100.

<sup>36</sup> Temur tuzuklari. Forschadan A.Soghuniy va H.Karomatov tarjimasi. B.Akhmedov tahriri ostida. – T.: Gafur Gulom nomidagi nashriyot-matbaa birlashmasi, 1991. – B.100.

<sup>37</sup> Shoh va shoir Khusayn Boyqaro to'plami. Nashrga tayyorlovchi A. Erkinov. – T.: "Sharq" NMAK, 1995. – B.19.

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without special government permission<sup>39</sup>. In addition, farmers from many parts of Central Russia were relocated to the fertile lands of Turkestan<sup>40</sup>. In the last 35 years of the 19th century alone, a total of 7,075,000 people migrated to Uzbekistan from Russia, or an average of more than 2,000 a year. Most of the migrants are located in cities, including Tashkent.

There is also interesting information on the civil legal status of the khanates and emirates. For example, since 1873, as a result of the restriction of the powers of the khans in Khiva, the supreme bodies representing the domestic and foreign policy of tsarism, many Khorezmians received Russian citizenship<sup>41</sup>. According to the Uzbek legal scholar M. Khamidova, the Bukhara khanate collected customs duties from stateless persons or foreign traders, the amount of which depended on the level of international political relations of the khanate<sup>42</sup>.

The regulation of migration relations is a strategic issue in the public administration of the emirates and khanates. For example, one of the 10 most important directions at the Bukhara Congress of People's Deputies was the acquisition and loss of civil rights, the adoption of laws determining the legal status of foreign citizens entering the country<sup>43</sup>.

Jadidism also aims to carry out certain reforms in the legal framework of migration. For example, the programs of the "Ittihodi tarakkiy", "Ittihodi milliy" and "Milliy istiklol" parties set specific tasks and measures to protect human rights, such as freedom of movement and privacy, which are grossly violated in the country<sup>44</sup>.

Approved by the Russian emperor on June 12, 1886 and in force until mid-1917, the "Regulations on the Administration of the Provisional Territory" served the official formation of a number of institutions of migration law in Central Asia. In particular, the document provides for the establishment of direct contacts with the Emirate of Bukhara and the Khiva Khanate, as well as the deportation of indigenous peoples deemed politically harmful to the territories agreed with the Ministry of Internal Affairs for no more than 5 years, deportation of citizens of neighboring countries (if their activities are considered harmful)<sup>45</sup>.

The passport-visa issue is shaped as a unique. For example, the authorized political agent of the Governor-General of Turkestan for Bukhara, to some extent, performed some of the functions of the current Ministry of Foreign Affairs and signed the Bukhara-Russian agreement of 23 June 1888 on resettled Russian settlements. At the same time, the Political Agency had the authority to issue visas to passports of Bukhara citizens traveling to Russia. In particular, by 1900, 2,428 Bukhara citizens had been issued visas<sup>46</sup>.

<sup>39</sup> Istoriya gosudarstva i prava / N.P.Azizov, F.Mukhitdiov a i dr. – T.: Akademiya MVD Respubliki Uzbekistan, 2019. – S. 201.

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<sup>42</sup> Khamidova M. Uzbekiston davlati va huquqi tarixi. –T.: TDYI nashriyoti. 2004. – B.104.

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<sup>45</sup> Khamidova M. Uzbekiston davlati va huquqi tarixi. –T.: TDYI nashriyoti. 2004. – B.123.

<sup>46</sup> Sarsembaev M.A. Mejdunarodnoe pravo v istorii Kazakhstana i Sredney Azii. Uchebnoe posobie

The abolition of the passport regime, discussed at the First Congress of All-Turkmen Muslims convened on April 16, 1917 at the initiative of the Tashkent branch of the “Shorai Islami”, was one of the most important issues of personal security and freedom<sup>47</sup>.

According to Section 4 of the Constitution of the Turkestan ASSR of October 15, 1918, while the issues of international relations were mainly concerned with the Commissariat for Foreign Affairs, the Turkestan People's Commissariat of Internal Affairs was also partially engaged in foreign policy issues within its competence. For example, the international division registered foreigners who had acquired Russian citizenship, and had the right to deprive them of Russian citizenship and issue passports for going abroad<sup>48</sup>.

An agreement on the rights of refugees was also reached between Turkestan and Xinjiang (Western China) in April 1920. The agreement, known as the Ili Protocol, addresses the issue of repatriating refugees who have been forced to flee their homes for various reasons<sup>49</sup>.

The Constitution of the Bukhara People's Soviet Republic of September 23, 1921 did not contain norms on freedom of movement (picture 10).

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(1991), Kazakhskaya elektronnyaya biblioteka, 2014. – S.38.

<sup>47</sup> Khamidova M. Uzbekiston davlati va huquqi tarikhi. –T.: TDYI nashriyoti. 2004. – B.132.

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**Picture 10. The first set of laws of the Bukhara People's Government of 1922.**

However, the Constitution provides for a separate article on the institution of asylum in the law of migration, according to which the right to asylum in the territory of the state is granted to foreign nationals persecuted for their political and religious views (Article 13)<sup>50</sup>.

According to Article 26 of the Constitution of the Khorezm People's Soviet Republic of May 23, 1921, the rights of emigrants were strengthened for the first time. According to it, the Republic of Khorezm granted the right to peaceful and free residence on its territory for emigrants who left the country due to their political and religious views<sup>51</sup>.

According to Article 12 of the Constitution of the Khorezm People's Soviet Republic of July 23, 1922, all citizens had the right to freely choose their place of residence and move freely within the country, as well as in the territory of other allied Soviet republics. The

right to asylum for foreign nationals is also guaranteed (Article 21)<sup>52</sup>.

Our comparative analysis showed that, unlike other allied republics, including the Bukhara People's Soviet Republic, the basic laws of the Khorezm People's Soviet Republic were distinguished by the constitutional guarantee of the right to migrate.

Thus, from the invasion of Tsarist Russia to the 1920s, migration relations in Central Asia, including Uzbekistan, were regulated in a unique way, characterized by a dual mixed system that is Muslim law and the legislation of the Russian Empire.

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