
«ЖЕНСКИЙ» ВОПРОС В КАЗАХСКОЙ СТЕПИ (19-НАЧАЛО 20 ВВ.)

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На основе анализа многочисленных архивных документов (19-начала 20 вв.) в статье – выдвинута основная исследовательская гипотеза, согласно которой – в колониальный период традиционное кочевое казахское общество подвергается существенной трансформации. Изменения коснулись всех сфер жизни казахов, в том числе наблюдаются новые явления в социальных отношениях, когда изменяются представления о месте и роли женщин в традиционном обществе. Это приводит к росту активизации женщин, увеличению попыток защитить свои «женские» права, путем подачи прошений в русскую колониальную администрацию разного уровня.

Ключевые слова: «женский» вопрос, гендер, адат (обычное право), левират, кочевое общество

‘WOMEN’ ISSUE IN THE KAZAKH STEPPE (19-BEGINNING OF 20)

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ABSTRACT

The main research hypothesis of this article is put forward based on the analysis of numerous archive documents (19 - beginning of the 20 cc). According to it, the Kazakh society underwent a significant transformation in the colonial period. Changes have affected all spheres of Kazakhs' life and include new phenomena in social relations when perceptions about the role and place of women in traditional society are changing. This leads to growth of women's role, increase of attempts to protect their 'women' rights by submitting claims to the Russian colonial administration of various levels.

Keywords: 'women' issue, gender, adat (customary law), levirate, nomad society

1. INTRODUCTION

Gender history is one of relevant directions of contemporary scientific researches both in the West and in the territory of the whole post-Soviet space.

It should be noted that contemporary authors are considering a highly diversified range of themes on gender problems covering various historical epochs, regions. For instance, the interest by contemporary Russian authors to the 'women' issue in nomad and settled society on the example of Turkestan and Kazakh steppe in colonial period is found in a number of published articles [1]. Thus, O.I. Busina in her article 'Marriage and divorce in people's court of Turkestan: interrelation of adat and shariat during rule of Russia' on the basis of archive data considers the practice of marital cases processing in the peoples courts on the example of Turkestan in the second half of 19 – beginning of 20 cc, comes to conclusion that under influence of Russia's rule a certain transformation of adat and shariat takes place, though *"direct rapprochement of traditional systems of legal process with Russia's legislation on the basis of any derivations didn't take place"*.

As for the researches from Central Asia including Kazakh authors concentrate their attention mostly on analysis of gender history issues connected with recent period (starting from 1990-s) [2].

It should be noted that issues of Kazakh's family law including types of marriage were studied by several authors starting from 1920-s mostly in the context of summarized ethnographical works on the results of expeditions to regions of Kazakhstan [3].

Ethnographical works considering directly issues of the Kazakh's marriage and family relations are starting publishing only since 1970-s [4].

2. MATERIALS AND METHODS

This article is based on analysis of interesting archive documents – numerous claims of Kazakh women (19 c.) to the Russian administration with requests on divorce, marriage with their free and full consent, refusal from repeated marriage (levirate). These archive data are filed in the fund of the Central State Archive of the Republic of Kazakhstan (funds: 374 Border administration of Siberian Kyrgyz, 345 Regional administration of Siberian Kyrgyz; 369 Akmola regional management; 744 Akmola outer district order on border management by Siberian Kyrgyz; 64 The Office of Steppe Governor General; 338 Omsk Regional Administration). Main research materials include also researches of pre-revolutionary authors, publications and etc.

While preparing this article a range of historical research methods were used: structural analysis of archive sources, comparative analysis.

3. RESULTS

The main issue which is central to our research is petitions of Kazakh women (in 40-s XIX – beginning of the XX cc.) to the Russian administration with requests on divorce, granting right to

marriage with free and full consent, on refusal from repeated marriage (levirate). In this paper we are looking at analysis of archive sources regarding Kazakhs of Middle Juz (present-day territory of central, north, north-eastern and eastern Kazakhstan). During colonial period in the result of administrative reforms the territory of middle Juz became part to 'Region of Siberian Kyrgyz' according to the Charter on Siberian Kyrgyz 1822, to West-Siberian governor-generalship – according the provisional regulation dated October 21, 1868 'On administration in Uralsk, Turgaysk, Akmola and Semipalatinsk regions', to Steppe governor-generalship – according to the "Provision on governance of Akmola, Semipalatinsk, Semirechensk, Uralsk and Turgaysk regions" dated March 25, 1891 [5].

Before detailed analysis of Kazakh women's petitions to the Russian administration let's have a look at what forms of marriage were practiced by Kazakhs according to customary law – adat. Thus, customary law included the following basic forms of marriage connected closely to each other:

1. kalym marriage (qalyn mal);
2. marriage without kalym (bel quda);
3. cradle betrothal (besik quda);
4. exchange marriage (qarsy quda);
5. marriage by abduction (bride abduction);
6. marriage with workout;
7. levirate (emengerlik);
8. sororate marriage (baldyz alu).

The most widespread form of marriage among Kazakhs was kalym marriage – matchmaking and purchase of the bride for a kalym. Our research is devoted to levirate taking into account that many appeals women were connected with refusal from such form of marriage. According to Kazakhs' levirate law, after the death of the husband the widow in one year had to marry brother of other close relative of the deceased husband. The widow together with her children and property is inherited by new husband. The Kazakhs' levirate law covered not only widows but also proposed brides in case of the groom's death [6].

According to famous Kazakhstan ethnographer K.A. Argynbayev many authors addressed levirate with prejudice "…without taking into account many significant details and variants, and what is most important considered levirate as a right held only by men. Kazakh widowed women enjoyed levirate right themselves. In one cases they could take initiative in levirate, choose freely husband among amengers, and refuse from levirate or repeated marriage at all and etc." [7].

Nevertheless, there were cases when women were not satisfied with their marriages and went before biis court for a just solution. Unfortunately, we do not have archive data on the issue how often did the women found response to marriage claims in biis court and can imagine picture only according to indirect sources first of all according to materials of Kazakhs' customary law collected and written by Russian researches. According to these materials women in nomad society according to customary law had a right to submit complaints to biis court on their husbands and even require divorce.

Thus, what reasons for divorce were prescribed according to adat? The marriage was dissolved according to the following reasons:

- Because of husband's poorness, if the wife complains that the husband wasn't able to sustain her;
- Because of husband's physical incapability; the wife had a right to marry brother-in-law or any other person.
- Because of spouse minor age;
- Because of husband's abusive treatment [8].

While divorces in Kazakh traditional society were quite uncommon, but they existed, women were also initiators alongside with men. It should be taken into account that divorce was

not a personal deal of spouses. The spouses were connected with each other by issues of heritage and property division, first of all with kalym issue, accordingly were resolved on the level of two family-relative group – husband's family and wife's relatives. Thus, when resolving marriage cases alongside with other according to provisions of customary law the biis court supported interests of the group not of an individual. Most likely that's why women not satisfied with awards on their claims in the system of adat began appealing the Russian authorities and hoped to obtain reward in their favor.

Did any changes take place in the system of family-marriage relations of nomads in the result of colonial reforms?

According to the "Charter on Siberian Kyrgyz" 1822 under which the legal framework of colonial administration was set for the first time over Kazakhs' Middle Juz territory, all court cases of nomads were divided into three types: criminal, ordinary claims and complains on Administration. There are no specified articles in the "Charter" concerning Kazakhs marital and family relations and all these issues were related to ordinary claims which should be considered by biis court in auls and volosts. What draws attention is content of the article 218 according to which those who were not satisfied with resolution of biis *"then with provision of clear evidences can reopen the case after filing a written appeal to the regional command"* [9].

Based on articles 162 and 163 of the Provisional regulation of 1868 "On administration in Uralsk, Turgaysk and Ak-mola and Semipalatinsk regions» marriage and family cases of Kazakhs were under biis court regulation, but *resolution of the latter on claims of the parties could be revised by the district captains and in some cases submitted for consideration to the Governor* [10].

After introduction of the Provision on administration of Turkestan Krai 1886 and the Steppe Provision 1891, changes were brought to the order of nomads family-marriage cases resolution. Such cases were removed from purview of the colonial administration and transferred for consideration to peoples courts.

It is remarkable that such type of changes created discontent by the colonial administration of the highest level locally. In 1893, the military governor of Turgay region solicited the Ministry of Internal Affairs to maintain the order of resolution of marriage cases among the nomads in the Steppe according to the Provision 1868 when there was a possibility to influence biis court decision. In his view: *diversion of marriage and family cases from judicial proceedings of the administration will not comply with the Russian interests and it will be marked as a step back in strengthening the Russian influence among Kyrgyz Muhammedian population... At last, it unlikely that the Russian rule will win and in through the Kyrgyz women will lose its earnest worshippers* [11].

In this 1893 year, similar application was sent to the Minister of Internal Affairs from the Steppe general-governor baron von Taube in which he comes to opinion that it is necessary: *"to preserve the right of administration to influence resolutions of marriage and family cases, according to provisions which were in force till present time in order to protect women from customary law actions which are often in full conflict with humanity ideas"* [12].

Successor of baron von Taube in the post of the Steppe general-governor – general lieutenant Sukhotin in 1902 and 1906 submits repeatedly in the name of the Ministry of Internal Affairs with the solicitant to *"reestablish the order of Kyrgyz's marriage family cases resolution in Steppe regions, which existed according to clauses 162-163 of the Provisional Regulation 1868, before introduction of the regulation as of March 1898"*. And receive an answer from the Ministry of internal affairs that *"proposals of the Chief Command of the krai on this subject can be fulfilled in case of general transformation of management in the Steppe regions"*. Accordingly, the central part seemed reluctant to interrupt into family and marriage cases of nomads.

We now turn to the analysis of supplications and petitions of Kazakh women to the colonial administration, which became a reference of our research. All these petitions from the point of view of representatives of the colonial authorities were considered as increase of

women's civility level directly under the Russian influence. As one of the authors in XIXth century wrote: *"Kyrgyz woman have seen and appreciated other relations, became aware of more high requests, she needs education and she comes to realization that circuits of slavery, violence oppressions are unbearable. The natural consequence is that Kyrgyz woman, though gingerly and rarely, started making attempts to cast off the shackles of lawlessness and to win any freedom..."* [13].

Did these words correspond with reality, what really happened in the practice? We are dealing with a very interesting material –numerous petitions and supplications of Kazakh women in the name of officials of different level in the colonial administration. But we should take into account that these petitions and supplications were not written by women, but according to given information – translated and written by various translators and interpreters. Such service was provided to women only by men and it could be only Russian Kazaks, townies and other persons. How precise could these translators translate all said by women and not to mispresent meaning of these oral petitions? A difficult task before us: to try to hear the real voices of Kazakh women in these petitions.

During work with fund inventories of the Central State archive of the republic of Kazakhstan: 374 Border Administration of Siberian Kyrgyz; 345 Regional management of Siberian Kyrgyz; 369 Akmola regional administration; 64 Office of the Steppe general-governor, we divided cases connected with petitions of women into time frames: first of them cover 40-50 yy. XIX c and second– 80-90 XIX – beginning XX cc. We noted that the number of second far exceeds the number of first. There are no cases of such type dated by 60-70-s XIX c. First petitions were submitted to the Boundary Commander of Siberia Kyrgyz (Kazakh) region; second – in the name of military governors of Akmola and Semipalatinsk regions and directly to the Steppe general-governor. Wording and character of these petitions differs from each other. For example, in petitions submitted in 40-50-s XIX women often complained on violence by husbands, for marriage of juveniles. In the second case, the same complaints are added by refusals from repeated levirate marriage and issues connected with it (kalym). While reading and analyzing petitions of 80-90s XIX – beginning XX cc it would seem that women voices are becoming stronger and more confident. As highlighted above petitions in these years were more than in previous years, which made drafters of such claims for more confidence included often reference to paragraphs and articles of laws. Thus, we found the following in one of such petitions: *The Lord Emperor had declared personal freedom in the Manifest dated October 17, 1905. Does his force apply to the situation of Kyrgyz women?"* [14]. What explains such 'confidence' in petitions of women? In post-reform period Kazakh traditional society witnessed a range of serious social-political transformations which is first of all connected with weakening of family-line relations and from other side – gradual strengthening of individual family institute. It was difficult for women – submit claims and try to protect their rights. They experienced significant difficulties: starting from that the fact of petitions submissions to the colonial administrations – went against existing traditions and customs. Also, women had to travel quite a distance to Omsk, find right people to write these petitions and many others. We can suppose that women without money were not able without material and moral support of relatives as fathers and brothers submit such petitions within different authorities of colonial administration and rely on their satisfaction. This is demonstrated by archive materials, where petitions were filed not by the women themselves but fathers and brother act in their names as proxies [15]. In some cases, women with aim to resolve claims in their favor threatened that will adopt Christian faith, forcing influential people in the volosts to assert pressure on husband and his relatives to recognize their independence [16].

According to archive materials we can trace that so called claim procedure or process, when women submitted complaints to biis court (references in this claims) and finding no satisfaction resent to volost or district administration, ended with highest authorities on the level

of governors and the Steppe general-governor. This implies that women used all possibilities to ensure their claims.

Ahead is not less interesting question: what was reaction of the representatives of colonial administration whom numerous petitions of women were addressed?

In response to women's petitions submitted in 40-50s of XIX c the Border administration of Siberian Kyrgyz – administration, although ordered “*ensure satisfaction of claim to suitresses*”, but eventually resent for consideration to local religious officials to review and adopt resolution according to “Mohammadan law”, applications in 80-90s XIX – beginning of XX cc submitted in the name of the Steppe general-governor – to biis court according to be reviewed according to peoples traditions. Accordingly, the Russian authorities, in fact, were not imposing any standards alien to local population, and tried to base on local customs. The process of claims submission protracted for indefinite time and according to numerous archive sources it was difficult to find out how these cases ended up.

In rare instances when women claims were not connected with property issues, as marriage with minor, resolved in their favor but often other claims had “no consequences” as written in many resolution of the administration. In some cases resolutions of different authorities of colonial administration on marriage issues of Kazakhs contradicted each other. For example, district administration could take resolution to satisfy woman's claim, which provided her a right the right to marry freely and Regional administration could revoke this decision, and in its turn the highest authorities in person of the Steppe general-governor adopted final resolution “*To set aside the Resolution of the District Administration on divorce proceeding and order fulfilment of the district head. Take the property claim for consideration to biis court*” [17].

Thus, marital and family cases of nomad population were a great confusion for all links of the colonial administration (by their own admission). In many cases, resolutions of Russian authorities contradicted with legal system of nomads, which lead to lengthy processes.

4. CONCLUSION

From the foregoing we can arrive to the following findings: 1) according to opinion of Russian officials, Kazakh women could take on role of successful distributors of Russian culture in traditional society; 2) marital and family cases of Kazakh nomad population represented “great confusion” for Russian colonial administration (by their own admission). In many cases, resolutions of Russian authorities contradicted with legal system of nomads, which lead to lengthy processes; 3) colonial authorities although demonstrated practical incapability to resolve nomads' marital and family cases radically, change according to own legal provisions, but nevertheless made attempts to influence indirectly resolutions of biis courts, changing them in the favor of women; 4) from other side– customary law of nomads (adat) had changed itself, adapting to new rules and conditions. According to archive materials we can trace easing and even change of some legal regulations in the process of adaptation of customary law to requirements of Russian rule. First of all it concerns the possibility to change marriage unacceptable for a woman by material compensation, i.e. return of kalym.

One more issue which deserves our attention and deep analysis in future: comparison of adat and shariat provisions on women issue. Notwithstanding that every-day life women of nomad peoples had more freedom in comparison with settled Muslim peoples, but in legal respect the last were more protected. The woman in society with regulatory Islamic culture has a right on personal property – *mahr*. Whereas woman in nomad societies has almost no rights on property, even the dowry becomes the property of the husband, family or relatives.

That's probably why: judicial and legal insecurity of nomad women became the main reason why after Russia's advent to power they attempted to find protection through them and contested their rights?

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