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## **FROM THE HISTORY OF LAND OWNERSHIP OF THE TASHKENT BEGLIK (BEGINNING OF THE 19th CENTURY)\***

**Abstract:** The article highlights and analyzes based on archival documents and historical sources the issues of land ownership in Tashkent in the early 19th century. Researched: the influence of Muslim law on the solution of land issues in the region, the harmonization of Muslim law and local customs in agriculture. Based on the above analysis, it is concluded that in Tashkent before the invasion of the Russian Empire, there was a peculiar and full-fledged legal institution of land tenure. Which was part of the legal institution of the Kokand Khanate and relied on Sharia law and the primordially ancient traditions of agriculture. The study was conducted based on the principle of historicism. In the course of the study were used a microhistorical approach, comparative, systematic, content analysis and problem-chronological methods.

**Keywords:** Kokand Khanate, Tashkent, land ownership, wasiqa, sharia, ādat, taxes, kharaj, waqf

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## **ТАШКЕНТ БЕКТИГІНІҢ XIX ҒАСЫРДЫҢ БАСЫНДАҒЫ ЖЕР ИЕЛЕНУ ТАРИХЫНАН**

**Андагна:** Мақалада XIX ғасыр басындағы Ташкенттегі жер иелену мәселелері мұрағат құжаттары мен тарихи дереккөздер негізінде айшықталып, талданған. Сондай-ақ бұл мақалада ислам құқығының елдегі жер мәселесін шешуге әсері, ауыл

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шаруашылығындағы ислам құқығы мен жергілікті әдет-ғұрыптарды үйлестіру мәселесі зерттелді. Жоғарыдағы талдаулар негізінде Ташкентте Ресей империясының шапқыншылығына дейін жер иеленудің өзіндік және толыққанды құқықтық институты болған деген қорытындыға келеді. Қоқан хандығының құқықтық институтының бір бөлігі болған және шарифат заңдарына және егіншіліктің ертеден келе жатқан дәстүрлеріне сүйенген. Зерттеу тарихшылық принципі негізінде жүргізілді. Зерттеу барысында микротарихи көзқарас, салыстырмалы, жүйелік, мазмұндық талдау және проблемалық-хронологиялық әдістер қолданылды.

**Кілт сөздер:** Қоқан хандығы, Ташкент, жер иелену, уәсиқа, шарифат, адат, салық, хараж, уақф

## **Introduction**

One of the most complex and controversial issues in the history of Turkestan is the history of land ownership, water use and their development in Uzbek khanates at the end of the 19th century. The following factors can be distinguished among the most important ones that determine the complexity of studying the issue:

- \* The emergence of different forms of roles of the state authorities in the distribution of land and water resources owing to the specific nature of the socio-economic processes in different regions of the area, which resulted the formation of a relatively unique diversity in land ownership and water use in each region;

- \* Differences in existing traditions and legal norms in irrigated agriculture, the sources of Muslim rights in land ownership and discrepancies in existing practice;

- \* The influence of views on the theory and practice of land ownership, which was established by Russian colonial administration in the region, on further research and interpretations devoted to this problem.

Researchers who are delving the agrarian relations of the 19th century Tashkent region, in particular, the system of land ownership and water use, may encounter the above-mentioned issues. The Tashkent province under the study was a part of the Kokand khanate. During this period, all the large administrative units of the Kokand Khanate<sup>1</sup> were called “Beglik”, but

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<sup>1</sup> Kokand is a new state established in Ferghana valley disunited from Bukhara Khanate at the beginning of the XVIII century. The khanate was founded by the Mings of natives. (Levi, 2017).

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Tashkent had a special status among them and was ruled by “Beglar-begi [Beg of Beks]”, and not by an ordinary “Beg”.

### **A brief history of the Tashkent Beglig**

In 1784, Yunus khwāja, the son of the former governor of Shaykhāntāhur quater, separated Tashkent from Bukhara dominance and pursued an independent policy. Tashkent province had its own management system. Yunus khwāja had four councillors. The control of Tashkent city and tax collection was headed by Bosh khwāja, and trade was controlled by qadi and diwanbegi. The official in the position of Ra’is was responsible for the control over the implementation of Sharia laws, prices, and measurements. Yunus khwāja defeated the attacks of the Kazakh sultans and subjugated the cities such as Sayram, Shymkent, Turkestan, Kurama, Karabulāk to Tashkent at the end of the 18th century. The increase in the status of the Tashkent principality perturbed Kokand khans. In 1799, Kokand ruler Nārbota Biy marched on Tashkent, but he was defeated in the battle near Chirchik. Kokand ruler Ālim Beg received the title of “Khān” in 1805, and then the state established in Ferghana was officially called the Khanate of Kokand. After the death of Yunus khwāja, the troops of Kokand Khān Ālim Khān marched on Tashkent and in 1809 and subjugated Tashkent, Shymkent, Sayram and other territories belonging to it to the Kokand Khanate (Babadjanov, 120-134). Thus, cities and districts such as Tashkent city, Kurama, Shymkent, Turkestan, Awliyā āta, Sayram were governed by Tashkent principality which was the largest of the fifteen principalities of Kokand Khanate from the beginning of the 19th century (Ziyaev, 16; Sultonov, 2007: 59). Considering that, it is appropriate to analyse the land ownership relations in these areas within the framework of the legislation of the Kokand Khanate.

### **Legal foundations of land ownership**

If we dwell on the legal basis of land ownership in this period, it unequivocally becomes clear that all legal relations in the region were regulated on the basis of Islamic law. As a result of the development of Islamic Fiqh [jurisprudence] in Central Asia, starting from the 16th century faqihs developed fatwa collections, jungs<sup>1</sup> and treatises on various issues of social life, which served as ready-made guides for muftis, scholars and judges.

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<sup>1</sup> In Central Asia a jung was understood as a collection on fiqh “majmua’ al-masā’il”, and used by qadi, as a source of solving problems in judicial practices.

Among the fatwas and narrations, special treatises were also developed on the relationship between land ownership and water use. An example of this is the work “Risāla-ī Habibiya” on ushr and kharāj lands written by Ibād al-Allāh ibn Khwāja Ārif Bukhārī in the 18th century (Morrison, 4). In the work, the author tried to justify the forms of land ownership in the region and the reasons for their emergence by sharia (NAUz, R-2678-1-167). Treatises in this character were applied in practice not only in entire territory of Bukhara, but also throughout Tashkent.

One of the most common documents was the riwayat among these treatises till the beginning of the 20th century and they were widely used to regulate legal relations between people. “Riwayat” documents were originated from “fatwas” in Islamic legal system of Central Asia from about the 16th century (Sultonov, 2016: 29), and they were considered the main source of qadis’ verdict on legal issues.

The document called Riwayat (fatwa) is a formal statement of the muftis, which reflects the conclusion of the mufti regarding the solution of an issue providing with citations from jurisprudential works as its proof (Isogai, 262). Signs of fatwa were specified for some of the riwayat and issues that reflect the jurisprudential views of the Hanafī school. Their introduction into practice is called “ma’mula” (Sartori, 278), and they can be compared to “legal precedent” in the Anglo-Saxon legal system. For example, according to Islamic scholar N. Mirzaev, the issues presented in the work “Mukhtasar al-Wiqāya” were all used in practice at the level of “ma’mula”. Many references to these legal sources can be found in the riwayat documents and wasiqas<sup>1</sup> [notarial document] of Tashkent qadis.

According to Sharia, as was in all khanates of Central Asia, land ownership was divided into three main categories in Kokand Khanate: state, private and waqf lands.

## Types of land ownership

In the economic documents of the Khanate, the terms such as “zamini mamlākai khāniya” (NAUz, 1043-1-3) or miriy, pādshāhi were used for state lands, while unowned lands were categorised as “zamin-i bilā mālīk”<sup>2</sup>. It is noteworthy that the term “amlāk” in relation to state lands is not found in the documents of Kokand khanate. Mostly private properties are meant under the name of amlāk in the documents. An example of this is the waqfnama of the Rustambek dādkhāh’s son Fāzilbek dasturkhānchi can be shown. The

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<sup>1</sup> Wasīqa is a document. It is a certificate in Near and Middle East countries, as well as in Central Asia. It is a document formed about land and property purchase and sale.

<sup>2</sup> “زمین بلا مالک” – Persian and Arabic. Ownerless land.

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document states that he donated 20 batman<sup>1</sup> of land in the west of Tashkent city as waqf to the benefit of the Zangi Āta mosque in 1855. The document was sealed by Khudayār Khān of Kokand (NAUz, 17-1-32663). The waqfnāma states the owner of the property “az atyāb al-amwāl wa ahsan al-amlāk” [he is endowing his land, which is one of his best goods and best properties, to the waqf]. It can be concluded that if the term “amlāk” had meant state land in the khanate, naturally this term would not have been applied to private property in the waqf document. Furthermore, the term “amlāk” can be seen in relation to private properties even in the waqfnamas of Bukhara<sup>2</sup>.

In this regard, our opinion is also confirmed by the fact that Schuyler<sup>3</sup>, who was in Tashkent during the colonial period of the Russian Empire, called the state lands in Turkestan “miriīé” (Schuyler, 298) - miriy lands. Besides, the term “mirī” is found in the administrative documents of the chancellery of the Kokand khans<sup>4</sup>.

According to Madjlisov, the term “amlāk” was familiarised by the colonial government to justify that all lands in Turkestan originally belonged to the state (Madjlisov, 73-75). Morrison states the opinion that amlāk is a concept used in regard to state lands in Bukhara by the 19th century. Despite this, the author himself did not accentuate this concept and associates “amlāk” with the system of “amlākdār” (Morrison, 95-102). However, the Sarkār or Beg implemented the role of amlākdār in the Kokand khanate. Although the term “amlākdār” is found in the documents of Kokand khanate’s chancellery, (NAUz, 1043-1-495), he was below the rank of sarkār or Beg. In addition, Muhammad Sālih Tāshkandī mentions Turkestan amlākdār as a tenant, a large landowner (Muhammad Sālih Tāshkandī).

Therefore, it can be concluded that the concept of “amlāk” lands considered state lands in Central Asian khanates or the lands belonging to the authorities were called by this term was not typical of Tashkent and Kokand Khanate in general.

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<sup>1</sup> It is weight measuring unit. However, 1 batman land means area where 1 batman (171,995 kg) grain is sown. It is equal to almost 1 ha of land.

<sup>2</sup> Landowners of Bukhara used this term for “mulki khurr-i khālis” lands that were exempted of taxes and fully belonged to themselves. See: NA RUz, Find. I-323, L. 1, doc. 317.

<sup>3</sup> Eugene Shuyler (1840-1890) was an American politician, traveler and writer. He traveled to Turkestan in 1873 and published his book basing on his travel impressions.

<sup>4</sup> Mirī – “ميري” (ap.) is used the the land belonging to rulers, in archive document it means the land belonging to the Khān personally. See: NAUz Fund I-1043, L. 1, doc. 646. The terms such as khoss, khossa are seen in some documents. See: NAUz. Fund. I-1043, L. 1, doc. 495.

Besides that, the share of state land was not large in the area under the study. Neither archival documents nor historical sources provide information about the widespread distribution of state lands in these areas. The available information shows that the state lands were mainly in the areas around the capital of the Khanate (Nabiev, 156-163; Troickaja, 4-14). This idea is supported by S. Levi who stated that the khans developed irrigation facilities mainly in Fergana valley and tried to centralize state lands throughout the valley (Levi, 61-76). Even in 1875, the commission of the Russian Empire, which studied the forms of land ownership in Syrdarya region, noted that there were only private and waqf lands in this area, and there were almost no lands belonging to the state or the khān personally (NAUz, 1008-1-84). Of course, this statement applied only to cultivated lands.

Uncultivated land of any kind was undoubtedly at the disposal of the state. Schuyler described these lands in Turkestan as “metruke” (Schuyler, 298), that is, abandoned lands. These lands, which are referred to as “qoriq [barren]” land (NAUz, 1043-1-496) in the archival documents of Kokand, are mentioned in Arabic form of the same word as “yābis” while defining the borders of private and waqf lands in Tashkent land sale deeds<sup>1</sup>. Barren land was always under the control of the khanate and according to Sharia, it belonged to the ruler.

Lands belonging to private property were formed on the following basis:

- According to Sharia, by “ihyā al amwāt”, which is converting barren (uncultivated) land to fertile land, a person obtained a relevant document of land ownership from a khān or beg after bringing water to the land, planting crops in it for three years;
- Tarkhān lands, which were allocated to a person for his services to the state, from state lands as private property;
- Inherited lands;
- Land acquired by purchasing it from the state or individuals.

Private land was classified into two categories: exempted of tax and taxable land. In order to turn the land into a tax-exempt “mulki khurri khālis (tax-exempt)”, the owner of the land was obliged to transfer to the state account some of his land in the amount of tax paid from his harvest (Geyns, 441).

Regarding the private lands that were owned by inheritance, it can be observed in the documents that they were named after the original (primary)

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<sup>1</sup> "يابيس" – unirrigated dry land. (NAUz, 164-1-16).

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owners. For example, in the “*bayi bāt*” document belonging to the Tashkent qadis issued in 1826, the land which was sold is mentioned as “*metruke Mulla Rahimjan*”. The document states that his two daughters sold the land inherited from their father for 20 gold coins. While defining the boundaries of the land, some lands were written as *metruke*, and some as property (NAUz, 164-1-14).

Considering the land as *metruke* for inherited lands is a real Sharia practice. It can be applied to any inherited object. That is, the term *metruke* is not only a concept of identifying land ownership.

Here, it is important to provide some views on the interpretation of the term. It is worth noting that in the works on Muslim land ownership written by Russian orientalists and under their influence, it is possible to observe cases of changing statements into terms when it comes to whole-Sharia practices and Khanate economy. As a result, it was concluded that there were different forms of land ownership and many taxes during the Khanate period<sup>1</sup>. U. Abdurasulov also expressed an opinion about the confusion of terms used by Russian and Soviet orientalists in his conclusions about Khiva Khanate’s private land ownership and land taxes (Abdurasulov, 32-46) and the same practice is seen in the study of land ownership and taxation system of Bukhara Emirate.

Besides, there is also information about “*tarkhān*” lands, which were allocated as private property from state lands to various individuals for their services to the state by Kokand Khans in the territory of the Tashkent province. For example, on the basis of a document certified by the seal of Muhammad Ali Khān, it can be said that Muhammad Ibrahim Mirshab was given 3 double (pair of oxen) land [the land in the amount of ploughing by two oxen] as *tarkhān* from lands in Mingorik quarter near Tashkent city (NAUz, 17-1-13271). The document also specifically accentuated to the governor, tax collectors and aksakals, as well as the property was private and inviolable. The practice of buying and selling private land, documents of inheritance and transfer to a waqf show that the right to free disposal of this form of property was ensured in the khanate. For instance, it is also known that the same type of land as above was converted into a waqf by Ahmad Parvanachi in Awliyā-āta (NAUz, 1008-1-84).

The information about the violation of private property rights by the state is not found in the sources. There is only information about the taxes that caused public dissatisfactions.

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<sup>1</sup> For instance, A. Zhuvonmardiev gave the list of about 90 taxes for economy, land ownership in different periods of Kokand Khanate. (Zhuvonmardiev, 182; Nabiev, 388; Troickaja, 582)

In the area under study, the main share of waqf lands belonged to the territory of Tashkent. It was the waqf land in Tashkent region that were later eyed by Russian colonialists. It is noted that the owners of most of the waqf properties, who were listed in the inspection documents of the Russian Empire, were the citizens of Tashkent city. Based on this, it can be concluded that due to a large number of properties and waqf lands in Tashkent region, as well as uncultivated land, the owners used fertile lands in regions such as Turkestan and Shymkent.

It is stated in the report that “In the city of Turkestan, waqf lands consist of two ditches called Ortoq and Supri, and the first ditch had water amounting to 70 qush<sup>1</sup> land, and the second watered 65 qush land”. “In Shymkent, the waqf land was established on two ditches located near Sayram. One of these endowment ditches belongs to the shrine of Mir-Ali Bābā in Sayram, and the other with the land area is 200 tanābs belongs to the mosque” (NAUz, 1008-1-84). The existing waqf lands in Shymkent and the income from them are given as follows:

- There was 700 tanāb of waqf land in Kāratepa quarter of Sayram village. During the Khanate period, 60 batman of wheat was harvested there, and after the occupation of the territory by Russians, the income was oriented to the treasure of the conquerors. That is, the right of waqf property in the use of land was suspended.

- the waqf land in Mār-tepe village was 700 tanābs, during the khanate period, it yielded 30 batmans of wheat, but after the conquest, it became an abandoned land.

- the conquest of the area by Russians also halted income from 2 tanābs of waqf land in the area called Ibrahim āta.

- Waqf lands belonging to the large mosque built by Ātabek dādkhāh, who was appointed Beg by the Khān of Kokand Khudayār Khān, in the city of Awliyā-āta in 1860 (NAUz, 715-1-23):

- 4 tanābs of land on Tashkent road and 4 tanābs of land in Chayquruq area.

- 4 tanābs of alfalfa land in Ākbulut area which is 10 versts<sup>2</sup> from Awliyā-āta.

These waqf lands were registered by Tora-khwāja Sharif-khwāja oghli who was a qadi of Tashkent. From this, it can be assumed that documents

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<sup>1</sup> Qush is not land measuring unit. It is used to denote the land cultivated with a couple of oxen. (Morrison, 12).

<sup>2</sup> 1 verst - 1,0668 km.



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related to waqf land, like other types of waqf documents, were formalised by Tashkent qadis in these regions. The above information proves that the share of waqf lands was also significant in the northern regions of Tashkent region.

In all forms of land ownership in the region, peasants worked on the basis of rent. However, in addition to giving the land for rent, some landowners used their land with the help of their own workers. For example, Abu Ubaydullāh Tāshkandī states that in addition to “chārikār” tenants, his workers “servants” also worked in his lands located along the Borijar ditch. (Abu Ubaydullāh Tāshkandī, 212). The author, who went to see yield during the harvest, noted the chorikors and servants separately.

Tenant farmers dealt with peasantry using the landowner's horses and tools. After paying kharāj in the amount of 1/5 of the harvested crop, a charikar handed over 3/4 of the remaining crop to the landowner (Vahidov, 64). He himself kept 1/4 of the harvest, that's why he was called “chahār yak [one fourth]” worker. If the cārikār planted cotton or white corn, he had 1/3 of the harvest earned after the above expenses. This practice is characteristic of the Fergana valley of the khanate, and in areas such as Tashkent and Turkestan, where the main crops are rice, 1/4 of the harvest was distributed to tenants (Turkestanskiy sbornik, 136). Besides, there were also “kārandas” in Tashkent who rented for half of the harvest and they worked in horticulture and cotton fields (Geyns, 442).

In general, while employing of farmers in rented land, their rights were regulated on the basis of relevant documents. Tenant farmers were not completely without rights and in a difficult situation during the Khanate period as it was noted by the authors of the colonial and Soviet period. Even in the lease documents, it can be seen that the owner of the land reduced the rent fee as a result of signing a lease agreement with the same villagers over the years. Sometimes it is possible to find that the leased land was transferred to the account of the farmers.

The study of the documents relating to land ownership indicated that “wasiqa” documents (ijāra, bayi bāt, tamlik, ibrā, waqf), which related to land ownership and issued by qadis, had the same form in terms of structure. Because only documents related to waqf had charitable peculiarity, they were much extended in structure than other documents (Sultonov, 2016: 92). The description of the land, for example, arable land (arāzi zirāat) (NAUz, 164-1-16) (it can also be a garden or a yard), its location (inside or outside the city, the name of the village or quarter) was given at the beginning of the document (introductory part). Then its borders were described in detail, and the name of the landowner of each border area, or the names of ditches,

roads, and abandoned lands were listed. Information about the size of the land was usually given in the main part of the document. It should be acknowledged that while making land borders, the border area was defined starting from the west in all documents (NAUz, 164-1-8). In our opinion, because of the direction of the qibla, the border areas were defined from the west.

After the information about the land is given (introduction), the main part starts with the date. It is stated the owner of the land and the process conducted in relation to the land. In addition, ability to deal of the persons mentioned in the documents is also noted separately. For example, in 1865, the wasiqa [deed] of sale certified by the seal of two qadis of Tashkent states: “In 1281 Hijri, in the holy month of Sha’ban, Turdi Muhammad Arslanbāy oghli, the wakil [representative] of a woman named Sabri nisā, sold the land in the quarter of Sirkechar ata located outside the city of Tashkent to Mir ārif Mir tālib oghli for 15 gold” (NAUz, 164-1-15). This document includes all the requirements we revealed above.

In the case witnesses were present, their names were written and the seal of the relevant qadi (or qadis) was placed at the end of the document. In general, it can be concluded that the pre-colonial land ownership documents of Turkestan are almost no different from modern notarial documents with cadastral data of their time. Sharia instruction was the main factor to require the participation of witnesses in the registration of land ownership documents. Besides that, the participation of local aksakals or neighbours as witnesses was also implemented in order to appropriately indicate the land area and its boundaries.

One of the documents related to land ownership in Turkestan is riwayats. At the top of the riwayat texts (in the right-side margins from top to bottom), quotations from Sharia sources are given in Arabic as evidence, and the title of the book is indicated below the quotation. Due to the large number of quotations in some narrations, some of them were also written below the seals. After the riwayats were sealed by qadis, they became a fatwa and entered into legal force (Geyns, 479). An example of this is the narratives stored in the National Archives in the 13<sup>th</sup> file of the collection of documents entitled “Tashkent Qadi kalāni” (NAUz, 164-1-13).

The collection consists of 38 riwayat documents on different issues and they were written between 1822 and 1892. One of them is the riwayat related to the authorization of the ownership of “tamlik” land. The document states that a person named Khushki-bek improved certain cultivated land for several years, planted trees and built buildings around it. After the demise of the landowner, the land was transferred to his heirs. Later, a person named

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Katta-bek claimed to be the owner of this land. However, he did not object before the qadī when the inherited land was transferred to the heirs, and he now started claiming again (NAUz, 164-1-13).

The riwayat was sealed by a total of ten people who studied the case: 1 a'lam, 7 muftis and 2 qazis were sealed. Finally, the issue was resolved in favour of the heirs based on the works of “Mukhtār al-Fatawā” and “Tatarkhāniya”. The date of issue of the riwayat is not mentioned while P. Sartori who studied this narration noted that the year 1245 Hijri (1830-1831 AD) was indicated in only one seal (Sartori, 56). However, thorough study of the seals in the riwayat from the left shows the dates such as the 1st seal 1230 Hijri, 2nd seal 1238 Hijri, 4th seal 1214 Hijri, 5,6,7 seals 1245 Hijri, 9th and 10th seals 1239 Hijri. That is, the narration was written in the pre-colonial period. There is a 36-year difference in the years in the seal and the colonial period (1865).

Furthermore, P. Sartori states a person named Katabek, who claimed land ownership in the riwayat, as a local administrator (manager), and connects this case to the issue of “ihyā al-amwāt” (Sartori, 2016: 56). That is, according to the researcher, Khushki-bek opened the abandoned land and then inherited it to his heirs, and Katta-bek had to recognize this situation as an official. In our opinion, the researcher made this conclusion based on the text of the narration, and the quote from “Mukhtār al-Fatawā” in the riwayat leads us to draw a different conclusion. It contains a statement about the rights of the person who bought the land “مشتري” and his heirs. In addition, it is indicated that the persons mentioned in the riwayat did not live in the same area. Therefore, it has been concluded that there was a deed of purchasing and selling the land between these persons at the time, and the conflict arose because of this. Besides, in our opinion, the sales contract between them was not registered by a “wasiqa” document, and probably thus the person who sold the land at the time dared to claim to return it again.

Although land ownership relations are generally regulated in accordance with Sharia rules in the Muslim East, each region's land measurement units and methods were different. They were developed based on the farming traditions and peculiarities of each region. For instance, the unit of land measurement was a *donum* in the Ottoman state, *jārib* in Iran, a *marzha* in Algeria (in North Africa), *begāh* in India, and *tanāb* in Turkestan (Idarov, 164). A. Morrison notes that land measurement unit “tanāb” varied in different regions of Turkestan and associated it with the amount of water needed for irrigation (Morrison, 2013: 12). Perhaps, this definition was due to the fact that the author connected the origin of the word with the Persian-Tajik language. Besides, he rightly states that the term *tanāb* was used as

“tanap”, “tanop” by the administrators of the colonial period (NAUz, 19-1-22513) and researchers (Zatsepin, 153), and later this form of the term appeared in the works of Soviet and independence period researchers.

In fact, the word *tanāb* is derived from the Arabic word *طناب* – “rope”, and the *tanāb* measurers used a rope with a length of 30 *gaz*<sup>1</sup> to measure the land. One *tanāb* of land is considered to be equal to a piece of land with 60 *gaz* from four sides. While measuring land, along with a rope, 2 *gas* lengths of “cubits” were used, the length of the rope had to be 15 cubits. So, the unit of land measurement in Turkestan was called *tanāb* and the people measuring land were called *tanābkash* (Azizī, 178).

*Tanāb* measurers were usually accompanied by 2 or 3 people to assist to measure the land, and his assistant on horseback watched the measuring rope to be pulled correctly by the workers. Another task of the horseman assistant was to record the length of each measured side. After the land measurement work was completed, the *tanābkāsh* calculated the total area of land equal to how many *tanābs* based on the recorded data (Zatsepin, 153-155). It must be acknowledged that *tanābkāsh* had to acquire mathematical and geometrical knowledge in keeping this account, because the size of the land is recorded primarily for tax collections and, moreover, in the preparation of purchase and sale documents by *qadis*. Therefore, a *tanābkāsh* had no right to make mistakes, and in general, an illiterate person was not appointed to the post of *tanābkāsh*.

Besides *tanāb*, land measurement units such as *mann* and *batman* are found in archival documents. Both *mann* and *batman* are a type of unit of measurement which is equal to 8 *sazhen* (Hinz, Davidovich, 122-124), and they were mainly used for measuring wheat, rice and cotton lands. That’s exactly the point, the field can be distinguished whether it was grain land or *kaleyard* depending on the use of *tanāb* or *batman* in the documents related to the land ownership.

Prior to Russian occupation, landownership taxes were in revenue from land. In other words, although these taxes meant land taxes, they were not property taxes. The property tax was introduced to the country by Russians. *Kharāj* tax was levied in the amount of 1/10 or 1/5 of the harvest from the land (Geyns, 480). For example, the annual *kharāj* amount levied from the city of Turkestan and its surroundings was 25 thousand *pud* of wheat, and in Tashkent it was 20 thousand *batmans* of grain and rice (Teterevnikov, 31). Nomads who used the land for agriculture paid *kharāj* in the amount of one *batman* per *qush* to the khanate treasure (Geyns, 421).

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<sup>1</sup> *Gaz* is a length measuring unit that is equal 0,71 meter.

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That is, the amount of *kharāj* of the nomads was different from the *kharāj* sum of the settled population.

*Tanāb* money or *tanābāna* is a tax collected in the amount of each *tanāb* of cultivated land. The tax was levied in the spring from field crops, garden and homestead crops. Since it was inconvenient to collect in kind, *tanābana* was levied between 11 coins and 3 gold. For example, before Russian invasion, the amount of annual *tanāb* tax collected from Tashkent reached 7000 gold (Velyaminov-Zernov, 364). In Kokand Khanate, field crops up to 4 *tanābs* were exempted from the *tanābana* tax (Nabiev, 296).

The Beg of the region was the head of tax system administration in regions. Bek issued a letter of *patta* authorizing a *sarkār* to collect taxes (NAUz, 1043-1-886) and the *sarkār* had the right to collect taxes only from the assigned territory.

The *amlākdār* we mentioned above was mainly engaged in collecting taxes from leased lands and was subordinate to the *sarkār* in district taxation. In Tashkent, the *sarkār* with his assistants (*mirāb* and *mirzā*) went through each land and wrote the owner of the land and the amount of the harvest in the notebook. A list of *kharāj* payers was formed and presented to the Beg. Having erased tax-exempt people from this list, the Beg then approved it. No one had the right to harvest and store or sell the harvest prior to *kharāj* was collected. The landowners themselves delivered the tax to the Beg's warehouse. This tax system was unique not only to Tashkent, but also to the city of Turkestan and the northern regions of the khanate (Teterevnikov, 1867: 31). For example, the city of Turkestan was governed being divided into four quarters as Tashkent even in administrative management. Tax revenues were under the control of Begg, and a part was allocated for the soldiers of the khanate who were kept in this area.

According to the historian Muhammad Sālih, both harvest tax and *zakat*, which was levied from the nomads for using the land as pasture, were collected once a year during the khanate. The author notes that this order was even included in the contract signed between the city residents and Chernyaev after he conquered Tashkent (Muhammad Sālih Tāshkandī, 668).

By the middle of the 19th century, taxes excessively grew in Tashkent, Turkestan, Shymkent, as well as the steppe regions of the khanate where nomadic Kazakhs lived (Muhammad Yunus Tāib, 14-18). This resulted in the protests against the tax policy in the regions of Dashti Kipchak, which up to Turkestan was controlled by Tashkent Beglik, and the authorities even recruited the army to collect *kharāj* tax from the population (Abu Ubaidullāh Tāshkandī: 261). The fact that the situation intensified during the reign of Mirzā Ahmad Qoshbegi, appointed by the Khān, and

Aziz Parvānachi, who was against the central government, and it was reflected even in literature (Qādirī, 107-111). Of course, this happened due to an arbitrary policy of the local administration.

Land ownership relations among the nomadic Kazakh population in areas such as Kurama, Awliyā-āta, Shymkent and Kazakh steppes of the khanate were developed by a combination of ādats<sup>1</sup> [customs] and sharia laws. Before colonialism, land use in the steppes was by clans and tribal communities rather than private ownership (Materialy, 29). Pasture, winter camping, land and water fields were divided between clans, and cultivated land was not inherited as private property. For example, this process was in practice even during the colonial period till the transformation of nomadic population to sedentary life in Awliyā-āta (Grodekov, 102). In areas where the lands of the nomads and the settled population are contiguous, the nomads were allowed to build yurt after the farmers had fully harvested their crops. Subsequent land disputes happening between settled and nomadic populations due to that were adjudicated by judicial courts (Geyns, 296).

Pasture and winter camping lands, which were divided among the clan communities, reached as inheritance to the next generation. Even then, only the land on which garden were developed or buildings were erected became the property of the clan, and according to custom, the youngest son was considered entitled to this inheritance (Materialy, 31). The lands used only for meadow were abandoned after a certain season. Therefore, there was hardly any purchase and sell of land among the nomadic population.

Agriculture was mainly the activity of people who had few livestock. Nevertheless, a unique land ownership was developed among the nomadic population. The ownership of the land was associated with the community that built irrigation facilities, and the ditches were also named after this community. When the main activity of the community was animal husbandry, the land was leased to other persons in order to deal with peasantry. In general, land ownership closely related to water, and cropland was not treated as separate property from water. Even in the yarliqs given to the Kazakhs by the Khāns of Kokand, the lands were not recorded, instead the ditches, winter camping areas and pastures were indicated (Grodekov, 104). These yarliqs did not determine land ownership, but gave the right to use the land for one year.

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<sup>1</sup> The word *adat* is derived from the Arabic *‘ādāt* (عادات), the plural form of *‘āda* (عادة), meaning custom, or habit, and is considered synonymous with *urf* (عرف), something which is commonly known or accepted.

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Disputes over land between clans were settled by Biys, and if there was a yarliq or wasiqa authorising ownership issued by a khan, Beg or qadi, the decision was made in accordance with sharia. In the cases when there were no relevant documents, land ownership was defined with the help of witnesses on the basis of custom. In this case, they made the decision depending on the time the land was abandoned. When the land was abandoned for the past 20-30 years, ownership right was given to the last clan that had occupied it.

Disputes usually arose between the clans over the land along the ditches and comfortable for irrigation. In our opinion, the main cause of conflicts was the lifestyle of the nomads. When they returned from their lands where they had temporarily lived, they encountered another clan located here. In relation to land rights, Sharia law, even official state documents, prevailed over customary law. For example, a dispute over land between two clans was resolved in favour of the party that had a deed when the first clan planted a garden, built a building or a mill on the land, and the other side only had a document (Grodekov, 107).

### **Conclusion**

In general, the landownership, which is the basis of the agrarian sector, of the period under study cannot be judged negatively. As mentioned above, the work related to the land and water fields was systematically regulated. Depression, as in all areas, was caused by political instability in the area. Historians P. Soliev and O. Chekhovich also noted that the agricultural sector had developed in Turkestan khanates before the invasion of Russian Empire. Their justification is proved by intensive commercial relations of the khanate with the empires of India, Qin and Russia (Soliev, 52-60; Chekhovich, 84-95). Undeniably, the development of trade and agriculture in Central Asia, which has a harsh climate, was realized due to the sustainable implementation of the system of land ownership and water use. In short, before the conquest, the medieval and even more ancient methods and traditions of irrigated agriculture had been preserved in the Kokand Khanate. For instance, it can be observed that land ownership relations were regulated on the basis of Sharia and custom, and there had been no change in this area either. Despite this, agriculture was the basis of the economy of the khanate, and the legal system and practice of this field in the khanate was organized according to the characteristics of each region.

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## Öz

Makale, 19. yūzyılın başlarında Taşkent'teki arazi mülkiyeti konularını arşiv belgelerine ve tarihi kaynaklara dayalı olarak vurgular ve analiz eder. Ayrıca bu makalede bölgedeki toprak sorunlarının çözümünde İslam hukukunun etkisi, İslam hukukunun uyumlaştırılması ve tarımda yerel gelenekler incelendi. Yukarıdaki analize dayanarak, Rus İmparatorluğu'nun işgalinden önce Taşkent'te kendine özgü ve tam teşekküllü bir toprak mülkiyeti yasal kurumunun olduğu sonucuna varılmıştır. Hokand Hanlığı'nın yasal kurumunun bir parçası olan ve şeriat yasalarına ve ilkel olarak eski tarım geleneklerine dayanan çalışma tarihselcilik ilkesine dayalı olarak yürütülmüştür. Çalışma sırasında mikrotarihsel bir yaklaşım, karşılaştırmalı, sistematik, içerik analizi ve problem-kronolojik yöntemler kullanılmıştır.

**Anahtar kelimeler:** Hokand Hanlığı, Taşkent, arazi mülkiyeti, vesika, şeriat, âdet, vergiler, haraç

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## Аннотация

В статье на основе архивных документов и исторических источников освещаются и анализируются вопросы землевладения в Ташкенте в начале XIX века. Исследованы: влияние мусульманского права на решение земельных вопросов в регионе, гармонизация мусульманского права и местных обычаев в

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сельском хозяйстве. На основании приведенного анализа делается вывод о том, что в Ташкенте до нашествия Российской империи существовал своеобразный и полноценный правовой институт землевладения. Которое входило в состав правового института Кокандского ханства и опиралось на законы шариата и исконно древние традиции земледелия. Исследование проводилось на основе принципа историзма. В ходе исследования использовались микроисторический подход, сравнительный, систематический, контент-анализ и проблемно-хронологический методы.

**Ключевые слова:** Кокандское ханство, Ташкент, землевладение, васика, шариат, адат, налоги, харадж, вакф

**(Одил ЗАРИПОВ. ИЗ ИСТОРИИ ЗЕМЛЕВЛАДЕНИЯ ТАШКЕНТСКОГО БЕГЛИКА (Начало XIX века))**

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