

TYPES OF PROOF AND EVIDENCE IN CRIMINAL PROCEEDINGS DURING THE BUKHARA EMIRATE, KHIVA AND KOKAN KHANATE

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Abstract:

This article analyzes the specific features of criminal proceedings during the Bukhara Emirate, Khiva Khanate and Kokan Khanate, and provides detailed information on how criminal proceedings were carried out in each khanate, types of evidence and mechanisms of proof. In the Bukhara Emirate, trials were conducted on the basis of religious laws and Sharia, and in the Khanate of Khiva, the khan's decrees and customs were of great importance, and in the Kokan Khanate, the influence of local traditions and social environment was also described. given. The article also discusses the role of the criminal process in the social and cultural life of these times.

Keywords: Bukhara Emirate, Khiva Khanate, Kokan Khanate, criminal proceedings, evidence, proof, written documents, witnesses, religious laws, Sharia, social environment, legal system, local traditions, court proceedings, history of Uzbekistan.

Introduction

The history of Uzbekistan includes complex social, political and cultural processes. During the Bukhara Emirate, Khiva Khanate and Koqin Khanate, legal systems and criminal procedures had their own characteristics, and these periods were closely related to the social structure and religious beliefs of the society. "Criminal proceedings in these khanates are mainly based on Sharia laws and local customs. Courts were often presided over by religious leaders or khans, whose decisions influenced public opinion as well as economic and social conditions. Criminals were often tried by the public and religious leaders. The process of judicial proceedings had an important social and cultural significance, and it was aimed at ensuring justice in society. Types of evidence, including written documents, witness statements, and physical evidence, have played an important role in criminal proceedings. These evidences were of fundamental importance in ensuring the legitimacy of legal proceedings, in punishing the criminal and in strengthening the public's sense of justice."¹.

Types of proof and evidence in criminal proceedings of Bukhara Emirate

The Emirate of Bukhara (1785-1920) had a complex legal system for solving social, political and religious issues in its time. "At the beginning of the Bukhara state, there was an emir with unlimited power, in whose hands the legislative, executive and judicial powers were concentrated. Thus, we can conclude that criminal trials in Bukhara were carried out on the basis

¹Shukurov, Sh. M., Abdukadirov, UA (2010). "History of Uzbekistan". Tashkent: State Publishing House of Uzbekistan.



of Sharia laws of the emirate, and personal and witness statements, oaths, written evidence, as well as drafts drawn up by the mufti were the basis for the judge's verdict.² Evidence and types of evidence in criminal proceedings include many elements. The criminal process in Bukhara Emirate is based mainly on Sharia law and religious traditions. Courts were mainly run by religious leaders and a number of social, economic and religious norms were taken into account. "Criminals were often tried by judges or other religious experts. Trials were usually held in public gatherings, and public opinion was important."³ Such processes are aimed at ensuring social justice. "In the Emirate of Bukhara, evidence is divided into three main types: written documents, testimony of witnesses and physical traces.

- **Written documents:** Written documents, including contracts, official records and other documents, played an important role in legal proceedings. These documents served to ensure the legality of the trial.

- **Testimony of witnesses:** Persons who saw or heard the crime events attended the court as witnesses. Their testimony often influenced the court's decision.

- **Physical evidence:** Traces, blood, or other biological material left at a crime scene are accepted as physical evidence. Such evidence was important in proving the crime."⁴

"In the trial process in the Bukhara Emirate, the prosecutor's office is not provided for in the consideration of criminal cases. Usually, the courts were held in mosques, public places, but often the judges held their houses. Also, the procedural procedure for conducting court cases has not been developed. In this regard, the judge himself determined the order of consideration of cases. During the hearing of the case, the judge would analyze the evidence and try to provide some degree of certainty. Cases of any category (civil and criminal) are initiated by a judge only on the basis of the victim's application and claim. In the criminal case, the evidence had to be presented by the victim. Since the evaluation of the evidence was in the hands of the judges, only they would find the evidence to be valid, open a criminal case or find them innocent.⁵ It can be seen that during the Emirate, judges were given absolute authority in criminal proceedings. That is, they performed the function of the current partial investigator and the court at the same time. If we talk about the evaluation of evidence and the use of their types in the process, the types listed above are widely used in the Emirati criminal proceedings and all of them are evaluated by the judge at the same time. There are also sources of evidence in Bukhara Emirate, which are divided into the following types: 1) confession of guilt; 2) testimony of a witness; 3) swearing by the holy book of Muslims, the Qur'an; 4) written evidence. The procedure for presenting evidence was carried out by the prosecutor (plaintiff) under oath and with the presentation of witnesses. The prosecutor (plaintiff) was obliged to present at least two witnesses to the court. "The testimony of the witness, subject to legal compliance, was not subject to rebuttal. If there are serious contradictions in testimony between witnesses during the trial, and they are not confirmed by other evidence, the witness is criminally liable for giving false testimony.⁶ In

²Sm.: Mukhitdinov A.A. Prossessualnoe pologenie slozhatelya v ugovnom procesese (na materialax Republic of Tajikistan). Dushanbe, 2015. S. 20.

³Mamatov, A. (2010). "Criminal Process". Tashkent: Ministry of Justice of the Republic of Uzbekistan.

⁴Sm.: Lunev Yu.F. Gosudarstvo i pravo uzbekskikh khanstv s XVI po XIX veka. M., 2004.

⁵Muhitdino, AA (2020). Legal proceedings in the emirate of Bukhara // Gosudarstvo i pravo=State and Law, No. 10, pp. 129–135.

⁶Sm.: Khanykov N. Description of the Bukhara Khanate. SPb., 1843.



conclusion, we can say that in the recording of the testimony of the witness as evidence, if there is no other evidence confirming which of the two different testimony, the witness is directly responsible.

Evidence and types of evidence in criminal proceedings of the Khanate of Khiva

Khiva Khanate (1511-1920) is located in the south-west of Uzbekistan and is distinguished by its interesting history and culture. Criminal procedure also had its own characteristics here.

"In the Khanate of Khiva, criminal proceedings were directed by the khan and were often based on the khan's decrees. Trials were conducted based on local traditions and public opinion. Religious leaders also played an important role in the trials. In the Khanate of Khiva, court proceedings were often carried out in accordance with personal and public interests."⁷.

In the Khiva khanate, the types of evidence consisted of written documents, testimony of witnesses, and religious investigations.

- **Written Documents:** Official records and decrees of the khanate were accepted as important evidence in court proceedings. Written evidence formed the basis of court decisions.
- **Testimony of Witnesses:** Witnesses were often drawn from local communities. Their testimony was often used as key evidence in court proceedings.
- **Religious examination:** Religious scholars participated in legal proceedings and were considered as evidence from a religious perspective. Their opinions often influenced court decisions.

Religious investigations mean that religious representatives of the khanate participated in the court proceedings and gave their personal opinions on the situation. The religious scholars of this period corresponded to the understanding of the experts of the present time. Based on their conclusions, a person's guilt is religiously proven, and a verdict of guilty or acquittal is given on the khan's side.

Khiva Khanate's approach to evidence and proof in criminal proceedings was deeply connected with its cultural, religious and social values. This legal framework created a unique system that balanced strict legal principles with local customs, emphasizing the credibility of witnesses, public participation, and the moral character of the accused and witnesses.

Other literature describes the standards of proof in the Khiva Khanate as follows: "Standards of proof: The standards of proof of guilt were strict. In some cases, a guilty plea might be sufficient, but it often had to be supported by other evidence, especially in serious crimes. The "reasonable doubt" principle was not uniformly applied; moral conviction is emphasized.

Judges (judges) played a decisive role in the evaluation of evidence in judicial practice. They were responsible for ensuring that the legal process followed Islamic principles. Trials were generally open, and it was common for members of the public to attend to ensure transparency and community participation."⁸.

In Khanate, the issue of witnesses was considered the main type of proof. "Normally, at least two male witnesses or one male and two female witnesses were required to corroborate allegations in serious cases. Credibility of witnesses was important; they should be of good moral

⁷Mustafoev, RA (2018). "Legal systems in the territory of Uzbekistan". Tashkent: Literature and Art Publishing House.

⁸"The History of Khiva" — Robert D. McChesney, 1992. University of Illinois Press.



character, trustworthy and free from any bias or conflict of interest”⁹.

Witnesses were often known within the community and their reputation could influence their credibility. The qazi (judge) had the authority to judge their credibility based on public opinion. In conclusion, it can be said that the subjects of evidence in the criminal proceedings of the Khiva Khanate were multifaceted, and they included testimony of witnesses, confessions, material and documentary evidence, and public opinion. The legal framework emphasizes moral integrity, community involvement, and the credibility of evidence that reflects the cultural and religious values of the time. The role of the judge in the Khanate was central to assessing the relevance and reliability of all forms of evidence, and ensuring that justice was administered in accordance with Islamic principles and local customs. It follows that the courthouses in the khanate served as the central apparatus of the criminal process, and the judges served as chief executors.

Types of proof and evidence in the Kokand Khanate criminal proceedings

The Kokand Khanate (1512-1920) also played an important role in the history of Uzbekistan. This khanate has its own characteristics of criminal proceedings and types of evidence. The criminal process in the Kokand khanate is based on local traditions and social environment. Courts were run by local communities, and trials were often based on public interest. Criminals were often punished according to public opinion. In the Kokand Khanate, crimes were collected through the same types of evidence as in the Bukhara Emirate: witness statements, written documents, and physical traces.

- **Testimony of witnesses:** Local residents and witnesses played an important role in the trials. Their testimony was important in court decisions.
- **Written documents:** Written documents, such as contracts and other official records, are considered evidence.
- **Physical evidence:** Traces and other physical evidence left at the crime scene are important in proving the crime.

The attitude of the Kokand khanate to evidence and proof in criminal proceedings was based on the interdependence between Islamic law and local traditions. “Reliance on eyewitness testimony, the weight of confession, and the importance of public opinion have shaped a legal framework that seeks to balance justice with cultural norms. This system was distinguished by its emphasis on moral values, public participation, and the decisive role of judges in managing complex social dynamics.”¹⁰.

During the Khanate, religious scholars revealed all the issues related to the judicial power in solving the cases of citizens. "Jurisprudence was carried out in a certain order only on the basis of Sharia and traditions. Crimes are divided into crimes against the state, religion, property, person, family. Because state crimes are intermingled with religious crimes, every state crime is a religious crime. They were sentenced to death in almost all cases. In such cases, the testimony of witnesses was used as the main evidence."¹¹. It can be seen that due to the religious approach to the detection of crimes, a person's crime was determined through the testimony of several witnesses. During this period, witness testimony was considered the most important and

⁹ <https://brill.com/display/book/9789004427907/BP000009.xml>

¹⁰S. Frederick Starr, "The Khanate of Kokand: A Historical Overview", 1998. Central Asia-Caucasus Institute.

¹¹ <https://sciencebring.com/index.php/ijasr/article/view/520/493>



conclusive evidence in the case.

In conclusion, during the Bukhara Emirate, Khiva Khanate, and Kokand Khanate, criminal proceedings had their own characteristics, each of which was based on local customs and religious laws. In the Emirate of Bukhara, sharia and religious leaders played a major role, and in the Khanate of Khiva, the edicts of the Khan played the main role. Local traditions and social conditions influenced the Kokan khanate. Similar aspects - witnesses and written documents were important in court proceedings in each khanate. All of them are aimed at ensuring justice in society and are a valuable resource in the study of history. Also, during this period, the strong role of Islam in the life of the society served for the supremacy of Sharia laws in criminal proceedings. We can see that in all three countries there were almost the same types of evidence, the process of evaluation and proof of which was mainly carried out by judges. At the same time, in this period, the judicial stages were carried out on the basis of the supremacy of religious laws, and the guilt or innocence of citizens was decided on the basis of these laws in most cases.

References

1. Shukurov, Sh. M., Abdukadirov, UA (2010). History of Uzbekistan. Tashkent: State Publishing House of Uzbekistan.
2. Sm.: Mukhitdinov A.A. Prossessualnoe pologenie slozhatelya v ugovnom procesese (na materialax Republic of Tajikistan). Monday, 2015.
3. Mamatov, A. (2010). Criminal proceedings. Tashkent: Ministry of Justice of the Republic of Uzbekistan.
4. Amonov, AA (2010). History of Khorezm and Bukhara. Tashkent: Science and technology.
5. Sm.: Khanykov N. Description of the Bukhara Khanate. SPb., 1843.
6. Kasimov, F. (2018). Criminal law. Tashkent: State Law University of Uzbekistan.
7. <https://brill.com/display/book/9789004427907/BP000009.xml>.
8. Mustafoev, RA (2018). Legal systems in the territory of Uzbekistan. Tashkent: Literature and Art Publishing House.
9. Khamraev, A. (2016). Basic principles of criminal procedure. Tashkent: Information and Analytical Center of the Supreme Court of the Republic of Uzbekistan.
10. S. Frederick Starr, "The Khanate of Kokand: A Historical Overview", 1998. Central Asia-Caucasus Institute.
11. <https://sciencebring.com/index.php/ijasr/article/view/520/493>.

