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## THE LAW DURING THE RULE OF THE SAFAVID STATE

**Açar sözlər:** qanun, Səfəvi, prosedur, hüquq, islam, məhkəmə, dini, qayda

**Ключевые слова:** закон, Сефевиды, процесс, права, ислам, суд, религиозный, правило

**Key words:** law, Safavid, proceeding, right, Islam, court, religion, rule

**I**n the medieval states of Azerbaijan, religion was the basis of order, law, and the moral judge of society, and it protected the highest humanism, nobility, and purity and passed it from generation to generation, from state to state. "The fact is that when the state could not fulfill its duties, when there was opposition to the existing government, various sects supported the movement under the cover of religion. In Azerbaijani statehood, contradictions arose from the incompatibility between the interests of religion and the interests of the state" [5; 98]

During the Safavid era, Islamic law was the crucial source of law. In addition to the main principles of the Shia denomination of Islam, from the legal collections of the Sunni schools was not prohibited to be used. Finally, in 1501, Shah Ismail Khatai created the Shia sect in addition to making it the state religion, the Hanafis, based on Shiism in the system of justice courts, which does not contradict the Shia doctrine of fiqh of the Shafi'is, Maliks, Hanbalis and others recommended that collections be taken into account. This kind of freedom is the religious leader of the Safavid shahs it came from having the powers. The Shiaization of Islam in Azerbaijan also expressed itself in the monetary reform of Ismail I had found. The new coins issued as a

result of this reform have the Shiite symbol of faith on them "There is no God but God, Muhammad is his messenger, Ali is the friend of God" and the names of twelve imams and the name of Shah Ismail also were shown. Centuries separated the Safavid state from the period in which Islamic law was formed. Of course it is radical social changes took place in any Islamic community during the period, new forms of relationship have emerged and the need to reflect them in legislation appeared. Therefore, Muslim law based on the main principles, local customs, the way of life of Muslims, historical conditions, issued and compiled by shahs and viziers also included the laws he made.

Numerous scientific works and collections were written in the field of Muslim law in the 16th and 17th centuries and most of these legal collections by the judges during the resolution of one issue or another was applied. Thus, Muhammad Reza Ibn Abdulmutallib Tabriz himself wrote about law books - "Kitab-e al-ishrat fil-fiqh", of legal science in Azerbaijan with "Sharh olmafatih" has made a certain contribution to its development. Jurist-scientist Mirza Muhammad ibn Hasan 3 Shirvani's "Explanation of the sign", "Counselor explanation of wisdom" etc. His works are distinguished by his theoretical orientation and philosophy of law revealed a number of interesting problems. Other legal scholars Malik Seyid ibn Muhammad Kamil, Nejabeddin Reza, Yusif Muhammadcan oglu Karabagi, Sharafeddin Mirza Muhammad ibn Reza Tabrizi created a number of works on jurisprudence. Especially Mirza in the works written by Mahammadcan oglu Karabakhi on legal issues - "Tatimmatulhavashi fi izarati-l-gavashi", "Shahiyati-Sharhi



Hayakul An-Nur" , "Sharhu Risalati fi" isbati-l-wajibi", "Hashiya bar interpretation tahzibi" and so on. rules of law and morality in feudal community was investigated in mutual unity. Determining whether people who commit any acts are not guilty is the only decision of the people entrusted with the laws. They do not spontaneously refer to this fiqh, they act according to their inner belief taken as a general line in his works.

Criminal procedures and civil procedures there were both similarities and certain differences between them. Similarity, mainly to those works it was revealed when it was tried in Sharia courts. Thus, the continuity of the process, the principles of immediacy, the issue of interrogating the parties were the same. In both processes initially the plaintiff or victim (defendant) is interrogated, then the defendant or the guilty explanations were requested by the defendant. The differences are the resolution or the verdict was revealed in the issues of removal, as well as the implementation of these acts. Jurisdiction was determined. Religious to land, housing, marriage and other civil disputes the courts were watching. All these issues are considered on the basis of Sharia, and these are the full responsibility of the clergy had a monopoly. However, during the consideration of those cases, the provincial bailiff and the provincial judges his participation was considered necessary. the search and finding of the criminal attempt was entrusted to some victim. They started the prosecution of the criminal case for the violation of law by the state authorities. Witness and evidence in court procedures between Muslims and Christians if not, they also made non-Muslims drink. But they own their religion they had to read the scriptures and drink. Non-Muslims have their own courts was Appeals and appeals from decisions and decisions made by their court decisions local divanbeyi and supreme divan, they in turn belong to these persons investigations according to the requirements of religious laws and existing laws resolves disputed issues by conducting local non-Muslim judges they either did not give the correctness of the judgments, or they recorded them.

There was a clear division of powers in the

matter of processing claims. First of all, the lawsuits were received and selected by executive officers in the clerical department of the court of justice and sent according to their relevance. Complaints related to illegal activities are presented to the chairman, and the chairman himself considered these issues together with the divanbey and made a decision. Claims relating to the tax court were submitted to the king, and the king himself made a decision on these claims. Divan Bey considered the complaints about the violation of citizens' rights and other legal violations independently without the participation of the chairman. Legal institutions were also used in court proceedings. Lawyers were determined from among the lawyers who knew the legislation of the time and were familiar with the basics of Muslim law. Acting as a component of democratic governance, Islam has created laws by applying the most general divine rule to life. This religion has given priority to the will of God in the states of Azerbaijan. "Islam has rejected the deprivation of divine control over legislative and judicial power. The concept of God and God's guidance is very broad in Islam and reflects everything that constitutes human life. This requires full obedience to its laws" [6; 99]. The procedure for consideration of complaints submitted by local judges was determined collectively. In such cases, by the order of the king, one of the trusted men of the palace was sent to the scene. After the necessary inspection was carried out at that place, the result was reported to the king. When the complaints were confirmed, the documents were sent to the Shah, who personally passed judgment on the local judge. In some cases, the king entrusted the punishment of the guilty official to someone he sent. When the public officer went there to verify the appellant's application on the spot, his travel expenses were paid at the expense of the appellant. If the complaints were unfounded, the complainants were fined a certain amount.

Most of the sources of law that existed in Azerbaijan in the 16th and 17th centuries retained their legal force at the beginning of the 18th century. Muslim law still played the role of the basic legal base of the community and re-



mained the only regulator of existing socio-political, socio-economic and legal relations. However, with the fall of the Safavid state, the Shiite sect of Islam, which was declared its official state religion, gave way to the Sunni sect. Nadir Khan's coming to power was accompanied by his declaration of Sunni as the state religion. The religious reform was based on a special decree issued by Nadir Shah. The decree intended to unify the Sunni and Shia sects, and it was specifically stated that those who spread out from the implementation of the demands arising from the decree would incur the wrath of the Shahshah.

Some foreign researchers and Azerbaijani scientists consider the declaration of Shiism by the Safavids as the state religion as the event that caused the division of the Turkic world. T. Svyatkovski, a famous scholar of Azerbaijani studies in the United States, mistakenly considers the Safavid state to be an Iranian state and writes: "At the end of the 15th century, Azerbaijan became the strong core of another ancient dynasty - the Safavid dynasty. The Safavids created a new Iranian state through a series of successive invasions and a strong policy of centralization. Shah Ismayil I (1501-1524) whose capital was Tabriz (also a poet known by the pen name Khatai) declared the Shia branch of Islam the official religion of his state, a move that completely separated the Azerbaijanis from the Ottoman Turks. In the early days of Safavid rule, the land of Azerbaijan often became a battlefield in the wars between Shiite Iran and Sunni Turkey" [3;39]. First of all, the Safavids did not invade, but restored the ancient territories of Azerbaijan. They added the territories of the ancient Iranian empire to their lands and further expanded them. In fact, the Sunni-Shia conflict has dealt a heavy blow to religious and national unity, and religious ideology has overtaken national affiliation.

Therefore, in that period, legal collections and fiqh works issued by the Sunni law schools of Islam became the object of wide use and application. The implementation of the religious reform in 1736 not only envisaged the introduction of religious and legal issues in a new order, the

complete elimination of the influence of the Safavids and the strengthening of the Afshari dynasty in the royal kingdom, but also the goal of weakening the influence of the supreme Shia clergy on the country's political life and state affairs. Western researchers also claim that Shiism is of Persian origin (Karra de Vo, R. Dozi, A. Müller and others). Russian researcher I. P. Petrushevki came to the conclusion that "the historical hypothesis about the Iranian origin of Shiism is incorrect" [7; 41]. On the other hand, a far-sighted political goal such as the unification of Iran and the Ottoman Empire was pursued by carrying out such a reform. The religious reform was aimed at expanding the political foundations of the shah's power and implementing the invasion plans. Despite the certain differences between the Shia and Sunni sects of Islam, they did not have any impact on the foundations of fiqh and sharia in general. The basic principles of Muslim law were binding on the entire Muslim population. However, when conducting judicial proceedings, as well as resolving issues related to inheritance and family-marriage relations, the collections of fiqh of Sunni legal schools and their followers were used. Orientalist A. Rahmani shows that the ancestors of Shah Ismail I - the Safavid sheikhs - used Shiism to attract the masses of the people to their side: "Ismail, the founder of the Gizilbash state, also used it" [8; 25]. In such matters, as mentioned, there were certain differences. So, according to the Shia doctrine, during the Safavid era, the inheritance was distributed among the close relatives of the deceased, and distant relatives were involved in the inheritance only if there were no close relatives, but according to the Sunni legal system, all the relatives of the deceased, i.e. both close and distant, have the right to receive a share of the inheritance at the same time. relatives used. The Safavid ideology of Gizilbash was based on Shiism. The Safavid state created by Shah Ismail Khatai, who declared Shiism as the official religion, covered a large area on both sides of the Caspian Sea and in the Middle East, including Iraq-Arab. Although the statesmen and generals were elected from the Turkic tribes, the diplomatic documents



of the country, where the administrative, office and accounting work was Persian, were drawn up in the Azerbaijani and Persian languages. [1; 34].

The Safavids were able to create the unity of religious state and independence. "Gizilbash's ideology and state was a purely Azerbaijani phenomenon. He relied on the rich traditions of statehood that existed in Azerbaijan before him. The Safavid idea, based on the traditions of the independent statehood of the Atabays, was the cornerstone of Azerbaijaniism. In the historical roots of Azerbaijanism, these independent states - Albania, Atabays and Gizilbash - stood. They have become a historical symbol of national statehood. Shah Ismail showed himself as a skillful general and an ardent patriot" [4; 92].

One of the characteristic sources of law of that time was the anonymous treatise "Tazkirat al-muluk" (memoir for the kings) compiled in 1726. There are also reports that this document was compiled by an unknown author on the orders of the Afghan Emir Mahmud Gilzai. "Tazkirat al-Muluk" contains extensive information about the structure of the state, state structure, administrative apparatus and state management, judicial structure and judicial proceedings, military structure, tax system, as well as about the legislation of that time, normative-legal acts on various issues of state administration. contains series data. This legal document allows us to understand the essence of the political structure of the state, the speeches of the masses of the population subjected to economic and national oppression against foreign usurpers. In the document, more space is devoted to administrative law, the powers of all officials, including the king, prime minister, high-ranking officials who are heads of state divans, the rules for their appointment and dismissal, financial divans, management of state revenues, contributions to the treasury, implementation of monetary transactions and legal regulation of other such issues is reflected. "Tazkirat al-Muluk" provides detailed information about the activity of judicial bodies, the rules for consideration and settlement of criminal and civil cases, and related to the court.

Among the factors that resulted with the end

of the Safavid state in Azerbaijan, the Persianization of the Azerbaijani Gizilbash, the removal of Azerbaijanis from the military and state authorities and their replacement by Persians, the nation and homeland, the state, "weakening of religious fanatics, increasing the influence and powers of pro-Iranian clerics, radicalization of Shiism" [2; 193] were shown.

As a result of an in-depth analysis of the document, it is clear that most of its provisions benefit from the Islamic principles of the inviolability of all forms of property. The determination of the unconditional implementation of all Islamic laws by those representing the secular authorities in the provisions on religious leaders and religious rules was aimed at the expectation of the authority of religion, as well as the rules of Muslim law and legal instructions. In addition to the Muslim law, in the territories of Azerbaijan under the Ottomans, the laws adopted by individual sultans and reflecting the characteristics of individual areas of law also had legal force. Thus, from the three major parts of Sultan Suleiman, each of which is divided into sections - from the legal norms on crimes and punishments: from articles on land ownership, subjects and taxes collected from them; On the basis of the Law containing provisions on the legal status of individual classes and market fees, appropriate laws were drawn up for the provinces, taking into account the local conditions and norms of customary law. At that time, fatwas issued by high religious figures on the explanation of disputes and difficult-to-solve issues were summarized and a collection of fatwas was compiled. Various special aspects of the land ownership and tax system were reflected in the "Land Law" of Sultan Ahmad I. Based on those laws, the law "On Land Management" was in force throughout the empire.

That law was used as a basis for determining the taxes to be collected from the population of the newly occupied territories, including the territories of Azerbaijan, and the obligations to be fulfilled. According to this law, each time the Ottomans conquered new countries and provinces, they conducted a census of the population and the economy, and based on this, imposed taxes and



duties on the subject population. Such "local registries" also existed in the provinces of Azerbaijan, which were conquered by the Ottomans. After the census of the population in 1728, tax collection was carried out according to the tax norms in Turkey. Instead of defining specific punishments, the law sometimes "adopts sharia

and wilayat according to the established custom", "according to the tradition existing in the province", "to answer according to the law" uses statements, which is again its standards of Islamic law, local shows that it is a combined version of customs and customary law.

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#### **Закон во время правления государства у Сефевидов**

Правовые нормы невозможно понять без изучения этапов их формирования. В данной статье освещаются фундаментальные характеристики нормативно-правовых механизмов в Сефевиды в средние века. Прямая связь религии с законом и ее роль в правительстве. Особенно во время правления шаха Исмаила теософия была характерной чертой. Формирование разных правовых систем во время Сефевитов - Положительные и отрицательные стороны преступности, гражданских и других прав в средние века.

**Ayişə Qasımoğlu**

#### **Səfəvilər dövlətinin hakimiyyəti dövründə hüquq**

Hüquq normalarını onların formalaşma mərhələlərini öyrənmədən başa düşmək mümkün deyil. Bu məqalədə orta əsrlərdə Səfəvilər dövlətində hüquq və tənzimləmə mexanizmlərinin əsas xüsusiyyətləri göstərilir. Dinin qanunla bilavasitə qarşılıqlı əlaqəsi və dövlət idarəçiliyində rolu göstərilir. Xüsusən də Şah İsmayıl Xətəinin hakimiyyəti dövründə təsəvvüf nəzəriyyəsinin hüquq sistemindəki əvəzsiz yeri ön plana çəkilir. Səfəvilər dövləti tarixində ayrı-ayrı hüquq sahələrinin formalaşması və onun mövcud hüquq sistemi ilə oxşar/fərqli cəhətləri.