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**“WATER LAW” AS AN  
INSTRUMENT OF RUSSIAN  
IMPERIAL POLICY IN THE  
CENTRAL ASIAN KHANATES**

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## **“WATER LAW” AS AN INSTRUMENT OF RUSSIAN IMPERIAL POLICY IN THE CENTRAL ASIAN KHANATES**

Water has always been an important resource for Central Asian states and peoples. Different rulers at different times used water, and access to it, as an instrument of political and even military influence. When the Russian Empire expanded into Central Asia, seizing substantial parts of three central Asian khanates (Bukhara, Khiva and Khoqand) and established its own protectorate over these states, it also found that water was one of the most effective means to control the rulers and peoples of Central Asia. The use of water and irrigation policy as an instrument of rule was effectively used by the Russian Empire in its relations with the Central Asian khanates and this has already been the subject of investigation. This paper analyses the legal regulation of water use and the irrigation policy of the Russian Empire in Turkestan in order to influence the Bukharan Emirate and the Khivan Khanate during the epoch of the Russian protectorate (1870s–1910s). The paper demonstrates how the internal “water law” was a starting point in Russian policy towards Bukhara and Khiva, and shows that each subsequent stage was closely connected to the evolution of the “water law” in the Russian Turkestan. The sources are official documents (including legal acts) of the Russian Empire, correspondence of Russian and Central Asian statesmen, memoirs of contemporaries and the notes of Russian visitors to khanates (diplomats, engineers, etc.) who participated in the realization of Russian water policy in Bukhara and Khiva and could estimate its effectiveness.

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## **Introduction**

In the 1860–70s the Russian Empire took control of three khanates of Central Asia: in 1868 treaties of peace and friendship were signed with Khoqand and Bukhara, and in 1873 with Khiva, In 1876 the Khoqand Khanate was joined to the Russian Empire (as Fergana region of Turkestan), the Emirate of Bukhara and the Khanate of Khiva became Russian protectorates.

The Russian authorities intended to begin a process of modernization of the khanates with the aim of annexing them completely. But the international situation made them preserve the formal independence of Bukhara and Khiva. This meant the abilities of Russia to reform the political, legal and economic structure of the khanates were limited, and they remained conservative feudal states whose level of development did not allow their incorporation into the Russian political and legal space.

In these circumstances, Russia had to use indirect means to influence the Bukharan and Khivan authorities. One such means was water policy as the use of water was a vitally important question in the social and economic life of Central Asia. Russia already had experience in the development and realization of water laws for some national regions such as Crimea and Transcaucasia and it now worked on creating the same legal base for Russian Turkestan. As this region had belonged to Bukhara and Khiva it seemed logical to use the same legal principles for water relations with the khanates (with regard to their specific status as protectorates) as cooperation with water could impact other areas of their relations, including politics and economics.

The Russian authorities used different kinds of cooperation with the Bukharan Emirate and the Khivan Khanate with regard to water, nevertheless, with time there were substantial changes in the relations between Russia and Bukhara and Khiva. In general the procedure of making international agreements was fixed, the status of the Central Asian monarch was specified and the possibilities of cooperation between the Russian and Central Asian authorities and business circles was clarified.

The problems of the realization of Russian water policy in Bukhara and Khiva remained until the fall of the Russian Empire. The initiatives of the Russian diplomats and engineers who tried to improve the water systems of Bukhara and Khiva met with resistance from the local authorities because of their conservative views, fear of their own subjects (who could proclaim their independence if they gained enough water without the control of the central authorities) and their unwillingness to spend money for such improvements.

Some scholars have studied this theme and examined water policy in detail within the context of the Russian imperial policy in the Central Asia.<sup>2</sup> Below we attempt to characterize the legal aspects of this policy, define its basic directions and clarify the reasons for its ineffectiveness within the framework of Russian – Central Asian relations in general. Materials by Russian contemporaries who visited the Central Asian khanates during the 1870s–1910s give valuable information in this regard.

### **The first stage: negotiations in the absence of water regulation**

A specific feature of the “water law” of Russian Turkestan is the absence of any official written legislation in this field; until the fall of the Russian Empire in 1917 there was no basic statutory act on water regulation. As a result the customary law used in the region remained the main source of “water law” and was even officially approved by imperial legislation for Turkestan.<sup>3</sup> The authors the “water laws” constantly emphasized that their goal was not to replace the legal customs by “artificial” written rules, but only to systematize their principles and make them rules of general effect for Turkestan as a whole.<sup>4</sup>

Attempts to solve the problem of the absence of formal water regulation were made more than once: authorities developed “temporary rules” for water use, a series of projects for the “water law” were proposed from time to time.<sup>5</sup> Each stage in the development of the “water law” had an impact upon relations between the Russian Empire and the Bukharan Emirate and the Khivan Khanate.

The first decade of the Turkestan region of the Russian Empire and its administration’s relations with rulers of Bukhara and Khiva (1867-1877) could be characterized by a total lack of

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<sup>2</sup> See, for example: *Joffe M.* Autocracy, Capitalism and Empire: the Politics of Irrigation // *The Russian Review*. Vol. 54. No. 3. 1995. P. 365-388; *Morrison A.S.* Russian rule in Samarkand, 1868-1910: A comparison with British India. Oxford, 2008. P. 201-243; *Peterson M.K.* Technologies of Rule: Empire, Water and the Modernization of Central Asia, 1867-1941. Ph.D. Diss. Cambridge, 2011; *Seitz J. B.* Irrigation and Agriculture in the Khanate of Khiva 1768-1914. Ph.D. Diss. Bloomington, 2013; *Shioya A.* Who Should Manage the Water of the Amu-Darya? Controversy over Irrigation Concessions between Russia and Khiva, 1913–1914 // *Explorations in the Social History of Modern Central Asia (19<sup>th</sup>- Early 20<sup>th</sup> Century)* / Ed. by P. Sartori. Leiden; Boston, 2013. P. 111-136.

<sup>3</sup> *Polozhenie ob upravlenii Turkestanskogo kraia* [Statute on administration of the Turkestan region] // *Polnoe sobranie zakonov Rossiyskoy imperii. Sobranie tret'e. T. VI. SPb., 1888. № 3814. § 256. P. 338.*

<sup>4</sup> *Gins G.* Osnovnye nachala proekta vodnogo zakona dlya Turkestana. (S prilozheniem proekta v redaktsii mezhdovedomstv. komissii). St. Petersburg, 1912 (in Russian). P. 29-30; *Dingel'shtedt N.* Opyt izucheniya irrigatsii Turkestanskogo kraia. Syr-Dar'inskaya oblast'. St. Petersburg, 1893. P. 47; *Fleksor D.* K voprosu o vyrabotke vodnogo zakona dlya Turkestana // *Voprosy kolonizatsii. № 7. 1910. P. 363-364.* However, several authors noticed that some aspects of water use (for example, for industrial enterprises) did not regulate by customary law and, consequently, need in state regulation, see: *Bentselevich N.A.* Vodnye puti Turkestana. St. Petersburg, 1914. P. 19.

<sup>5</sup> Authors of projects proceeded from the hypothesis that irrigation in Turkestan similar to the situation in Crimea and Transcaucasia where such laws already were issued, see: *Gins G.* Osnovnye nachala... P. 35; *Gins G.* Sovremennoe vodnoe khozyaystvo Turkestana i neobkhodimost' vodnogo zakona // *Voprosy kolonizatsii. № 6. 1910. P. 50; Fleksor D.* K voprosu o vyrabotke... P. 380.

any written rules on the water use.<sup>6</sup> The positions of “water officials” (*aryk-aksakals* and *mirabs*) were retained (or even restored) in the way as they acted before in the region, including in the khanates, on the basis of customary law.<sup>7</sup> Water use in Bukhara and Khiva was based only on negotiations. These negotiations often became a cause for the Russian authorities to demonstrate to the Bukharans and the Khivans their supremacy in the region and the dependence of the authorities of khanate.<sup>8</sup> Even this absence of rules for water use became an advantage for the Russian authorities in their relations with the Central Asian khanates.

The most problematical relations were between the Turkestan and Bukharan authorities as after Samarqand joined the Russian Empire in 1868 the Russians seized control of the Zeravshan River and this gave them the opportunity to regulate the quantity of water for irrigation in Bukhara. The absence of rules (even in the treaty of 1868 which de-facto fixed the vassalage of Bukhara to the Russian Empire) made the Emir and the ruling circles of Bukhara suppliants when there was a lack of water for the capital of the Emirate and the surrounding regions. As a result, in 1870 a sorrowful message was sent by Emir Muzaffar to Konstantin von Kaufman, the Governor-General of Turkestan with a supplication to solve the water problem.<sup>9</sup>

The fears of the Bukharan elite and general population about the possibilities and intentions of the Russian authorities towards the waters of the Zeravshan river were reflected by the famous Bukharan politician and enlightener Ahmad Donish in his “History of the Mangyt Dynasty”. He emotionally described the despair of Bukharans when they understood that the water had fallen into the hands of the Russians, the feebleness of the Emir in solving this problem, and the long-term negotiations with representatives of the Russian administration. Donish himself was a member of the Bukharan embassy to the Russian capital in 1869-1870.<sup>10</sup> There was an illustration in the response of the Emir to the suggested use of the Amu-Daria (Oxus) River to provide the capital with water: it had not been done before and, moreover, he was apprehensive that Russia would be displeased with his attempt to get water from another source.<sup>11</sup> Further, the Emir was afraid that if some regions of the Emirate got enough water their

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<sup>6</sup> Cherdantsev G.N. *Vodnoe pravo Turkestana v ego nastoyashchem i proektakh blizhayshego budushchego*. Tashkent, 1911. P. 22.

<sup>7</sup> Proekt vsepoddanneyshego otcheta general-ad'yutanta K.P. von Kaufmana I po grazhdanskomu upravleniyu i ustroystvu v oblastiakh Turkestanskogo general-gubernatorstva. 7 noyabrya 1867 – 25 marta 1881 g. St. Petersburg, 1885. P. 66. See also: Tukhtametov F.T. *Pravovoe polozhenie Turkestana v Rossiyskoy imperii: Vtoraya polovina XIX veka*. Ufa, 1999. P. 34; Morrison A.S. *Russian rule in Samarkand*. P. 212-213.

<sup>8</sup> English journalist George Dobson, who visited the Russian Turkestan and Bukharan Emirate in 1888, wrote that in case of hostile actions of Bukharans “Russians could easily inflict a deadly retaliation without railway or even troops. This could be effectually accomplished by cutting off the Bokharan water supply at the head course of Zarafshan river, and the Ameer’s smiling country would become a famished steppe in the course of a few weeks” (*Dobson G. Russia’s railway advance into Central Asia: Notes of a journey from St. Petersburg to Samarkand*. London; Calcutta, 1890. P. 230).

<sup>9</sup> See: Morrison A.S. *Russian rule in Samarkand*. P. 206-207.

<sup>10</sup> Akhmad Donish. *Istoriya mangitskoy dinastii*. Dushanbe, 1967. P. 87.

<sup>11</sup> *Ibid.* P. 96-97.

population would not be loyal to Bukhara.<sup>12</sup> Even the promises of the Russian authorities to compensate Bukhara for the lack of water from the Zeravshan by the construction of a canal from the Syr-Daria River were critically interpreted by Donish: he asserted that the Russians intended to begin these works only after the total conquest of the Bukharan Emirate.<sup>13</sup>

We could doubt the information of Donish as he was a Bukharan witness and a participant of the events which resulted in the defeat of Bukhara, and the loss of its independence and, consequently, took the situation hard, perhaps exaggerating the dependence of Emirate on the Russian Empire (including water use). However, his information in many respects is confirmed by the notes of his Russian contemporary, Lev Kostenko, the Turkestan military official and a member of the diplomatic mission to Bukhara in 1870.<sup>14</sup> In particular he noted that Bukhara was totally dependent on Samarqand for water and had to appeal to Russia constantly with requests for the temporary closing of *aryks* (irrigation ditches) for Russian inhabitants in order to give water to Bukhara. He summarized that the “supply of Bukhara with grain depended on the good-will of the Russian government”.<sup>15</sup> The head of the Russian mission, Colonel Nosovich, also wrote in his journal that the Emir “was happy with arrival of his Russian friends and that water came with them”.<sup>16</sup>

However, Bukharan diplomats, as a result of their mission to St. Petersburg, succeeded in partially solving the problem: Governor-General von Kaufman ordered General Alexander Abramov, the head of Zeravshan District, to solve the Bukharan water problem. In the winter of 1871-1872 a special commission consisting of three Russian and three Bukharan members with Abramov at the head began a discussion on the distribution of the Zeravshan water between Samarqand and Bukhara. It was difficult for the Russian representatives to understand the logic of their Bukharan partners who used categories such as “lots of water”, “a little water”, “an average amount”, without concrete numbers.<sup>17</sup> Nevertheless, preliminary terms were agreed: Samarqand authorities agreed to close half the *aryks* of Zeravshan from April 15 to May 15 and

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<sup>12</sup> Already Emir Nasrulla, father of Muzaffar, practiced water drainage in different regions of his country for another ones to provide the loyalty of his subjects, see: *Astanova G.Yu. Iz istorii vodopol'zovaniya v Karakul'skom tumane Bukharskogo emirata vtoroy poloviny XIX – nachala XX veka // Obshchestvennye nauki v Uzbekistane. 1979. № 8. P. 27; Bartol'd V.V. K istorii orosheniya Turkestana // Bartol'd V.V. Sochineniya. T. III. Moscow, 1965. P. 161, 162.*

<sup>13</sup> *Akhmad Donish. Istoriya mangitskoy dinastii. P. 97.*

<sup>14</sup> It's interesting to notice that although this mission formally was an answer on mission of Seyid Abdul-Fattah, son of Emir to Russia, in fact Governor-General Kaufman understood that Emir would put a question on water and gave appropriate instructions to Colonel Sergey Nosovich, head of the mission, see: *Russkoe posol'stvo d Bukharu v 1870 godu // Russkaya starina. T. 95. 1898. P. 273.*

<sup>15</sup> *Kostenko L.F. Puteshestvie v Bukharu russkoy missii v 1870 godu. St. Petersburg, 1871. P. 43-44, 100-102. See also: Russkaya missiya v Bukharu. P. 274.*

<sup>16</sup> *Russkaya missiya v Bukharu. P. 636.*

<sup>17</sup> See: *Morrison A.S. Russian rule in Samarkand. P. 208.*

let water go to Bukhara, and from August 15 to September 15 to close the *aryks* in full.<sup>18</sup> But when the Russian administration raised the question of the appointment of a special representative of the Emir to control the distribution of water such an official was not appointed and water was distributed spontaneously, at the discretion of the Russian authorities.<sup>19</sup> Donish stated that the following year the Emir had to impose a new tax, and gathered money (100 000 *tenga*) to bribe Russian officials for obtaining a water.<sup>20</sup> Russian explorers at the end of the 19<sup>th</sup> century sent messages that there were periods when water was not given to the Bukharans and many local inhabitants died of starvation and drought.<sup>21</sup> The Bukharans accepted with gratitude the actions of some Russian administrators, who helped them with the water problem, for example, in 1890s Emir Abdul-Ahad awarded Nikolai Rostovtsov, the military governor of Samarqand region the highest order of the Emirate for his effective assistance in supplying Bukharan with water during a severe drought.<sup>22</sup>

Thus, the absence of any formal legal regulation of water use in Turkestan allowed the Russian authorities to dictate to the Bukharan powers while formally observing the principle of equality in negotiations. Given that the Russian negotiators were headed by General Abramov, an active participant in the of war with the Bukharan Emirate and the conquering of Samarqand in 1868, and who knew well the weaknesses of Bukharan troops, his terms for the use of water were drastic enough and, at the same time, uncertain enough in the absence of formal laws and appointed officials, to control the terms of the agreement.

Several years later Governor-General von Kaufman himself wrote in his report on the management of Turkestan (1881) that the citizens of the Central Asian khanates migrated to Russian regions of Turkestan as Russian taxes were not as high and the conditions to maintain a household effectively were established.<sup>23</sup> Comparing this passage with information of Donish (who also wrote about the migration of Bukharan peasants to Russian Turkestan<sup>24</sup>) we suggest that the water policy of the Russian authorities played an important role in these events: migrants

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<sup>18</sup> *Sobolev L.N.* Geograficheskie i statisticheskie svedeniya o Zeravshanskom okruge s prilozheniem spiska naselennykh mest okruga // *Zapiski Imperatorskogo Russkogo geograficheskogo obshchestva po otdeleniyu statistiki*. Vol. IV. 1874. P. 268-269. See also: *Becker S.* Russia's Protectorates in Central Asia: Bukhara and Khiva, 1865-1924. Harvard, 1968. P. 53; *Morrison A.S.* Russian rule in Samarkand. P. 206-207.

<sup>19</sup> Above-mentioned G. Dobson wrote that "the higher authorities of Bokhara are so anxious about their proper water supply that they have the permission of the Governor-General of Turkistan to send their own officials every spring to look after the dams and dykes of the river near Samarkand" (*Dobson G.* Russia's railway advance into Central Asia. P. 232-233). As we can see, they *have permission*, but author said nothing about real sending of such officials to Turlestan!

<sup>20</sup> *Akhmad Donish.* Istoriya mangitskoy dinastii. P. 110.

<sup>21</sup> *Sitnyakovskiy P.F.* Zametki o Bukharskoy chasti doliny Zeravshana [Notices on the Bukharan part of Zeravshan valley] // *Izvestiya Turkestanskogo otdela Imperatorskogo Russkogo geograficheskogo obshchestva*. Vol. I. 1899. Iss. II. Tashkent, 1900. P. 127-128.

<sup>22</sup> *Nazar'yan R.* Samarkandskaya starina. Kn. 1. Dokumental'nye ocherki. St. Petersburg, 2010. P. 93-94.

<sup>23</sup> *Proekt vsepoddanneyshego otcheta...* P. 133-134.

<sup>24</sup> *Akhmad Donish.* Istoriya mangitskoy dinastii. P. 87.

could maintain their households and get water in accordance with the same customary law as in Bukhara but had guaranteed access to water under the control of the Russian administration.<sup>25</sup>

A contradictory situation held for irrigation in relations between the Russian Empire and the Khivan Khanate which also acknowledged its dependence on Russia in 1873. Feeling the water shortage, Khivan authorities tried to attract Russian specialists in irrigation, however they opposed the realization of large-scale irrigational projects in the khanate. The point is that Khivans since the 17<sup>th</sup> and 18<sup>th</sup> centuries had used dams, water exports, and the drainage of canals as instruments of war with foreign enemies (Bukhara most of all) and own against their own rebel subjects (especially Turkmen tribes).<sup>26</sup>

At first the Russian authorities did not pay enough attention to irrigation projects as they were interested in Khivan rivers (especially Amu-Daria) as trade routes for their ships.<sup>27</sup> The first projects connected with diverting the Amu-Daria river were aimed to develop shipping communications with the Bukharan Emirate and the Khivan Khanate. This meant that the Gandemian Treaty with Khiva and the Shaar Treaty with Bukhara (both of 1873) did not include terms for water use but the opportunity for Russians to build quays and warehouses on the banks of Amu-Daria were regulated in detail.<sup>28</sup> The purpose of these projects – strengthening Russian control over the Central Asian khanates – was evident and even not concealed by Turkestan authorities.<sup>29</sup>

As in the case of Bukhara in 1870s–1880s, the Russian administration observed the official independence of the Khivan Khanate therefore all questions connected with rivers and water policy were settled by negotiations with Khan Muhammad Rahim II and his high officials.<sup>30</sup> But the first attempts to discuss the project of diverting the Amu-Daria (in 1873–1877) met with persistent resistance from the Khivans: the Khan was afraid that this would provide his Turkmen subjects (the Yomud tribe) with enough water and this would cause new rebellions.<sup>31</sup> Since 1830s Khivans had changed the course the Amu-Daria and constructed dams to block Russian ships from entering the Khanate. After the situation changed in 1873 this policy became

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<sup>25</sup> The practice of migration of Bukharans to the Russian territories continued even at the beginning of the 20<sup>th</sup> c., see: Golodnaya step', 1867-1917. Istoriya kraya v dokumentakh / Ed. by A.V. Stanishevskiy. Moscow, 1981. P. 70.

<sup>26</sup> Amu i Uzboy. Samara, 1879. P. 20; *Bartol'd V.V.* K istorii orosheniya Turkestana. P. 182-183.

<sup>27</sup> Amu i Uzboy. P. 35-36; *Bentselevich N.A.* Vodnye puti Turkestana. P. 65; *Glukhovskiy A.I.* Propusk vod r. Amu-Dar'i po staromu ee ruslu v Kaspiyskoe more i obrazovanie nepreryvnogo vodnogo Amu-Dar'insko-Kaspiyskogo puti. St. Petersburg, 1893; *Cherdantsev G.N.* Vodnoe pravo Turkestana... P. 12.

<sup>28</sup> Sbornik deystvuyushchikh traktatov, konventsiy i soglasheniy, zaklyuchennykh Rossiey s drugimi derzhavami. T. I / 2-e izd. St. Petersburg, 1902. P. 422 (art. 4), p. 326 (point 6-7).

<sup>29</sup> Amu i Uzboy. P. 40-41.

<sup>30</sup> It's noticeable that even legal status of Amu-Daria flotilla was agreed not by international treaty or agreement but by private correspondence of the emperor Alexander III, Governor-General of Turkestan Mikhail G. Chernyaev and Muhammad-Rahim II, khan of Khiva, see: *Sadykov A.S.* Ekonomicheskie svyazi Khivy s Rossiey vo vtoroy polovine XIX – nachake XX vv. Tashkent, 1965. P. 84.

<sup>31</sup> Amu i Uzboy. P. 48, 50.



irrelevant but works on the reconstruction of dilapidated irrigation structures and making the Amu-Daria navigable seemed to the Khivan authorities too large and expensive to begin them immediately.<sup>32</sup> The Russian administration did not have such strong positions in the Khivan Khanate during the first years of their protectorate to make Khan and his officials complete the Russian water projects.

The strengthening of political and economical ties between the Russian Empire and the Central Asian khanates in the 1890s strangely enough resulted in an increase in the status of the vassal rulers in the eyes of the Russian authorities.<sup>33</sup> If they were petitioners on some questions before, now they set up claims to solve the same problems in addition to those relating to irrigation and water use.

From the beginning of 1890s the water needs of Samarqand region substantially increased and the situation with the water-supply to Bukhara became critical.<sup>34</sup> On May 27, 1894 negotiations between the Russians and the Bukharans took place and an agreement was signed that every year from November 15 to March 10 all the water of the Zeravshan (except the necessary quantity for Samarqand) would be given to Bukhara and from June 19 to August 15 no less than 40% of the water would be given to Bukhara. But as the Emir still did not appoint officials to control the distribution of water,<sup>35</sup> the agreement was not practically implemented: in summer of 1894 only 18% of the water was given to Bukharans and in summer of 1895 only 15–17%.<sup>36</sup>

In 1899 Emir Abdul-Ahad requested the recommencement of the negotiations on the water from the Zeravshan. A special commission was established with the military governor of Samarqand region Viktor Medinskiy at the head, engineer Christian Gelman, representatives of the Russian Political Agency and several Bukharan officials as members. The commission found that the requests of the Bukharans were righteous: in fact, the Russian authorities were interested in the development of the cotton industry in Bukhara and the lack of water was a serious obstacle.<sup>37</sup> Nevertheless, the exact portions of Zeravshan water for Samarqand and Bukhara still were not agreed. Only in 1902 did the new commission (with the same Medinskiy at the head but

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<sup>32</sup> However, already in 1873 Khivan official Murtuzali said to the head of Trans-Caspian military section Nikolai P. Lomakin that could drive water of Amu-Daria to the drained river-bed of Uzboi and provide shipping in two months with 8 or 10 thousand of workers, see: Amu i Uzboy. P. 49-50.

<sup>33</sup> This situation was indignantly described by Dmitriy N. Logofet (*Logofet D.N.* Bukharskoe khanstvo pod russkim protektoratom. Vol. I. St. Petersburg, 1911. P. 14).

<sup>34</sup> See, e.g.: Golodnaya step'... 27.

<sup>35</sup> They still were not appointed even at the beginning of the 20<sup>th</sup> c., see: *Logofet D.N.* Bukharskoe khanstvo pod russkim protektoratom. Vol. II. St. Petersburg, 1911. P. 77-78.

<sup>36</sup> *Tukhtametov T.G.* Russko-bukharskie otnosheniya v kontse XIX – nachale XX v. Pobeda Bukharskoy narodnoy revolyutsii. Tashkent, 1966. P. 53-54.

<sup>37</sup> See: *Rasulev A.R.* K istorii khlopkovodstva v Bukhare kontsa XIX – nachala XX veka // Obshchestvennye nauki v Uzbekistane. 1969. № 7. P. 51.

formed by order of new Governor-General of Turkestan, Nikolai Ivanov), come to a final decision: two thirds of the water would be at the disposal of Samarqand and a third at the disposal of Bukhara.<sup>38</sup>

As we can see, even decades after the establishment of the Russian protectorate over the Central Asian khanates relations with them were still based on negotiations and agreements, although Russia could have enforced its own will and spread its own legislation over Bukhara and Khiva. Such way would be resulted in the final joining of the khanates to the empire and that seemed too expensive for the Russian authorities, who preferred to save the system of protectorates without substantial changes in the khanates. Examples of solving irrigation problems are evidence of this tendency but at the same time, as mentioned, the absence of any systematized “water law” in Turkestan allowed the Russian authorities have the most advantageous terms during negotiations.

### **The second stage: attempts to institutionalize water relations**

The first legal act on water use in Turkestan was “Temporary rules on irrigating” of June 19, 1877, established by von Kaufman. In fact they were used only for the Tashkent province where all water was state owned.<sup>39</sup> It is possible that after trialling these “Rules” in one province Kaufman intended to spread them throughout Russian Turkestan. But he died in 1882 and his successor, General Mikhail Chernyaev (who had a personal hostility toward Kaufman) immediately cancelled the “Rules” (as well as all Kaufman’s political, administrative and legal decisions in Turkestan).<sup>40</sup> Until 1886 water use in Russian Turkestan and in the khanates under the Russian protectorate was still regulated by customary law. This practice was officially fixed in the article 256 of the “Statute on the administration of Turkestan region” of June 12, 1886: in accordance with this Statute water was to be used by inhabitants “on native customs”. On August 2, 1888 Nikolai von Rosenbach, the third Governor-General of Turkestan, established the new “Direction on rights and duties of irrigational officials, heads of districts, *aryk-aksakals* and *mirabs*”. The water engineer Petrov characterized this act as “a variation on the theme determined by article 256”.<sup>41</sup> Although the question of “water law” was not settled in general in the “Direction”,<sup>42</sup> it regulated the structure of water management and determined the competence of officials of different levels for irrigation. To our mind, the establishment of this “Direction”

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<sup>38</sup> See: *Becker S.* Russia’s Protectorates in Central Asia. P. 163. It’s interesting to mention that as contemporaries (*Gubarevich-Radobyl’skiy A.* *Ekonomicheskiy ocherk Bukhary i Tunisa. Opyt sravnitel’nogo issledovaniya dvukh sistem protektorata.* St. Petersburg, 1905. P. 177), so modern scholars (*Peterson M.K.* *Technologies of Rule.* P. 100) are surprised with such decision and consider it artificially elaborated without taking into account real ratio of lands in Samarqand region and Bulhara.

<sup>39</sup> See: *Dingel’shtedt N.* *Opyt izucheniya...* P. 70; *Fleksor D.* *K voprosu o vyrabotke...* P. 351.

<sup>40</sup> *Dingel’shtedt N.* *Opyt izucheniya...* P. 51, 70.

<sup>41</sup> *Petrov N.* *Ob irrigatsii v Turkestanskom krae.* Tashkent, 1894 (in Russian). P. 123, n. 1.

<sup>42</sup> *Dingel’shtedt N.* *Opyt izucheniya...* P. 70.

caused the appearance in the Central Asian khanates of long-term Russian research expeditions, the appointment of official Russian representatives at the courts of the rulers of the khanates, and an increase in survey works related to irrigation in Bukhara and Khiva.

These processes were more well-ordered in the Bukharan Emirate. From 1886 the Imperial Russian Political Agency functioned as the official permanent diplomatic mission to Bukhara. Its second head was Pyotr Lessar who, as an engineer, had in the 1880s conducted several expeditions in Bukharan and Khivan regions including the exploration of the problems of irrigation. At that time he (like Ahmad Donish at the end of the 1860s) suggested irrigating Karshi district with water from the Amu-Daria, but the offer was considered “unfriendly” by the Bukharan authorities because of its expense.<sup>43</sup>

Then Russia decided to demonstrate the advantages of the Russian methods of irrigation. From the end of the 1880s Russian settlements had been established in the Bukharan Emirate (at first on the border with Afghanistan where Russian troops protected the Emirate from invasion by the Afghans and the English). In 1889 the Turkestan authorities using their own forces and at their own expense irrigated about 10 000 *desyatinas* of land near the Russian military settlement near Termez. The cost of the project was 300 000 rubles.<sup>44</sup> According to Dmitriy Logofet, a Russian official who investigated the Emirate in 1910, it was the only large-scale irrigational project realized in Bukhara during his lifetime.<sup>45</sup>

In his “Note” written in 1895 (at the end of his stay in Bukhara) Lessar emphasized the imperfection of the Bukharan irrigation system and incompetence among *mirabs*. He insisted on the appointment in the Emirate of a special engineer as an official Russian representative to develop irrigation in Bukhara and control the activity of the *mirabs*.<sup>46</sup> Due to his efforts by 1893 talented specialist Christian Gelman was assigned an engineer, but even their joint efforts were insufficient to realize any project in the Emirate. However, Lessar himself advised Gelman not to take control of the irrigation system in the Emirate immediately as he did not have the official authority; moreover, the *mirabs* could insight the local inhabitants against Russian officials. Political agent recommended engineer to concentrate firstly on the technical aspects of the

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<sup>43</sup> Logofet D.N. Bukharskoe khanstvo... Vol. II. St. Petersburg, 1911. P. 87-88. Se also: Voeykov A. Turklestan, ego vody i oroshenie. Petrograd, 1915. P. 19.

<sup>44</sup> Engineer Ch. Glman who analyzed this project in 1898, found it could be cost only 130 000 rubles.

<sup>45</sup> Logofet D.N. Bukharskoe khanstvo... Vol. II. P. 88.

<sup>46</sup> Zapiska P.M. Lessara o vnutrennem polozhenii Bukharskogo khanstva i ego otnosheniyakh s Rossiey (1895 g.) / Prepared by M.A. Chepelkin // Sbornik Russkogo istoricheskogo obshchestva. Vol. 5 (153). 2002. P. 116. Se also: Gubarevich-Radobyl'skiy A. Ekonomicheskii ocherk Bukhary i Tunisa. P. 178.

problem, earn the trust of the locals and only after that could he take control of irrigation in Emirate in general.<sup>47</sup>

But in 1895 Lessar was appointed Russian representative in London, and his successor Vladimir Ignat'ev was a creature of the Russian Foreign Office rather than of Turkestan administration. So, the status of Gelman became very uncertain, first of all his expenses – it was presumed that the Emir took these expenses upon himself as the engineer would work in his interests. But soon the Turkestan authorities, who desired to see in Gelman a protector of their policy in the Emirate, proposed to posting him to the staff of the regional administration with an appropriate salary. In this case he would become a representative of the Military Ministry and this was unacceptable for the Foreign Office. After consultations between the two Ministries, Gelman was recognized a military official but his responsibilities were so insignificant that he was no more than irrigation mediator between the Turkestan authorities and the Russian Political Agency in Bukhara.<sup>48</sup>

As a result, Gelman in spite of his talents and knowledge did not succeed in solving the irrigation problems in the Emirate before he left his position in Bukhara in 1900. For example, in 1896 he developed a project of to drain an *aryk* in Bukhara which was the cause of many diseases among inhabitants,<sup>49</sup> estimated the cost (120 000 rubles) and sent it to Turkestan authorities. The Construction department of the Governor-General's administration approved the project (naturally at the expense of the Emir), but the project was delayed. In 1898 the Governor-General Alexander Vrevskiy was replaced by Sergey Dukhovskoy, and the Emir used this replacement to reject the project because of its cost: he promised to drain the *aryk* on his own without Russian specialists. Gubarevich-Radobyl'skiy who described this episode, wrote in 1905 that the problem still had not been solved.<sup>50</sup>

In the 1890s the control of the Russian authorities over the Khivan Khanate became stronger, and the Turkestan administration forced the Khan and his officials to develop the cotton industry in the Khanate and to settle the question of giving land to Russian migrants in Khiva. To reach it the administration of Turkestan appointed their own official engineers (like in Bukhara) to carry out survey works and promote the ideas for the irrigation of regions which had been drained. This question became the most sharp in 1893 when Governor-General Vrevskiy ordered

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<sup>47</sup> Zapiska P.M. Lessara... P. 116.

<sup>48</sup> Gubarevich-Radobyl'skiy A. Ekonomicheskiy ocherk... P. 179; Logofet D.N. Bukharskoe khanstvo... Vol. II. P. 86.

<sup>49</sup> It was mentioned already by Lev F. Kostenko in 1870 (*Kostenko L.F. Puteshestvie v Bukharu...* P. 88-89).

<sup>50</sup> Gubarevich-Radobyl'skiy A. Ekonomicheskiy ocherk... P. 179-180. See also: Logofet D.N. Bukharskoe khanstvo... Vol. II. P. 87.

Muhammad Rahim Khan to restore the Lauzan Canal (drained in 1850s<sup>51</sup>) and to irrigate the adjacent lands. The Governor-General declared that if Khan would not do it the Russian authorities would complete the irrigation works themselves and at their own expense, and in this case all irrigated lands would become the property of Russia and given to Russian peasants (which was in full accordance with the customary law of the Khivan Khanate). The Khan had to obey and in April, 1894 irrigation works began under the supervision of Muhammad Murad, the Divan begi. In fact, the canal was built about 8 *verstas* (about 8,5 km) south of the former one. The Khan explained this by the desire to retain the existing irrigation constructions, but, in truth, he still did not want to increase the water-supply for mutinous Turkmen tribes,<sup>52</sup> and in that he succeeded. Gelman who visited Khiva to inspect the Lauzan Canal, noticed that it was meandering and, consequently, did not have the depth to provide Turkmen regions with enough water.<sup>53</sup>

### **The third stage: disputes on the water law and coming of the private capital**

The purpose of the Russian Empire of gaining control over Central Asia was not only political and military: since the age of Ivan the Terrible and then Peter the Great, Russia looked to develop economic ties with this region. Imperial policy in Central Asia in many respects was determined by the development of trade routes and the search for new markets. were engaged in solving the problem of irrigation and water-supply in the Central Asian khanates. Even as early as the 1840s–1860s business representatives (Pyotr Golubkov, Sergey Khrulyov and others) suggested projects for the development of shipping on Amu-Daria..

But most of these projects were utopian as their authors, as a rule, were not familiar with the geography of Central Asia, the conditions of its rivers or the irrigation systems. Only at the end of the 19<sup>th</sup> century did businessmen begin to suggest projects including irrigation and water-supply taking into account specific regional features and the level of development of the states and regions. One of the first such projects was developed by Samarqand merchant Ya. A. Rechtzammer in 1896: he tried to organize “The Society of Amu-Daria Canal” 300 *vestas* long to Kelif and Karshi irrigating the adjacent lands. The cost of the project was determined at 5–6 million rubles,<sup>54</sup> and Rechtzammer did not intend to ask for subsidies from the Russian or

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<sup>51</sup> See: *Shioya A.* Irrigation Policy of the Khanate of Khiva regarding the Lauzan Canal (1), 1830-1873 // *Area Studies* Tsukuba. Vol. 32. 2011. P. 126.

<sup>52</sup> *Koshchanov A.* K istorii irrigatsii v Khivinskom khanstve kontsa XIX – nachala XX veka // *Obshchestvennye nauki v Uzbekistane.* 1964. № 1. P. 57-59; *Navruzov S.* Sistema orosheniya Khivinskogo khanstva v osveshchenii dorevolutsionnoy istoricheskoy literatury // *Obshchestvennye nauki v Uzbekistane.* 1992. № 11-12. P. 53.

<sup>53</sup> *Gelman Ch.V.* Obvodnenie starogo rusla Amu-Daryi // // *Izvestiya Turkestanskogo otdela Imperatorskogo Russkogo geograficheskogo obshchestva.* Vol. II. Iss. 1. Tashkent, 1900. P. 122-123, 132, 135.

<sup>54</sup> Above-mentioned engineer N. Petrov later calculated that the real cost of such project would be not less than 215 million rubles,

Bukharan treasury. The only condition was the granting of all irrigated lands to the management of the “Society” with the right to rent them; in its turn, the “Society” committed to provide Old and New Bukhara with water for free. The project was sent to the Russian political agent Ignat’ev who rejected it under pretext that Emir did not want to entrust irrigation policy to private entrepreneurs.<sup>55</sup> To our mind the real reason was the absence of developed legislation on the participation of private organizations and persons in the irrigation policy in Turkestan itself.

In 1908 the General Manager of farming and the organization of the use of land (in fact Minister of Agriculture) Alexander Krivoshein ordered the preparation of a new “water law” for Turkestan to provide for the participation of private persons in irrigational activities. There was no result until 1910 when the senator, Count Konstantin von Palen, after his review of the Turkestan region found it necessary to attract private capital to irrigation works in Turkestan.<sup>56</sup> As a result, “The rules on permission to private persons to execute survey works for irrigation in Turkestan” of May 21, 1910 were issued by Krivoshein by agreement with Alexander Samsonov, Governor-General of Turkestan,<sup>57</sup> And as the “water law” of Turkestan had influenced relations with Bukhara and Khiva, the new “Rules” also played an important role in water policy in the khanates. In 1910–1917, a boom of private irrigation projects for Bukhara and Khiva took place.

One of the most famous figures in this field was Prince Mikhail Andronikov, a well-connected adventurer who by 1910 had signed a preliminary contract with Emir Abdul-Akhdad on the concession of 25 000 *desyatinas* of land of the Karshi Steppe which were to be irrigated and cultivated. This project was rejected by acting Foreign Minister Anatoly Neratov, who based his decision on the contradiction between the competence of the Emir and the interests of the Bukharans. But Prince Andronikov appealed to Vladimir Sukhomlinov, Military Minister, and two years later succeeded in confirming the project; in 1913 new Emir, Alim Khan (probably under pressure of Sukhomlinov) gave Andronikov an additional 80 000 *desyatinas* of land for irrigation.<sup>58</sup>

Also in 1913, Prince Andronikov, in cooperation with another entrepreneur A. P. Putilov, acquired 19 400 *desyatinas* of land in the Khivan khanate for 680 500 rubles. To facilitate the acquisition process Andronikov decided to refuse Russian rights and privileges in Khiva and promised to pay all taxes as a subject of the Khan. But this time the project was rejected by Nil Lykoshin, head of the Amu-Daria military section: he stated that the contract contradicted the

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<sup>55</sup> Rasulev A.R. *K istorii khlopkovodstva...* P. 51.

<sup>56</sup> Palen K.K. *Otchet po revizii Turkestanskago kraia. Pereselencheskoe delo v Turkestane.* St. Petersburg, 1910. P. 424, See also: Morrison A.S. *Russian rule in Samarkand.* P. 235.

<sup>57</sup> Cherdantsev G.N. *Vodnoe pravo Turkestana...* P. 29-30. See also: Shkapskiy O.A. *K voprosu ob oroshenii zemel' v Turkestane.* St. Petersburg, 1909.

<sup>58</sup> Becker S. *Russia's Protectorates in Central Asia.* P. 187-188. See also: Rasulev A.R. *K istorii khlopkovodstva...* P. 51-52.

terms of Gandemian Treaty of 1873 (Lykoshin treated such terms very freely), and that Isfendiar Khan did not have the rights to sell the lands of Amu-Daria in *mulk* (private ownership).<sup>59</sup> This meant the representative of the Russian administration refused to approve a deal of a Russian subject with the Khivan khan using categories of Islamic law. But, in fact, the Russian authorities found that Prince Andronikov intended to buy land included in the plan of the irrigation works of Russian administration and suspected him of speculation.<sup>60</sup>

The example of Andronikov is the most well known and, possibly the most glaring, but it is not the only one. In 1912 Captain Anan'ev, a military engineer, also registered a concession and was released of taxation payments for the time when he was to carry out irrigation works (8,5 years). In 1912–1913 four entrepreneurs (L'vov, Suchkov, Ivanov and Stovba) addressed to the Turkestan authorities to approve their contracts with Emir Alim Khan, but only the last of them succeeded due to the personal support of Governor-General Samsonov.<sup>61</sup>

The increase of the activities of private persons in irrigational relations highlighted for the Russian authorities the imperfection of the legislation including that governing the relations with Bukhara and Khiva. As a result, in 1914 Krivoshein, after consultations with representatives of the imperial powers and the Turkestan administration, issued new rules on irrigation works in Bukhara and Khiva, which were approved by Council of ministers on March 13, 1914. After that time large-scale irrigation projects in the khanates could be realized only by the authority of Turkestan Governor-General; half of the irrigated lands by “special contract” should be given to Russian authorities for Russian peasants (*pereselentsi*); the Emir of Bukhara and the Khan of Khiva had the right to give concessions on no more than 5 000 *desyatinas* of land – larger plots could be given only by authority of the Council of ministers of the Russian Empire.

The Russian authorities widely used uncertain wording of the Gandemian and Shaar Treaties of 1873 (as they were the only legal acts regulating the status of Khiva and Bukhara towards the Russian Empire) and absence of any official “water law” to impose their own terms on the Central Asian khanates, which demonstrates de-facto their strict obedience to Russia. It is indicative that the newest rules on irrigation of 1914 were elaborated by the Russian Council of ministers without even nominal negotiations or any agreements with rulers of the khanates. The Turkestan administration hesitated to introduce “Rules” to the Emir of Bukhara and the Khan of Khiva. When acting Governor-General of Turkestan Fyodor Martson decided to familiarize

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<sup>59</sup> Cf.: Lunev Yu.F. Gosudarstvo i pravo uzbekskikh khanstv s XVI po XIX veka. Moscow, 2004. P. 114-115.

<sup>60</sup> Pogorel'skiy I.V. Ocherki ekonomicheskoy i politicheskoy istorii Khivinskogo khanstva kontsa XIX i nachala XX vv. (1873-1917 gg.). Leningrad, 1968. P. 88-89. This case became a subject of special research work: Shioya A. Who Should Manage the Water of the Amu-Darya?

<sup>61</sup> Tukhtametov T.G. Russko-bukharskie otnosheniya... P. 117-118.

Isfendiar Khan with the “Rules”, Colonel Kolosovskiy, head of the Amu-Daria military section, feared that the Khan would prohibit the sale of land in Khiva to Russians.<sup>62</sup>

Although the new “Rules” guaranteed the interests of the Russian authorities and restricted the rights and opportunities not only of the Central Asian rulers but also Russian entrepreneurs, the practice of concessions was not stopped: last contracts were dated 1917.<sup>63</sup>

## **Conclusion**

The relations between the Russian Empire and the Bukharan Emirate and the Khivan Khanate in water use and irrigation strikingly reflected the imperial policy towards its protectorates in general. Moreover, the “water law” became an important component of this policy as it strengthened the imperial authorities’ positions in the Central Asian khanates in different areas given the importance of water relations for the region.

The “water policy” of the Russian Empire changed with time but the main purpose – the consolidation of control over Bukhara and Khiva – remained. Different stages of the development of the Russian “water law” for Turkestan reflected different stages of the formalization of the Russian protectorate over the Central Asian khanates, involving of more and more imperial officials and, from the beginning of the 20<sup>th</sup> century, private entrepreneurs in the regulation of legal relations in these khanates.

In these circumstances the absence of any written “water law” was not a problem for the Russian authorities in their relations with Bukhara and Khiva. On the contrary, it gave the Russian administration an opportunity to realize a flexible policy towards their protectorates and at the same time emphasize their taking into account of the regional and local legal customs and traditions of water use and irrigation. Such a position (equally shown in Russian Turkestan and in the Central Asian khanates) provoked, within certain limits, a positive reaction from the local population towards Russia’s policy of frontier modernization. This resulted in an active integration of the powers and population of both khanates into the political and legal sphere of the Russian Empire, and stimulated the development of new political, legal, economic relations, principles and institutions in these recently conservative and out-dated feudal oriental states.

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<sup>62</sup> Ibid. P. 119; *Shioya A.* Who Should Manage the Water of the Amu-Darya? P. 129-130.

<sup>63</sup> *Rasulev A.R.* K istorii khlopkovodstva... P. 52; *Tukhtametov T.G.* Russko-bukharskie otnosheniya... P. 120-121.



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