

## SCTMG 2020

### International Scientific Conference «Social and Cultural Transformations in the Context of Modern Globalism»

## JUDICIAL SYSTEM IN THE NORTH CAUCASUS IN THE 1820S–1850S

Elena Isaakovna Kobakhidze (a)\*, Angela Aslanovna Dzottsoeva (b)

\*Corresponding author

(a) North Ossetian State University. after K. L. Khetagurov, 46, Vatutina str., nosu@nosu.ru, Vladikavkaz, Russia,

(b) North Ossetian State University. after K. L. Khetagurov, 46, Vatutina str., nosu@nosu.ru, Vladikavkaz, Russia,  
nosu@nosu.ru

### *Abstract*

The judicial system problems in the Central Caucasus in the XIX century are closely connected with the practice of political development and the formation of a specific control model, in which the court and the administration were two components of a single management system. By the end of the 1850s in the North Caucasus had developed a rather peculiar hierarchy of judicial institutions, which were based on the organizational principles of the state administration of justice. At the same time, the concrete-historical features of the region's entry into the Russian Empire and its social and cultural specificity caused the originality of the regional judicial system and judicial proceedings. The article analyzes the court system in the North Caucasus, formed based on specially developed for the Caucasus legislative acts. For the first time, the correlation question of the regional judicial system and the court system of the Russian Empire is raised and resolved. The document analysis of legislative character shows that the regional justice system was constructed by analogy with all-Russian, but had thus the specificity caused by administrative control features of the territory. For civilians created courts, similar to the Russian, but adapted to the conditions of the Caucasus. The mechanisms of the judicial system and judicial proceedings were developed for the mountain population, and the government-wide law was correlated with the local legal practice. The specificity of the system administration of justice in the Caucasus was the combination in the same instances of both purely judicial and administrative authorities.

2357-1330 © 2020 Published by European Publisher.

**Keywords:** North Caucasus, Russian Empire, judicial system, judicial proceedings, judicial authorities.



This is an Open Access article distributed under the terms of the Creative Commons Attribution-Noncommercial 4.0 Unported License, permitting all non-commercial use, distribution, and reproduction in any medium, provided the original work is properly cited.

## **1. Introduction**

The topic of the entry of the North Caucasus into the Russian Empire is one of the most popular in modern Caucasian studies. As a rule, research interest is attracted by stories related to the Caucasian war, obviously, because of their brightness and dramatic tension. However, against the background of the military development in some areas of the Caucasus, routine work on the administrative arrangement of the annexed region was no less intense, ensuring the gradual involvement of its territory and population in the Russian statehood in political, economic and social and cultural aspects. One of the most important direction activities of the Russian government on this path was the formation of the court system in the annexed territory, closely related to the practice of its political and administrative development. In the formation process of the court system in the region, several stages can be distinguished, determined primarily by administrative transformations and specific social and political entry circumstances of the North Caucasus to the Russian Empire. Both organizational forms and functional features of the local judicial system, being genetically related to the all-Russian court system, were caused primarily by changes in the administrative and managerial sphere of the region.

## **2. Problem Statement**

It should be noted that the formation problem of the state-administrative structures in the North Caucasus during its accession to the Russian Empire is covered in sufficient detail in historiography. In many historiography works are investigated the judicial system issues in the region during its entry into the Russian state-administrative system, the authors of which are both historians and jurists. At the same time, the judicial system was considered as part of the emerging system of public administration. It is very significant that both historians and jurists focused primarily on the problems associated with the organization of justice in the mountain societies inhabiting the region, and the phenomena of interaction between traditional legal provisions and Russian legislation (Abazov, 2016; Kobakhidze, 2012; Misrokov, 2002). These questions were mostly worked out for the second half of the XIX century when the Russian state entered the era of Great reforms, in which one of the central places was occupied by the judicial reform of 1864. We believe that the accentuation of the "mountain" issues eliminates the real complexity of the process of creating a justice system in the region, as it does not allow us to make a holistic view of the regional judiciary system and assess neither the specifics of the local judicial system and legal proceedings nor its genetic links with the organizational structure of the judicial sphere in the Russian Empire, of which it was an integral part.

## **3. Research Questions**

The main purpose of the work is to identify both general patterns manifested in the formation of the judicial system in the North Caucasus in the process of its integration into the Russian state, and its specific features due to specific administrative measures of the government and social and cultural features of the region.

#### **4. Purpose of the Study**

The article attempts to move away from the one-dimensional view of the judicial system formation in the North Caucasus and to show its evolution in the all-Russian context within a small chronological period of the 20–50s of the XIX century when the foundations of the future judicial system and law enforcement practice in the North Caucasus region were laid.

#### **5. Research Methods**

The study is based on several methods used in historical research: historical, comparative, functional, typological. A special place in the work was taken by the analysis of the legislative acts that legally concerned for the ongoing reforms. The complex use of these methods made it possible to define the cause and effect relationships in the formation of the regional court system in the designated chronological boundaries. Its features identify and show the formation process and development of the judicial system in the North Caucasus in the all-Russian context.

#### **6. Findings**

The complexity of the multilevel hierarchy of the court system in the North Caucasus was laid down by the first official acts adopted to govern the region in the first half of the XIX century (Abazov, 2016). For different population categories (civil, military, local) was established the separate judicial and administrative order. The inhabitants of the North Caucasian cities as representatives of the civilian population were subject to the all-Russian court system but somewhat transformed for local conditions. The first officially adopted the law on the Caucasus control in February 1827 established not only the control order of the Caucasus region but also regulated the court system structure in the region, defining its main contours and functional features.

In general terms, the judicial system and legal proceedings for the civilian population of the Caucasus duplicated the Russian court system, which took shape at the end of the XVIII century after the adoption of Institutions for the administration of the provinces in 1775 and 1780 and remained until the judicial reform of 1864. During this period, the Russian Empire operated in parallel two judicial institution systems, represented by general jurisdiction courts, which were created based on class and the so-called "special" courts.

"Upper" and "lower" courts (in provincial cities and counties) were created as general jurisdiction courts for nobles, urban populations, and peasants. As the second (appellate and audit) instance for the "upper" courts acted the chambers of the criminal and civil courts created in provincial cities. The Senate and the Emperor were the highest authorities in the "upper" court system. At the same time, the "upper" courts acted as the second instance (appeal and audit) for the system of "lower" (district, district police) courts. Complaints to the "upper" court were considered in two departments: criminal and civil cases.

The system of "special" courts included court of conscience (for each province), which were on the same level with the provincial chambers, as well as Upper and Lower court councils in Moscow and St. Petersburg. They dealt with cases that could be resolved in a conciliatory manner and disputes without

a legal provision (Efremova, 2008). As for the provincial chambers, the highest instance for the court of conscience was the Senate and the Emperor.

For the bulk of the urban population, represented by the petty-bourgeois and merchant classes were established provincial and city magistrates. The city hall served as the town magistrate in the settlements. As in the court systems of general jurisdiction, appeals instances for city magistrates and city halls were established in the principal town of a province; provincial magistrates also consisted of two branches – criminal and civil.

In addition to the actual judicial bodies, the judicial system includes the decorum council, headed by the governor of a town, who was in the chief towns of districts. In addition to police supervision, councils could handle minor criminal and civil cases and conduct investigations. The court system was supplemented by verbal courts operating in the cities.

Such in general terms was the organizational structure of the court system in the Russian Empire in the late XVIII-early XIX century.

Created in the Caucasus in the first quarter of the XIX century, the administrative and judicial machinery was somewhat different from the all-Russian. By the establishment of the administration of the Caucasus region of 1827 there were no "special" courts in the regional justice system, due to poor urban development and urban infrastructure. The court system of general jurisdiction also had its peculiarities due to the specifics of the administrative arrangement of the region. The first instance courts were also established in the Caucasus region as in the Russian provinces. However, the place of the "lower" provincial courts took the district courts in Stavropol, Georgievsk, Mozdok, and Kizlyar. The provincial judicial and administrative settings have acquired the status of a regional.

Criminal and civil cases were tried in the district courts as judicial institutions of the first instance. The district chief, a military official, became the court president; in addition to him, the court included two lay assessors and deputies from the estates. Military courts were established to consider criminal offenses committed by military or cossacks.

Also, the first instance acted and created in the Caucasus region district police courts, which carried out administrative and police services and were engaged in the execution of judgments and judicial proceeding in minor cases. The district police court composition included the district police officer and lay assessors in the amount of five people, of which one was engaged in the case consideration of the local urban and non-Slavs.

The regional court in Stavropol was the second judicial instance for district courts. It considered appeals in civil cases and conducted audits in criminal cases; at the same time, the regional court acted as the first instance court in cases related to official crimes. The highest appeals instance in civil actions was the Senate, in criminal and investigative cases was the regional head and in case of disagreement with the decision was the chief executive of Georgia or Senate.

Competence is absent in the Caucasian region court of conscience was transferred to the regional court, and in the trial of cases come to within jurisdiction of the court of conscience, it was necessary the presence of the regional marshal of nobility.

Instead of city magistrates in the Caucasus region, city courts were created, which also performed administrative functions. They were intended for verbal complaints in minor civil cases. And written

complaints were to be filed in the district courts. The city court included verbal courts of each of the peoples living in the region: Russian, Armenian, "Tatar" and others. The verbal courts consisted of a chairman and two lay assessors. The verbal court activities for the highlanders were based on local legal practice. If the litigants belonged to the same society, the verbal courts acted separately. In other cases, it was required to assemble the court in a mixed composition. The number of verbal courts was determined by the chief executive depending on the number of cases and the demographic profile of a particular group of the local population.

The military population living on the Caucasian line was subordinated to the general commandant's district control in which the fortresses were located. The district chief, as commandant of the fortress located in the district center, was also given the right to supervise administrative activities and audit investigative and criminal cases before the district courts, as well as the right to review decisions made by the military court.

The judicial and administrative procedures established by law for the local mountain population depended on which group "internal", i.e. living within the Caucasian military line, or "external" ("linear") foreigners it is referred to.

The judicial procedure for "internal aliens" depended on the kind of cases in which public, private and lawsuits were distinguished. Public crimes were within the jurisdiction of the military court; matters of private concernment (murders, robbery, livestock raiding, etc.) belonged to conducting of the district court and as audit could arrive in the regional court in Stavropol; lawsuits understood in societies based on local legal practice. If one of the parties disagreed with the decision, the written complaint was filed first in the district court, where it was considered in the investigative order, and then it was considered in the regional court in the appellate order. It should be noted that at the initial stages of the formation of the state judiciary system in the North Caucasus, legal proceedings for local peoples were based on traditional legal norms.

"Behind line foreigners" were under the jurisdiction of the military chiefs of the Caucasian military line, who were commandants of the district cities. All enormous offenses committed in mountain societies were tried in military courts; claim cases were considered in the societies themselves by the prevailing legal customs. Significantly, the military authorities could intervene in such proceedings if only the residents themselves ask them to do so. The decisions made in the cases of "foreign aliens" were not subject to revision in the official judicial instances.

The Russian Empire's judicial system was characterized by the interweaving of judicial and administrative functions. The same principle distinguished the court system formed in the North Caucasus, although its implementation is obvious specificity due to the nature and forms of military commandant's control. For example, the court president of various instances in the Caucasus region were military officers who performed administrative functions as fortresses commandants and were district heads. Also, district supervisors had the right to review criminal and investigative cases heard in lower local courts. The supervising functions over district and district police courts were vested in district administrations. Similar functions, but about the district courts, were performed by the regional management. The chief executive officer in the Caucasus region is the regional chief who reviewed and approved the regional court sentences in criminal cases and, in case of disagreement, passed them up to

the Caucasian administration. The regional chief solved also the personnel questions concerning the city court structure. The supreme executive power in the Caucasus region belonged to the chief executive in Georgia, who was also endowed with review services in the judicial sphere (Kobakhidze & Dzotsoeva, 2018).

Thus, already by the beginning of the 1840s, a rather specific regional court system was formed in the North Caucasus in general terms, which structurally and organizationally reproduced the all-Russian one, but differed from it due to both the social and cultural region features and the specific circumstances of its entry into the Russian Empire. In general, the judicial-administrative model established for the civilian population of the region functioned until the early 1860s, when significant administrative changes occurred in the North Caucasus, associated with the end of the Caucasian war and the gradual management reorientation from military to civilian. Minor changes caused by administrative transformations of the 40-50s of the XIX century only detailed and clarified the organizational forms and functional characteristics of individual judicial and administrative institutions, without significantly changing the administration of justice in the region. For example, since December 1842 powers and authority of district chiefs to whom functions of the abolished district councils were transferred even more extended; in Mozdok instead of district court and police department there was a town hall as in settlements of the Russian provinces; in Stavropol as the center of the Caucasian region established the city magistrate, etc.

The establishment of the Caucasian vicariate changed the management system in the region and influenced the organizational forms of the judicial system. The renaming of the Caucasus region into Stavropol province in May 1847 led to the division of the Caucasus into provinces and the transformation of districts into counties. The institution for the Caucasus Region administration of 1827 remained the legal basis for the establishment of general management in the province, but now all former Caucasian, regional and district posts and institutions have become known as the Stavropol, provincial and district.

The judicial system has undergone corresponding changes: Stavropol regional court was transformed into a chamber of the criminal and civil court, and district courts in the county. Thus, the judicial system in the North Caucasus was even closer to the all-Russian model.

Extensive administrative and judicial reforms in the region occurred during the reform initiated by the Caucasian vicegerent in the late 1850s at the end of the Caucasian war. The basis of the reform was the district administration principle, which meant the division of the North Caucasus into military peoples districts, and districts into areas that included the territory of the highlanders. At the same time, administrative and judicial institutions were created, common to the entire population of the region, including highlanders. Thus, in the North Caucasus developed a system of so-called military people's administration gradually, in which a special place was taken by the system of the judicial system and judicial proceedings for the highlanders of the Central Caucasus.

Based on the Caucasian committee provision of 1857 "on some changes in the administration of the submissive tribes of the Caucasus" it was supposed to create people's courts in each of the districts into which the region was divided. The court was composed of elected deputies from each of the societies inhabiting the district, and a military officer was appointed to preside, holding the position of district chief. The highest court in the district was the district court.

The new judicial system and judicial proceedings were tested in the Military Ossetian district (see details: Kobakhidze, 2012). The commander-in-chief of the troops of the left-wing of the Caucasian military line in September 1858 approved a special document "Initial rules for the areas management of the Ossetian district" (NOIHSS, 1942), which were considered as a temporary measure until the publication of more detailed instructions.

First of all, the document defined the jurisdiction of the district offices as lower courts and the district people's court, as well as the judicial procedure and case jurisdiction to be considered in each of these instances. In the law enforcement field, the use of "folk customs" was allowed in cases with minor lawsuits and proceedings based on verbal complaints, for serious offenses, a "legal" procedure was established in the district people's court. Such practice testified to the establishment of polyjuridism as a legal framework for a judicial and procedural activity about the local population of the Central Caucasus (Misrokov, 2002).

## 7. Conclusion

Thus, the study showed that the judicial system in the North Caucasus in the 20–50s of the XIX century was genetically associated with the all-Russian administration of justice. However, its formation took into account the specific social and political circumstances and the social and cultural characteristics of the developed region. In general, the judicial field in the North Caucasus was characterized by the simplification of the organizational structure and functional ties while preserving the main components of the system itself. Thus, there was no court of conscience, the court system of general jurisdiction was also not quite similar to the all-Russian, responding to the specific needs of management. Also, the tasks of political and administrative development of the region and its integration into the Russian state required special attention to the structure of the court and the process for the highlanders as the population bulk of the North Caucasus. The military conditions of the region determined another specific characteristic of the regional court system is the close intertwining of administrative and judicial functions in one administrative instance and the execution of judicial powers by military officials who headed various territorial and administrative management structures.

## References

- Abazov, A. Kh. (2016). *The peoples of the Central Caucasus in the judicial system of the Russian Empire in the late XVIII-early XX centuries*. LLC "Pechatny Dvor".
- Efremova, N. N. (2008) The evolution of domestic justice (judicial reforms of the XVIII – XIX centuries). *The Law. J. of the higher school of Econo.*, 2, 34–50.
- Kobakhidze, E. I. (2012). Integration of Ossetia into the judicial and administrative system of the Russian Empire. *Russ. Hist.*, 4, 3–15.
- Kobakhidze, E. I., & Dzotsoeva, A. A. (2018). The judicial system in the Central Caucasus in the late 1850s in the context of the Russian justice system. *Human. and legal studies*, 2, 92–99.
- Misrokov, Z. K. (2002). Adat and Sheriat in the Russian legal system. In *The historical fates of legal pluralism in the North Caucasus*. Moscow State Univer.
- NOIHSS (1942). Materials on the history of the Ossetian people. In *Collection of documents on the history of conquest of Ossetia by Russian tsarism* (vol. II). State publ. house of NOASSR.