

Capitalism and "Invention" of the Taxpayer: Peculiarities of Legal Regulations of Taxation of the Kazakh Population in the Russian Empire in XIX Century

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Abstract: The article is devoted to studying changes that the Kazakh society had undergone in the political, legal and economic spheres in the process of incorporation into the Russian Empire. This paper shows the methods of trade policy in the steppe, reveals the factors of establishing the new nomadic elite and the certain changes of political and legal regime of the Kazakh society. The first essential changes in Kazakhstan were carried out by the means of administrative reforms of 1822 and 1824. The author notes the peculiarities of taxation as one of the key mechanisms of Russian colonization of the Kazakh lands. Nomadic community becomes the subject of law. The colonial administration charged the Kazakh tribal community the responsibility for failure to pay taxes and thus gave it the status of the subject of tax law. The tax relations were developing on the joint of private and public juridical practices: the obligation to pay taxes was of the public law nature, but the taxation order and the resolution of disputes were governed by the private law. The tax policy of tsarism on the territory of Kazakhstan had the significant negative consequences for the Kazakh population. As a consequence of such policy the differentiation of the property status of members of the Kazakh society by the end of XIX century reached a critical state, the incentives for activities in the framework of tribal groups disappeared, the unity of nomadic society got crumbled.

Key words: Tax law % Kazakh society % Colonial administration

INTRODUCTION

The Kazakh society of the second half of XVIII-XIX centuries can be considered an object of radical social experiments that were gradually being implemented by the Russian Empire at its outskirts. The Kazakh nomadic society was formed, on the one hand, through a succession of political acts, administrative reforms and legal practices and, on the other hand - through the colonial economic model, where the key instrument was redistribution of taxes.

In the first third of XIX century the bureaucratic apparatus of Russia did not yet have a sufficiently complete and reliable information on Kazakh khans, their way of life, characteristics of power relations, intricacies of the system of customary law, specific nature of economy of nomads and all this prevented the Russians from their advance into the steppes. In this regard, the royal administration was faced with the urgent necessity of introducing such effective mechanisms of control which would not only ensure the collection of information

on the nomadic population of the steppes, their quantity and welfare, travel routes of nomads, but also allow to monitor and timely format the system of control over the Kazakh region. One of such effective instruments used by the colonial authorities was taxation.

But the introduction of taxation into the steppe required not only administrative-territorial perturbations, transformations of the political system and threats to use military force; it also required an extensive system of local economic relations, which could ensure a smooth flow of taxes into the treasury.

Taxation, as it is known, is conditioned not only by a set of superstructural compositions, which in the process of incorporation of the Kazakh khanates into the Russian Empire were successfully mounted by the imperial administration into the political system of the steppe inhabitants, but also by certain economic factors.

Originally taxing nomadic Kazakh population was dictated not so much by fiscal interests of the Russian Empire, but by the achievement of political goals.

Due to the fact that in the first half of XIX century the socio-economic and political systems of Russia were undergoing significant transformations, the consolidation of the tax sovereignty on the territory of the Kazakh steppes indicated only protectorate relations that became quite steady between the empire and the Kazakh khanates. The nomadic population was considered as subjects of the Russian crown and had to pay tribute. But the lack of a sufficient number of fixed positions of executive power in the steppe, as well as the specifics of the nomadic way of life, where almost the entire population was scattered in the vast territory and settled in villages, significantly complicated the task of taxation of Kazakhs [1].

The Trade Policy of the Russian Empire: In the process of implementation of liberal reforms in Russia, the emerging capitalist relations began to rapidly penetrate into the steppe. While fortifying their positions by the end of the 60s of XIX century the Russian autocracy spread its tax sovereignty over a significant part of the territory of the Kazakh steppe.

In contrast to the empire, where the class of the Russian bourgeoisie which was becoming stronger had to make more efforts to overcome the resistance of the dominant aristocracy, which, in turn, did not understand all the nuances of capitalism and was still trying to play the part of entrepreneurship, the Kazakh area was the area of the most favorable conditions for the primary accumulation of capital. Since the steppe had significant resources, in the system based on the endless accumulation of capital, none of the "free market" participants could afford refusing from the desire for profit.

Trade policy of the empire in the Kazakh region was in the fact that "the goods were sold to the local population at high prices, often on onerous terms." [2] Moreover, "the government authorities not only failed to take measures to shield the interests of the public from deceit, fraud, trickery on the part of the colonial merchants, but they themselves participated in them. An official, who did not have any salesmen, agents that traded in his capital, was a rarity [2].

Strained social relations in the Russian society gave birth in Siberia to chronic excess savings, i.e. savings which exceeded the possibilities of any further effective capital investment in Russia itself. Hence started the activity of the colonial policy carried out by the empire on its outskirts, which was aimed at the constant involvement of new markets and receipt of excess profits.

At the same time, the state apparatus of autocracy acted as the guarantor of economic security in the Kazakh region and in every way supported the penetration of Russian entrepreneurs into the steppe. Nomads were now being imposed a new type of socio-economic relations. The vacuum of a capitalist type of economy was engulfing the nomads inside [3].

Due to the strengthening of the positions of the lower strata of the population of Russia, particularly the peasantry, the development of quite effective legal mechanisms and economic practices that blocked their arbitrary exploitation, the empire felt the need in low-wage labor. Namely the inclusion of new large spaces with a numerous nomadic population could provide the lowest threshold of a livable wage.

When the Kazakhs bade defiance to the enforced exchange, the apparatus of colonial violence suppressed any unrest or disturbance. For example, Michael Putintsev wrote: "In 1837 almost all the steppe was in a state of unrest". This was the indignation of sultan Kenesary Kasimov. In the course of his nine-year fight with us, he has done us a lot of trouble, a lot of blood has been shed and we have suffered a lot of monetary damages [4].

On this occasion the remark of Ludvig von Mises seems to be interesting: "Whoever denies rights to a part of the population must always be prepared for a united attack by the disenfranchised on the privileged [5]". Due to the views of Ludvig von Mises, we would like to bring also a point of view of N. Chomsky : "For this reason, I think, one must say that classical liberal ideas, in their essence though not in the way they developed, are profoundly anti-capitalist. The essence of these ideas must be destroyed for them to serve as an ideology of modern industrial capitalism" [6].

As soon as the political conflict was left behind, the colonial authorities and Russian merchants continued to pretend that the economy operated under the logic of supply and demand. The unequal exchange with a variety of primarily superstructural mechanisms (political strategies, legal instruments, ideological forms, educational institutions, etc.) was disguised as a natural and sustainable economic development. It should be noted that in general such logic of relationship is inherent to the historical capitalism [7].

In fact, the so-called foreign trade did not have a trace of commerce. Being in origin a paramilitary activity, trade in the steppe never broke away from the powerful structures. The income was loot and voluntary gifts or gifts received from the Kazakh foreigners by blackmail.

Thus, with the close cooperation of the colonial authorities and the Russian merchants the Kazakh steppe turned, in the words of John St. Mill, into "a kind of barnyard, a farm which was exploited for the sole purpose of obtaining the maximum benefits" [8].

All this confirms the observation of Pierre Bourdieu that "the history of sources where started the capitalist disposition, together with the establishment of the field, where they are carried out, as well as monitoring of the situation (often colonial), where agents empowered with dispositions relevant of pre-capitalist order agents prove to be "thrown into" the capitalist world, suggests that the economic dispositions required by the field of economy in the form in which we know it, has nothing natural and universal" [9].

The root of the specificity of the capitalist social system is incorporated in the structure of the capitalist system, which by its nature repulses the separation of economic and political segments of the system proclaimed by its apologists. "The political power - in the words of Michel Surya - is not easily passed from hand to hand. It went from hand to hand so that the hands which accumulated money and hands which happened to resolve all that could be solved by the political power, were one and the same." [10] An integral feature of capitalism as a historical type of economic activities is a permanent violation of boundaries of the political both at the international level and within a given social system.

Following the Soviet tradition in explaining the reasons for colonization of Kazakhstan, researchers argue that the Kazakh steppe for the Russian Empire was only a market for cheap products.

Certainly, foreign trade was the cornerstone in international relations of Russia. Even Peter I knew that "Russia can be an intermediary between Europe and Asia and that Asia is the only place where Russia can sell its manufactured products." [11] However, if the demand for Russian goods from the sedentary population of Central Asia can seem possible, the wide use of production of the Russian factories in the nomadic life of the Kazakhs seems hardly probable.

The assertion that the nomads in some amazing way needed just what was produced in the Russian market merely masks the appropriateness of the order of production. The colonial system to become an end in itself was to eliminate the question of its real usefulness. Various quasi-postulates of universal needs helped to oust the question of social and political appropriateness of the production order.

The territories of the Kazakh khanates, which were external to the emerging capitalist system in Russia, without much fuss, were purchasing Russian products, because the economic system of nomads met the needs of nomadic lifestyle in full. Severe climatic conditions and a vast nomadic area of the Kazakhs required from them mobility and minimal property. Even such unconditional values for the settled agricultural society as gold and silver were of no particular importance for the Kazakhs.

"Gold, to which we aspire and which we hold dear - indicated Richard Karuts, the German researcher of the Kazakh region - is still cattle here. The silver ruble is braided in woman's hair rather than kept in a chest or in a smeltery of a traveling jeweler who makes rings, belts, spindles of it, rather than in a purse of man" [12].

It should be noted that in pre-revolution sources, the Kazakhs were called Kirghiz, Kirghiz-Kaisaks, Kaisaks, Kirghiz-Kazakhs, etc. and only on April 19, 1925 the 5th Congress of Soviets of Kazakhstan restored the historically correct name of the Kazakh people by stating in its resolution: "To be called Kirghiz Kazakhs henceforth".

In turn, the Russian businessmen were purchasing the nomads' products in large quantities for resale in the domestic market as well as for processing and subsequent export to Europe. In addition, the Russian capital that was strengthening its position, was typically extracting from the steppes such labor-intensive good as cattle, the price of which was set by the merchant and which did not reflect the actual investments of the nomads.

Apart from the cattle, the steppe was also giving for export a large number of livestock and hunting products.

At the same time the export of products from the Kazakh steppe was constantly growing. Kazakhstan was, on the one hand, turning into a raw material livestock base of the nascent Russian industry and, on the other hand, into a product market for this industry.

In the opposite direction, with the active assistance of the colonial administration, there came an expensive low quality Russian produce which could not compete in the European market. "From Russia, - as Jacob Gaverdovsky assured - the Kirghiz receive goods of a generally low kindness and last analysis, that is, such goods that either do not have all the required perfections for use in Russia or are considered superfluous" [13].

The need of steppe inhabitants to purchase certain types of material goods is the result of the colonial policy of the authorities. Thus, there is a transfer of the resulting total profit (or product) from the colonies to the mother country.

Relationship of Kazakhs with Russian traders is particularly described in many pre-revolutionary materials.

Thus, according to Pyotr Makovetsky, Russian traders in the steppe "have to be always on guard. Deception and fraud against them are not only refused to be considered as a crime, but they will always find support and protection among the Kirghiz. The reason is partly religious and national antagonism to Russians, but, to a greater extent, it is a rough exploitation which brings sufferings to the Kirghiz people and is aimed solely at the Kirghiz livestock. Common methods are either a loan of money in autumn given to individuals, elders or even volosts for payment of duties or sale of goods in autumn. In both cases the Kirghiz are obliged to make payment in spring by cattle at a predetermined price which is often equal to half of the nominal price. When the merchants are selling goods on credit, they also benefit a lot, selling to the Kirghiz inferior quality goods and making enormous penalties in case of a late payment" [14].

Another Russian scientist Ilya Kazantsev described the following: "During these transactions no contract is written on paper and, due to illiteracy of the Kirghiz people, no receipt is ever taken from them; because we are trying to convince ourselves that the terrible interest on the loan is established not by greed for profit but because of the risk of lenders who expect the loss of one debt to be rewarded by a high percentage of the other. Note that the Kirghiz rarely deceive lenders. In our opinion, it positively proves the shy economic situation of the Kirghiz people which brought them to an impossible dependency on profiteers" [15].

It should be noted that in the XIX century the similar situation had been developing in the relationship between the nomads of Mongolia and China [16].

The bureaucratic apparatus of the empire in every way supported the "equivalent exchange" between the nomads and Russian merchants and traders were collecting information on the situation in the steppe which consequently dictated the principles and methods of administrative practices.

In XIX century the area of the activities of capitalism was expanding steadily, absorbing new areas of habitation of the nomadic peoples of Eurasia.

Thus, the rules which were distributed at the local level among ordinary actors, despite the public opposition, were greater and deeper penetrating into the social fabric of the nomads. It is this sprawling network of local relationships that allowed for new administrative structure, transformation of the field of political cooperation and incorporation of the Kazakh population into the "funnel" of the Russian tax system.

The social-economic system which was introduced in the process of colonization divided the nomads into two groups. One of them never was able to fit into the new economic reality and stuck to conservative forms of management and the other group was able to learn a new way of social and economic organization. The emergence of previously unknown channels of social mobility due to the mentioned bifurcational process enabled members of the second group of nomads to invest capital that was accumulated in the socio-economic sphere into the political field and thus finally secure their new status.

Market relations, which are the product of a double social construction, where the Russian state played a decisive role, together with the established and legitimized colonial powers through the political model of control over the nomadic populations finally established a legal regime of taxation in the Kazakh lands. Under their influence, the colonial aul was undergoing significant economic changes; there were changes in the traditional system of tribal organization of potestarian groups; the nomadic society was going through some stratification according to the criteria of capitalism. All the privileges of the old nomadic elites were dissolved in a total privilege of money. The capitalist system marked the birth of a new type of nomads - bai, i.e. a nomad who "produced" cattle for sale, but at the same time a quiet extinction of nomadism in the Kazakh steppe.

New Nomadic Elite: We need a certain class so that the socio-economic system could function according to its laws [17].

The bai class in the Kazakh society began its formation in XVIII century in border regions and along with nomadic aristocracy it was a kind of link between the rest of the nomads and Russian authorities that were strengthening their positions. Rather ignoring ancestral links, bais acted primarily in their own interests.

"Purchasing cattle, ranching products at low prices, bais resold them on the line enlarging their profits. With working capital, they bought industrial goods wholesale in towns and sold them at high prices at retail." [18] Economic transactions of bais were no longer seen as models of mandatory exchanges that were adopted in the nomadic environment. Economic interest gradually established itself as dominant.

From a management perspective, bais constituted a social group, which quickly responded to changes in the variable environment. Deprived of any warranty, depending on the favour of officials, always thinking about the need to give a bribe, bais preferred to engage in trade, speculation and usury, that is to say, a business of

quick return. Bais appeared as maneuverable, as someone who permanently responded to systematic changes that were artificially introduced in the nomadic environment. Bai is the one who is highly manageable. The intermediary status granted a bai with economic and social capital that he successfully invested in the political field of the empire.

Since the law is a legal expression of the economic conditions of social life, a total of rights which a Kazakh actually had in the colonial society was determined by the favour of the authorities to him and his property status.

If at the macro-political level taxation became an effective tool for monitoring the nomadic population, at the level of relations between social classes it was an effective mechanism for the distribution of power. By giving them a forced levy the tsarist government assigned to the agents of colonial policy, mainly volost chiefs, an efficient power capital.

It is the new nomadic elite which succeeded in mounting itself in the economic realities and pushing the old tribal aristocracy off the scene that acted as the missing link in the system of extra-economic coercion of the Russian autocracy in Kazakhstan.

Reproduction of cheap labor and the appropriation of its excessive forced labor and a number of other things that were favoured by the new nomadic elite, was necessarily determined by its position in the socio-economic relations, as the latter preceded it both causally and logically. The new ruling group of the Kazakh society was only the invention of colonization, whose engine was historical capitalism. And as soon as the capitalist model of economic activity at the beginning of XX century was overcome, the nomadic elite of this system disappeared just in the way a face drawn in the sand disappears.

Taxes and Forms of Their Collection. Substantive Norms and Procedural Practices: In the pre-capitalist society, as it was noted by Michel Foucault, the political power was, in general and as a whole, indifferent to people. A seignior cared only for his land, his village, inhabitants of his village, in extreme cases - families, but the eye of authorities was not turned at specific individuals. It was time, when it was needed, that the eye of authorities was really turned at each person; the authorities wanted to obtain a capitalistic society [19]. Such Attitude of the Administrative Apparatus Is Typical for Russia: Ivan Ozerov, describing the collection of taxes before the reform of 1861, noted that "the peasant of that time was not interesting for the government - the government did

not care about him at all - he was interesting only for the fact that he was giving money to the state machine." [20] The main point of interest of the government in common people was money. In all other respects he in fact had no contact with it.

As regards the new nomadic elite, that was established in the Kazakh society, there were no problems of identification. Entitling with an appropriate political status and giving legal personality solved the issue of identification.

However, the desire of the Russian colonial apparatus to look at the ordinary nomad, so to speak, face to face proved to be an unsuccessful event. The desires of the Russian authorities to control all key areas of activities of the Kazakh population were blocked by the traditional political system of genealogical dominance. The administrative apparatus of the empire was refused access to a particular single individual. Separated from the power structures of the empire by the tribal organization as leaders of tribal groups, the ordinary nomad never became the subject of public policy and law. This state of a Kazakh nomad had an effect on the tax law.

Beginning in the 20-s and up to the late 60-s of XIX century the legal taxation regime of the nomadic population of Kazakhstan was rather specific. Such a feature of the legal regulation of questions concerned not only the issue of taxation, but the whole financial system in the steppe.

Even after the reforms of 1867 - 1868, which were generally aimed at the unification of control in the empire, parts of Kazakhstan, such as Turkestan general-governorship, Ural and Turgay regions were financially controlled by specific principles.

The basic tax payments paid by the Kazakh population, were yasak (yasak tax), kubitka tax, zyaket (zeket, zekyat, zyakat, zyakyat), sogum (sugum, sogym), ushr (ushur), sybaga, chigyn (chegyn, shygyn) and karachigyn (karachegyn, kara-chigyn, karashigyn).

The first legal act, that regulated tax relations in the Kazakh region, was the "Charter on the Siberian Kirghizs" of 1822. As Virginia Martin correctly notes, beginning with the ""Regulations on Siberian Kirgiz" [Middle Horde Kazakhs] the Russian imperial administration began to use law as an instrument of power and control within this colonial territory" [21].

Thus, under the Charter of 1822, the Kazakhs were levied yasak, i.e. a tax paid in kind in the amount of one unit per a hundred head of cattle, except for camels. This exception is due to the fact that "the imperial authorities

were interested in increasing the number of camels for trade development in the Kazakh steppe (the camel was the main pack animal)" [22].

Yasak was first introduced by Mongol and Turkic tribes and represented a kind of tribute which was usually paid in kind. Yasak was collected by the khan's baskaks according to their compiled census and was the main income of the khan's treasury.

For example, Ilya Berezin noted the following types of duties and taxes imposed on the indigenous subjects of the Golden Horde: a poll tax, quitrent yasak (tribute-paying dues), burlovaya tamga, grain tax (barn and barn-floor) [23].

Despite the obligation to pay yasak of "4000 foxes" given in the first third of XVIII century by Abul Khair Khan to Empress Anna Ioannovna, the first time the Kazakhs, leading a nomad life inside the Siberian line, began to pay the required payments to the Russian treasury, or more exactly, a repair tax of "one horse from each 100 that was fit for repair of dragoon regiments and other cattle on the same basis for the benefit of hospitals, located on the line" only in 1800. This line tax, according to Michail Krasovsky, "is the beginning of nowadays collected tribute from the Kirghiz" [24].

Established in 1822, yasak was levied on the Kazakh population annually in volosts in the summer on the basis of estimates of livestock produced every three years. The number of animals was determined by the district orders.

"In fiscal purposes - says Natalya Yemelyanova - a district order had to have accurate information on the places occupied by volosts and auls at different times of the year, to conduct a census on the number of nomadic tents and check it every three years. This important function was entirely entrusted to Russian assessors, because the government did not trust in this matter to the Kazakh officials, rightly fearing the concealment of a part of the cattle" [25].

Combined with the evidence of concealment by Kazakhs of some part of cattle, there was a lot of information about various violations of the officials of the Russian administration in the census for the purpose of taxation.

Thus, according to Adolf Yanushkevich, "almost each of these proconsuls considered the task entrusted to him as a means of acquiring a fortune. He would come hurriedly, surrounded by Cossacks, plunged everyone around into fear and did not disdain any means of extortion. At his command, herds and flocks were massed in one place away from the pasturing places of the

nomads for 150 or more miles. The roads were covered with traces of an unexpected trip: mares and cows slunk, camels, horses, sheep dropped. Then, at a large gathering and crowded crush, from a lack of food and water, animals increasingly died every day. Mister officer ordered to pay him for the fact that he did not consider dead for the living. He ordered to pay for the alleged concealment of the number of livestock and for different alleged mercy, wrote in the presence of the Kirghiz one numbers and then, in order to show his zeal in the service and deflect suspicion of bribery, arriving in Order, gave quite different ones" [26].

It should be noted, that if earlier district orders were led by senior sultans, after the reform of 1867 - 1868 they were replaced by volost administrations, led by the volost chiefs from the Russian officers. Volost chiefs were appointed by the governor-general after the submission of the military governors and combined administrative, military and police functions.

In general, tax provisions of the Charter of 1822 were notable for their poor quality of elaboration. This legal act did not fully resolve the issue of taxation, did not determine all the elements of the legal structure of taxation that afterwards generated a lot of negative situations. Vagueness and incompleteness of tax rules lead not only to tax evasion by some Kazakh clans but also to a massive abuse by the bureaucracy of the colonial administration.

The reasons for this situation in the area of tax law-making were as follows.

First, due to the fact that the empire passed to the new economic tracks, the Russian legislator, as a result of old age, failed to fully understand all the specifics of the new formation, characteristics of the capitalist system and the role played by taxation in it.

Second, the mechanism of taxation in Russia never had an effective legal regulation. Legal forms lacked completeness, accuracy and clarity of presentation. Up to XIX century gaps in tax laws were replenished with arbitrary practices. A particularly acute taxation was occurring on the outskirts of the Russian Empire. Subsequently, the tax system of the Russian Empire was never notable for a particularly legal study.

The level of income of tax objects was never taken into consideration. No principle of uniformity of taxation was ever complied with. There were no uniform criteria of the structure of tax system.

Third, Russian legislators had never thoroughly and comprehensively studied the traditions of the nomadic economy, institutions and mechanisms of nomadic society, its potestarian-property relationships that were

subject to legislative regulation. From the standpoint of practical implementation, the algorithm for incremental taxation in fact was never designed. Taxation of the nomads remained outside the system of understanding.

In the beginning of XX century Eugene Troubetzkoy said that "the peculiar household characteristics" of non-Russian tribes, which included Kazakhs, "are not yet fully elucidated and therefore not always sufficiently taken into account by the law" [27].

Fourth, by avoiding the adoption of the full amount of tax rules, intentionally leaving the question open, the tsarist government thereby demonstrated its willingness to take the solution of this matter somewhere beyond the legislative sphere. The absence of tax rules in terms of facts and social ties within the scope of legal regulation resulted in the arbitrary rule of the bureaucracy.

Legal gaps due to differences in customs of the nomads and procedures of the imperial law, gaps caused by internal conflicts of the imperial administration around the division of competences, gaps generated by the political or economic interests of individual subjects, defended by every instance and tribal groups and finally, gaps resulting from the intervention of the central office in the activities of the local authorities - all of this aimed at the maximum dispersal of centers of power, which could potentially lead to acts of resistance, deconstructurization of relationship of nomadic groups and the introduction of management mechanisms and institutions of the Russian Empire.

"Yasak that was worthless in the Russian financial system was turning into a monstrous instrument of exploitation at local payment places. Its payers - as Anthony Bukovetsky claimed - were the most downtrodden and poor ethnic groups of North and East Siberia. Entry into the yasak book meant not only the obligation to pay the yasak tribute, but also determined the payer's position at the very last rung of the social ladder. There was no one lower than the yasak person in Tsarist Russia" [28].

"For the government, it was beneficial to get the tax in kind. By selling the tax-paying cattle to industrialists, the border authorities had additional income. A relatively low estimated value of livestock and mainly abuse by various officials of the collection of taxes by cattle left the Kazakhs under a disadvantage" [2].

Hence came constant complaints of arbitrariness and injustice in levying yasak. In this regard, in addition to payment in kind there was also fixed a monetary form of payment of the tax as well as payment in silver bullions.

With the establishment of the money form of tax payment, the Russian government could oblige Kazakhs use the ruble as the sole legal means of payment. Moreover, due to manipulations in the market of livestock, colonial authorities obliged the nomads to use as a means of payment artificially overvalued money. This provision gave privileges to the Russian merchants. Steppe residents, forced to pay tribute in money, took from merchant cash loans and returned them by goods. And due to the low official rate set for the cattle, traders understated the price of cattle even more.

Thus, agreements between creditors and tax-paying local people were reached without any mutual benefit. Nomads who were forced to accept such transactions were in fact being robbed.

The tax system transformed the traditional system of resource allocation the nomadic society so that the Kazakhs could no longer meet their needs in a more effective way. There emerged a large gap between production and distribution.

In fact, the Russian government forced the nomads to share their income in order to buy the remaining part of their resources for their money. All this led to a low standard of living of Kazakhs and the distribution of resources, which was previously meant to meet the needs of the population, was now subject to the objectives of the colonial authorities.

Tax redistribution policy functioned in two ways. The main vector was redistribution from the colony to the mother country. Second, it was designed to discriminate most of the nomads and satisfaction of the preferences and interests of the Kazakh minority serving in the administration of the empire.

Thus, the main feature of colonization was the fact that the government used tax laws to redistribute a certain amount of wealth among different groups. The legal regime of taxation started up a flywheel of robbery of the ordinary nomadic population by groups of managers, who had in their hands both economic and political capital. This led to the transfer of power from the old nomadic elite to bureaucrats, who were forming a new ruling group. In the end, the result of this transfer became the expansion of power of the Russian empire.

Nomadic elites, that had gained strength in the first half of XIX century, were successfully adapting to the realities proposed by the empire, pursued a detached interest and were actively looking for different privileges. They invested in unproductive activities, which generally led to significant social costs and undermining of economic growth. The region's economy was limited to the production of raw materials.

Nomadic Community as a Taxpayer. Private and Public Tax Relations: Due to the ignorance of all the specifics of the social relations of the nomadic Kazakhs, peculiarities of the public property relations in the steppe, the government established certain elements of the law structure of the tax, delineated only the outlines, which obliged the nomads to pay a certain tax amount into the national budget. The legislator did not establish any integral mechanism of legal regulation of taxation and other elements of the legal structure of the tax. The legal mechanism was elaborated in practice. Tax relations were formed by the participants of the process of redistribution themselves.

The most accurate understanding of the legal nature and features of the mechanism of taxation, operation of its basic elements, can be possible in the study of the legal status of a taxpayer.

A taxpayer is a historical, designed that belongs to a particular socio-legal regime. In this case, the subject of the tax is located at the intersection of various institutional fields and, therefore, the identification of factors contributing to its occurrence, determination of the functional purpose of the taxpayer, his social status require a comprehensive approach, because, for example, law or economics by themselves reveal only some features characteristic of these fields.

Tax-law norms were becoming mature during the destruction of the reciprocal form of integration of the Kazakh nomadic society and only after finding a steady state in it with some adjustments were approved as mandatory rules of behavior.

The nomadic elite, driven into the stringent terms of taxation, sought for the most appropriate procedures of collection of the tax. On the one hand, the local officials wanted to get the approval of higher officials of the colonial administration, on the other hand - not to lose the loyalty of their compatriots. At the same time, of course, for the officials responsible for the collection of taxes, their financial interests protected by the apparatus of enforcement had priorities. Higher officials, in turn, never really delved into how to obtain tax revenues. For example, according to the results of the audit in Turgay region which was held at the end of the 70s of XIX century, A.K. Geins noted that "during audits of the districts, volost chiefs were almost unfamiliar with the order of collecting in their volosts of natural duties and tributes." [29]

Thus, in Kazakhstan, for almost the entire XIX century there existed and functioned a tax system that mainly aimed to not only extract the permanent income

into the state treasury, but also arbitrarily fill the gaps of tax-legal acts, it provided the local authorities with substantial incomes.

Economic practices of the steppe somewhat outstripped legal regulation. Between the economy and the law there was no bridge of political will. A taxpayer as a member of financial and economic relations only with time acquired a legal form. Practice of taxation induced the subject of tax law. The legal in this case was a mere fiction which the law pierced with events.

A set of legal norms established in Kazakhstan by Russian state never succeeded in turning the ordinary nomad, who was actually carrying the tax burden, into subject of law. As it was rightly observed by Nurbolat Masanov, "an attempt of individual taxation of nomadic Kazakhs, undertaken by the royal administration starting from the 20-ies of XIX century in the form of "yasak" tribute, "kibitka tax", etc., has led to the fact that leaders of the traditional genealogical groups often took on the role of tax farmers and paid to the treasury the required amount and then uncontrollably fleeced the dependent population. In other words, the tax system of the Russian state in Kazakhstan never reached the individual, but was adapted by the traditional tribal organization". [30] An individual in a nomadic society never became the subject of public law, was separated from power relations by his tribal group.

The whole procedure of tax collection was divided into two stages. Since the traditionally formed tribal organization block access to an individually taken tribal taxpayer, the fact that strengthened mutual protection, the relations of the taxpayer and the tax collector represented by an aul senior, who also was often one of the leaders of a genealogical group, had a private-law nature. The aul senior was, relatively speaking, the two-faced Janus, one face of which was addressed to his fellowmen and the other to the colonial government of the empire. Paying in the public-law order the necessary amount of tax taken from their own income or borrowed from the merchants at interest, the tax collector or subsequently a merchant under private law relations with the invariable profit in their favor, returned resources spent on tax payment.

Since a separately taken nomad never became the subject of tax law, the legal status of the taxpayer was entitled to the Kazakh tribal community.

Tribal community of nomadic Kazakhs corresponded to the legal and economic grounds that created a real opportunity of making it a subject of tax law.

First, each tribal community had a relative institutional isolation on the principle of genealogical kinship. Organizational isolation of the community was a prerequisite for the recognition of the collective formation of tax law by the independent entity. At the head of each community was a certain leader, who in most cases was both an official of medium or low-level colonial administration, which gave assurance of uninterrupted replenishment of the budget of the empire with necessary funds. This mechanism of executive power, that reminded a bizarre centaur whose lower part of the body was tribal bureaucracy and the upper part was a corrupt politician, who was, due to various manipulations in the electoral process and favor of the higher ranks of the colonial administration, the carrier of imperial interests, for collection of taxes had effective means of coercion, the right of rough order, whip and guns.

Second, each tribal community was not only common, naturally occurring social organism in the steppe, who had internal structural and functional differentiation, but it also had the property isolation, enabling it to independently engage in public property relations. "The nomadic-pastoralist communities have a natural closure. Each family represented an independent business entity: they produced food for their own consumption, housing (urta), they made their own household utensils, simple implements of nomadic production, tanned leather, wove, sewed their own clothes." [31] Property isolation of tribal communities was one of the key factors in granting the community with tax legal personality.

Third, traditionally a tribal community was responsible for all its members. Therefore, for the colonial authorities it was not difficult to introduce into the Kazakh community the principle of guarantee in cases when its individual members did not pay taxes. Thus, according to Viktor Shakhmatov, "if the impoverished members of the community or several communities that were under the control of one senior, could not pay yasak or kubitka tax, "society" paid these taxes for them" [31].

The possibility of shifting the tax liability to the Kazakh tribal community became the final factor of giving it the status of a subject of tax law.

Peculiarities of the participants of tax relations, their legal status, a particular way of collecting taxes, as well as originality of the judicial system functioning in Kazakhstan affected the procedure for settling tax disputes.

If the obligation to pay taxes was of the public law nature, the procedure for collecting taxes and the resolution of tax disputes were governed by private law.

However, none of the mechanisms of legal regulation provided ordinary Kazakhs with protection against private and public arbitrary rule.

The social system established at that time in Kazakhstan and institutions that support it, were institutions serving the conservation and reproduction of inequality and all of them were aimed to protect the status and ownership of the nomadic elite that was generated by the colonial rule. This is explained by the fact that the Kazakh population in fact basically concerned only the nomadic aristocracy, which was "the most important link in the system of political, economic and non-economic domination of the Russian autocracy in the steppe" [32].

Differentiation of the property status of members of the Kazakh society by the end of XIX century reached a critical state. Unity of the nomadic society got crumbled. There disappeared any incentives for collective actions, especially in large tribal groups. In such circumstances, the best option to preserve the unity and at the same time political influence was the unification of the groups with fewer participants. A gradual destruction of tribal groups caused a further transformation of the political and social systems.

Consequences of tax policy of tsarism in Kazakhstan are most evidently seen in the results of statistical expedition that in 1896-1903 performed another description of Kazakh homesteads, farms and land use in Akmola, Semipalatinsk and Turgay areas. Turning to the overall results of 10 volosts, P.P. Rummyantsev, states the fact of a large stratification of Kazakh farmsteads: "the masses are poor (78.2%), the number of middle-income households is not great - 14.6%, a small group (7.2%) of wealthy and affluent households is singled out; in fact, the latter (having more than 100 horses) are only 1%, wealthy people - are even less, judging by the fact that in Kustanai volost farms with more than 300 horses, run into only 0.3%, while in the Kokchetav area - 0.2%" [33]

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