

## “Kyariz” and “Kyariz” Courts (Based on the Materials of the Audit of Senator K.K. Palen)

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### ABSTRACT

In this article, the author will provide information about the “kyariz” and “kyariz” courts that operated in the Turkestan General Government, based on the materials of the audit of Senator K. K. Palen.

**Keywords:** “Kyariz”, “kyariz court”, Audit, turkmen, Construction, Rules, Well, Report, Kariz owners, Irrigation.

### 1. Introduction

According to the reports of the audit of Senator K.K.Palen conducted in 1908-1909 on the organization and activities of people’s courts in the Turkestan General Government, it turned out that in addition to the existing similar types of people’s courts in three regions of the region, only in the Transcaspian region was established a “kyariz” court. This court also dealt with disputes about their structure; disputes between the owners of “kyariz” about the ownership rights to them; because of the directions and depth of the wells, and the distances between them.

### 2. Discussion

Before considering the activities of “kyariz” courts, it is necessary to consider the concept of “kyariz”. The word “kyariz” or “kyargiz” is an ancient Turkmen word meaning "underground passage (tunnel) for drainage systems. In the report, “Irrigation in the Turkestan Territory”, the definition of the concept of “kyariz” is also given: The name “kariz” or “kyahriz” comes from the Persian word “kariz”, which means - underground canal, water supply. [1.-p.301]. Only in the Trans-Caspian region did the “kariz” [2.-p.133] refer to artificial irrigation - kariz wells, these are underground structures that provide clean, fresh water. A valley with a slight slope was chosen for the construction of the kyariz, along which a number of wells were dug at a distance of 20 or less fathoms from one another. These wells were then connected underground by a continuous gallery, in which water accumulated from underground streams and springs, flows along a slope and near the fields to be irrigated, is discharged outside.

The value of the audit report materials is once again confirmed by the versatility and vastness of the information provided. In this case, in relation to the “kyariz”, the revision of K.K.Palen and, in particular, he himself, were the first Europeans who studied this “miracle of ancient hydraulic engineering” and presented in his report “People’s Courts”, where it was possible not to stop on the history of the creation of ancient underground drainage systems. It is noteworthy that before K.K.Palen, information about these ancient water structures was mentioned in the works of the ancient Greek historian Polybius, however, he wrote that irrigation was carried out through canals from underground wells, which gives reason to assume that it was

exactly about kyarizes, but and this is not accurate. V.V.Bartold believed that the water system of “kyariz” in Turkmenistan arose during the period of prosperity of the Achaemenid State, in the 6th-5th centuries BC [3]. During the Soviet period, many of them were destroyed and abandoned. To date, the “Etymological Dictionary of the Turkmen Language” of the famous scientist linguist S.Ataniyazov gives the meaning of this word, as well as the Turkmen scientist-ethnographer A.Baltaev conducted scientific research on the creation of kyariz” [4].

Considering the above, it can be argued once again that the audit materials collected and processed under the leadership of Senator K.K.Palen provide us, modern researchers with extensive materials on this historical period, including not only information of a political, economic or statistical nature, but also historical, ethnographic, legal, etc.

The report “Irrigation in Turkestan” also considers this type of water structure. It is noted that “kyarizes” were not created everywhere in the Trans-Caspian region: neither a natural nor an artificial irrigation system existed within the limits of the non-custodian district of the Krasnovodsk district, with the exception of “only two kyarizes near the city of Krasnovodsk - Kush-Bulak and Bal-Bulak giving 4000 buckets of water per day” [1.-p.306]. To investigate the issue of the possibility of obtaining irrigation water in the county, a number of works were carried out, however, as indicated by the senator in the report, “they led to the conclusion that it was impossible to obtain irrigation water” [1.-p.307]. Supervision over “kyariz” was carried out through a special elective, who oversaw the correct distribution and use of water. The repair and cleaning of “kyariz” was carried out at the expense of individuals or society or those who use their water, but not at the expense of funds allocated from the budget by the regional administration. The irrigated lands of the Askhabad district were irrigated with the water of rivers, springs, as well as by means of “kyarizes”, which were owned by the owners of the “kyarizes”. For the distribution of water, “amins” or “mirabs” were chosen, for a period of one to several years. The repair work was also carried out by the population themselves in kind, on the basis of the sentences of public gatherings specially convened for these purposes. [1.-pp.312-313]. In Tejen county, “kyariz” were also used, where their repair and cleaning were carried out at the expense of the owners, the construction of new “kyariz” and the development of new ones were carried out on state-owned lands by private individuals [1.-p. 325]. But in Merv and Mangyshlak counties [1.-pp.305-306, 326-335] there were no “kyariz”.

In the report “People’s Courts”, K.K.Palen first gives a description of “kyariz”, their meaning, and only then goes on to questions about the creation of “kyariz” courts! Before the arrival of the conquerors, questions and disputes regarding the “kyarizes” were decided by the people’s courts, but as a result of historical events, i.e. the conquest of the Turkestan region by Tsarist Russia, in 1893. [2.-p.134], For the first time in the Askhabad district, a “kyariz” court was formed from 4 natives who were well versed in the “kyariz” case and equipment, under the chairmanship of the Durun bailiff, lieutenant of the police Kul-Batyr Serdana. The court met as needed and decided cases on the basis of customary law. In 1897 General Kuropatkin, in connection with an increase in the number of complaints from kariz owners, made an order to establish, as an experience, a permanently functioning “kyariz” court at the expense of kariz owners, chaired by the assistant to the Head of

the county, consisting of five elected from 25 kyariz owners and with the participation of a district irrigation technician [2.-p.134.]. The court decided all questions concerning the “kyariz” case: about the rights of ownership and ownership of “kyariz”, and issues of a technical nature. The decision of the “kyarizny” court was considered final. In 1900, the head of the region, General Bogolyubov, extended the existence of the “kyarizny” court for another 5 years. In 1903, the new head of the region, General Ussakovsky, decided to limit the competence of the “kyarizny” court and allowed the transfer of all cases concerning legal issues to the extraordinary congress on the complaints of the parties, Then, General Ussakovsky, in order to ensure the interests of the kyariz owners, ordered to increase the composition of the “Kyarizny” court, adding 5 more members and in total there were 9 people. When considering cases related to issues of a technical nature: the direction of “kyariz”, their deepening, methods of digging, and so on, the court is obliged to listen to the conclusions of the county and regional irrigation technicians. The decisions of the “kyarizny” court in such cases were considered final and could not be appealed [2.-p.135].

### **3. Results**

In 1905, special, new rules were developed for the development of new “kyariz” by order of the region dated June 23, 1905. for No. 193, which were also further taken into account during the adoption of decisions by the kariz courts:

- 1) Before embarking on the development of a new kyariz or the renewal of one of the abandoned, the entrepreneur must declare his intention to the local administration, which informs the authorities about it;
- 2) Having received permission, the entrepreneur can start developing the kyariz, and he is obliged to apply for instructions from the persons of technical supervision of the region only if there are existing kyariz in the neighborhood;
- 3) The rent for the use of qarez is set at 12 rubles. from each liter of every second inflow of water into the mouth of the kariz, as measured once a year. This fee is paid on October 1 for the whole year. The lease term is 24 years, and the beginning of it is considered from the moment when the water, regardless of its amount, will be brought to the surface and the possibility of irrigation will come;
- 4) At the end of the lease term, the qanat becomes the property of the region, and the administration, accepting it, must check whether the structure is clogged and whether it has collapses. Deficiencies must be eliminated by the tenant himself or at his expense. The buildings erected by the tenant remain at his disposal at the end of the lease period, so that the tenant either sells them to his deputy, or disassembles and removes them within six months, while tree plantations, if any, cannot in any case be cut down, as they are considered to be the property of the kyariz;
- 5) During the rental period, it is allowed to carry out any work to increase the flow of water (lengthening the kyariz), but without fail with the knowledge and permission of the administration;
- 6) The entrepreneur must be warned in advance that the renewal of the lease agreement can be made, and moreover on new, more favorable for the region, conditions;

7) It is allowed to irrigate with water withdrawn from the kyariz only free lands not belonging to the natives, adjacent to the kyariz, which have never actually been irrigated or cultivated before;

8) It is forbidden to carry out kyariz on a foreign land, but it is not forbidden to arrange an open ditch for water output to the fields, if it does not cause any damage to the owner of the land through which the canal is drawn” [1.-pp.314-315].

#### **4. Conclusion**

In the audit reports, statistical information about the decisions of the “kyariz” courts was also published: in 1905, 4 arose, 4 were resolved, 1 was appealed; in 1905 arose 5, decided 5, appealed 2; in 1907 arose 2, decided 2, appealed against 1 [2.-p.195].

Thus, summing up the above, we have revealed that the audit reports of Senator K.K.Palen, being an extensive source in their content, provided us with little-studied data on the “kyariz” and on the activities of the “kyariz” courts created by the administration of the region during the colonial period in the Transcaspian region, in addition to those operating in the region.

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##### ***Consent to participate***

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*We declare that we consented for the publication of this research work.*

##### ***Availability of data and material***

*Authors are willing to share data and material according to the relevant needs.*

#### **References**

1. K.K.Palen Irrigation in Turkestan. - St. Petersburg: Senate Printing House, 1910. – 615 p.
2. K.K.Palen People’s Courts. -Saint - Petersburg: Senate Printing House, 1910. - 309 p.
3. S.Atanyázow Türkmen diliniň sözköki (etimologik)sözlügi. 2. Ç-N,Aşgabat, 2004.-496 p. (100-247).
4. A.Baltaev Our history: the ancient center of agriculture.//Neutral Turkmenistan, 2018-04-11.

5. Mission to Turkestan. Being the memoirs of Count K.K. Pahlen 1908-1909. NEW YORK•TORONTO. 1964. -237 p.
6. Barotovna, M. N. (2017). Mission to turkestan: the memoirs of count KK pahlen 1908-1909. Himalayan and Central Asian Studies, 21(4), 29.
7. Baratovna, M. N. The Problem of the Legal Status of the Muslim Women in Turkestan in the Material of the Reports of Senatorial Auditing of Kk Palen in 1908-1909. International Journal on Integrated Education, 3(10), 235-238.
8. Махмудова Н. Б. Состояние пенитенциарной системы Туркестанского края в начале XX В.(по материалам отчёта сенаторской ревизии графа КК Палена) //Метаморфозы истории. – 2016. – №. 8.
9. Махмудова Н. Б. «Особое высочайшее наставление» и «Высочайше утверждённая инструкция» для сенаторской ревизии КК Геалена: историко-источниковедческий обзор //Метаморфозы истории. – 2017. – №. 10.
10. Махмудова Н. Б. Сенаторская ревизия графа КК Палена в Туркестане: причины, ход, последствия //Метаморфозы истории. – 2016. – №. 7.
11. Махмудова Н. Б. Историко-источниковедческий обзор отчетов ревизии сенатора КК Палена //Метаморфозы истории. – 2019. – №. 13.
12. Махмудова Н. Б. Мемуары Кк Палена “Миссия В Туркестане 1908-1909ГГ.” //Восток. Афро-Азиатские общества: история и современность. – 2017. – №. 3. – С. 72-80.
13. Махмудова Н. Б. Воспоминания Царского Сенатора Кк Палена О Бухаре //Россия-Узбекистан. Международные образовательные и социально-культурные технологии: векторы развития. – 2019. – С. 45-49.
14. Turdiyev, B. (2020). The development of democratic society and spiritual renewal in the views of eastern and western thinkers. Общество и инновации, 1(1/s), 710-717.
15. Turdiyev, Bexruz Sobirovich. "The role of national harmony in the strategy of spiritual renewal." Scientific Bulletin of Namangan State University 1.6 (2019): 229-233.
16. Sobirovich, T. B. (2020). Section: political science. Modern Scientific Challenges and Trends, 136.
17. Sobirovich, T. B. (2020). Strategy of Renewal of National Spirituality of Uzbekistan. International Journal on Integrated Education, 3(8), 122-126.
18. Sobirovich, T. B., & Murodogli, I. S. (2020). The strategy for the implementation of the modern governance system in Uzbekistan. Academicia: An International Multidisciplinary Research Journal, 10(5), 741-748.
19. Sobirovich, T. B. (2020). Strategy of spiritual renewal in Uzbekistan. International Journal of Psychosocial Rehabilitation, 24(06).

20. Sobirovich, T. B. (2020). The criterion of human indicators in development and renewals in Uzbekistan. EPRA International Journal of Multidisciplinary Research (IJMR), 6(8), 509-511.
21. Sobirovich, T. B. (2020). O'zbekiston demokratik jamiyat taraqqiyoti rivojida ma'naviy yangilanishlar strategiyasining roli. Imom Buxoriy saboqlari, 2, 118-121.
22. Sobirovich, T. B. (2020). Ma'naviy yangilanishlar strategiyasining hayotbaxsh islohotlari: nazariya va amaliyot. O'zbekiston Milliy axborot agentligi–O'zA Ilm-fan bo'limi (elektron jurnal).–Tashkent, UZA, 1-12.
23. Sobirovich T. O'zbekistonning ma'naviy yangilanish strategiyasi. Buxoro: “Sadridin Salim Buxoriy” Durdona nashriyoti, 2020. –p.48.
24. Sobirovich, T. B. The development of democratic society and spiritual renewal in the views of Eastern and Western thinkers. International Journal of Advanced Research and Review.-2020, 5(10), 60-65.
25. Sobirovich T. B. The Strategy of Cultural Development in Central Asia during Amir Timur and Timurids Dynasty Reign. Irish Interdisciplinary Journal of Science & Research (IIJSR) Vol.5, Iss.1, pp.18-22, 2021.