

Jungs of Central Asia - As Legal Codes for Muftis and Qazis (Judges) of the Khanate Era



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ABSTRACT: The article discusses the *jung* sets, that is, the set of sharia rulings - programs (codes) compiled by *mufti* (jurist), *a'lam* (senior jurist) and *qāzī* (judge) in Mawarannahr. Information is given about the composition and copies of *jungs* for whom and for what purpose they were created. A valid jurisprudential issue recognized by local scholars over the years in order to coordinate proceedings in the local judicial system. The various *jung* collections consisting of fatwas, different aspects in content and content, their aspects related to religious and social processes that occurred in each period are shown. In them, shariah laws and fatwas were systematically issued, which were used as legal codes by *qazikhona* officials. In this way, information is given about *jung* and their copies compiled during the period of the Emirate Bukhara and the khanates of Khiva and Kokand. Although the format, size, and scope of the issues of the complexes differ from each other, there are aspects that connect them. The compilers of *jungs* used the shari'a rulings (*ma'mula*) that have been in practice among the people who are in charge of the dispensation of justice in khanates for centuries when referring to the sources.

KEYWORDS: jung, collection, Mukhtasar al-wiqāya fi masā'il al-Hidāya, al-masail al-fiqhiyya, classification, Mecelle-i Ahkam-ı Adliye, code, structure, manuscript, copy.

INTRODUCTION

In our history, the legal system, which is an important link of the society's management, was mainly organized by judges' courts. An official person who participates in the process of solving conflicting social issues in society in the role of manager is a "judge" in our society today. It is known from history that in Muslim countries, on the basis of the council of scholars, programs/manuals have been made for court officials in conducting judiciary work. The purpose of creating such manuals was, first of all, to put an end to disputes between courts, and secondly, to act on the basis of Islamic rights that were faithful to the traditions of the dominant sect in a certain area and were generally recognized by scholars.

THE MAIN FINDINGS AND RESULTS

In Central Asia, during the Khanate era, fatwa collections on jurisprudential issues, i.e., *jungs* [17;18]. The word *jung*: in the XVII-XVIII Persian and later Turkish dictionaries mainly meant "big ship", "collection of different poems". In Central Asia, *jungs* were mainly composed by *muftis* and *a'lam* and they were used for jurisprudential issues, model narrative documents, and a set of fatwas. In it, the compilers of *Jung* note that they focused mainly on practical jurisprudential issues (*ma'mulat al-masa'il al-fiqhiyya*) when compiling the collection were created in order to be convenient for court judges and muftis. Uzbek ethnographer M.S. Yusupov (1900-1954) in his research, based on ethnographic data, speaking about the court and its activities in Bukhara in the XIX-early 20th century, the issues dealt with by the judge in the daily course of the court were summarized and brought to the form of a book, and it was called *jung*, expressed his opinion [29:12]. Of course, various factors may be at play in their emergence, one of which is the growing need for legal questions and relevant fatwas (*ma'mula*) recognized by *a'lam* and *muftis* in litigation among judges. They have the decisive right to explain religious and legal issues, to interpret them, and to apply sharia law there is an increasing need for collections of recognized jurisprudential issues and valid fatwas (*ma'mula*).

It is difficult to give a clear answer to the question of when *jungs* were created as a guide (*code*) for judges in Mawarannahr. But in the course of the research conducted on the *Jungs* kept in the al-Biruni Institute of Oriental Studies of Uzbekistan (IVANUZ), it can be seen that they began to be built in the Bukhara Khanate at the end of the XVI century. The main reason for the creation of such collections was that the court officials used them as a guide in conducting court proceedings. That is, they (*jungs*) served as codes for muftis and qazis (judges). We will discuss this in detail later.

Such codes were established in countries dominated by the Hanafi legal traditions (which also existed in other madhabs), including during the reign of Mehmed the Fatih (1432-1481), the first set of laws ("Code") of the Ottoman Turkish Empire was

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compiled [5:333-337]. Later, the Tanzimat period (1839–1876) saw a code of laws known as *Mecelle-i ahkam-e adlyye* (Majalla for short) [5:309]. Prepared on the basis of Islamic law, this code was of great importance not only in the Ottoman Empire, but also in the history of Islamic law before the emergence of the Majalla Code, court cases were conducted according to the fatwas of the ulama based on the ruling Hanafi sect of the region. In the Hanafi school, there are different views on a certain issue (certainly in transactions) and it was not easy for a member of the court to choose the right one from among them and apply it to the case. For this, the judge was required to review many fatwas and to have deep knowledge of Shari'a science. Majalla has created a great convenience for judges, in which a set of legal norms for practice has been placed among various jurisprudential issues [1:231-235]. Creation of a set of Shariah laws within a particular sect was carried out in other regions based on the consultation of state rulers and scholars. For example, in India, there was a certain effort to collect and organize Shari'ah rulings by the Babur rulers (1526-1858). In particular, by the order of Muhammad Aurangzeb (1658–1707), under the leadership of Sheikh Nizamiddin Balkhi (d. 1679), a collection of fatwas was compiled under the name of "Fatava-i Alamgiri" or "Fatava-i Hindiy" (XVII) with the participation of twenty-three jurists [2:207-230; 3:1-13]. Copies of this collection are also common in Mawarannahr [19. 201-213].

In later times, as a result of the colonial policy of Western countries in the East, a number of changes occurred in the legal system that existed in Muslim countries for centuries. After the British Empire took India under its absolute influence, in order to create a uniform and systematic legal system there, it was recommended to work on the basis of the work of "Hidaya" to conduct judicial affairs among the local people who believe in Islam, and to establish a "customary court" among representatives of other religions [4:1133]. With this, the British Empire sought to create a colonial legal system that served its interests. A similar situation can be observed in the reforms carried out by the Russian Empire in the local legal system to adapt the Central Asian region to the needs of its administration [22:477; 23:79-78]. For example, after the Kazakh desert was included in the Russian Empire, the government did a number of things to adapt the region to the needs of the colonial administration. One of such measures was the systematization of the customary rights of the local people, i.e. codification. And this code was intended to be used by the Russian administration in considering the claims of the Kazakhs. But the idea of creating a code of customary law was not without controversy. There was confusion among the officials of the Russian administration in creating a collection of customary law. For example, in separating custom and sharia [24:7].

After the Kokand Khanate was incorporated into the Russian Empire, the Russian administration carried out reforms on various fronts, in particular, the codification of local laws was required in the legal system [24:7]. For example, in the beginning of the XX century, the government of the Empire intended to study and control the sources of Islamic jurisprudence used in them, along with the restrictions and changes related to the activities of judicial courts.

By order of the government, in 1910, Senator Count K.K. Palen (1861–1923) published a treatise on jurisprudence based on answers given by judges (qazis) is the generally accepted name of a Muslim official-judge, who is appointed by the ruler and conducts trials based on Sharia) and scholars. The cover of this brochure, published in Russian and Uzbek languages, states: "*Masoili zaruriya*" Janob graf Palen savollari yuzasidan Toshkand qozilari va ulamo va mo'tabarlari tarafidin shariatdin jamlanib va o'ruscha peruvod qiling'on zarur masalalardur"[25:345].

At the end of the treatise, articles developed by ulama and judges in Turkestan on 294 issues of Islamic law were declared to be in accordance with Sharia, and it was noted that they do not differ from the fatwa of judges in all courthouses in Turkestan. The government published this pamphlet with the intention of using it as a codes for the Muslims of Turkestan. In addition, taking into account the practical importance of "Hidaya" in Turkestan courthouses, N. Grodekov (1843-1913) (He worked as military governor of Syrdarya region in 1883-92. In 1906-1908, he was the governor-general of Turkestan. He has several works related to the military campaigns in Central Asia and the social history of the local people) translated it into Russian for the governor of Syrdarya region. The work "Hidaya" was published in Tashkent in 1893 in four volumes [25:346; 22:492]. However, the Russian colonial government did not take into account the local legal system that had been formed over the centuries in the Turkestan region, including the set of Islamic laws, i.e. Jungs, intended for the administration of courtrooms. This situation can be considered related to the Russian colonial administration's policy of ignoring "religion and religious institutions" in Turkestan [14:55-58]. Therefore, the collections developed for the courts in the history of the khanates remain unknown to scholars. Below we will talk about the jungs of *a'lam*, *muftis* and *kadiz* who worked in the legal system during the time of the Khans.

Many jungs collections are stored in the manuscript fund of the Institute of Oriental Studies named after Abu Rayhan Beruni of the Academy of Sciences of the Republic of Uzbekistan. Only a small part of them to the description of the Eastern manuscripts included in the catalog [27]. The fund of the Institute of Oriental Studies of the Academy of Sciences of the Republic of Uzbekistan received manuscripts of this type from various libraries, mainly from the Central Library and collections of Bukhara [28]. In addition, their manuscripts and lithographic publications can be found in other state libraries and private collections in Uzbekistan. (On February 15-16, 2021, the author of this article was in the fund of the Bukhara State Museum-Reserve, where he found out that there are several collections of jungs. For example: Jungs. Manuscripts. No. 6, 75, 27822, 10838/II. Also, on June 10-11 of this year, we visited the house of Ahmad Ubaydullah, the director of the "Heritage" scientific-

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educational and cultural center within the cultural affairs department of the governor of Namagan region. In his house there is a collection of manuscripts and lithographic books, among which it was found that there is a jung (inventory number not available) donated by Khudoyar Khan (1845–1858, 1863, 1865–1875), Khan of Kokand).

FOR WHAT PURPOSE AND BY WHOM WERE JUNGS CREATED?

One of the main criteria for the creation of Jung complexes was the inclusion of valid shariah rulings (responsible *ma'mula*) in it.

Usually, most Jungs do not have a “reason for writing” part. In the fund of the Institute of Oriental Studies of the Academy of Sciences of the Republic of Uzbekistan, there are many copies of their lithographic publications [16]. At the same time, the introduction to this publication contains the following interesting information related to the history of Jung: “*Let it be known that the original copy of this was a copy of the manual (complex of Sharia laws) of the scholars of Abdullah Khan's (Most likely, the ruler of the Shaybanids Abdullah Khan II (1583-1598) is meant here) time. Because in this copy, the events of that time are written exactly as they are. Therefore, Mirza Inayatullah (Inayatullah Qazi Kaloni Takhtiminori (d. 1273/1856-59y.) was a Qazi Kaloni during the period of Bukhara emir Muzaffar Khan (1824-1885)), the judge of judges of Bukhara, known as “Takhtiminori Qazikalon” and his son mufti soldier Porsokhoja (Muhammad Porso Sadr Mufti Askar ibn Mir Inayatullah Qazi Kalon Takhtiminori was a mufti soldier during the time of Muzaffar Khan, the emir of Bukhara. He died in 1286/1869 while returning from abroad. More information about this person is given in Sayyid Qamar's “Majmua (Jung)”) who added to this copy [created during Abdullah Khan's time] so that the events that happened in his time would be known to every reader. ... The editors have transferred the required places from their honest opinion. They wrote them with their own hands and indicated the sources from which they got them. Controversial issues were discussed in the presence of the king (also him) in the meeting of scholars, and the decided issues were written down and recorded. ... This copy is from the reign of King Sayyid Abdulahad Bahadur Khan (1885–1910), the Helper, the Generous, the Merciful, Mannon Allah's help, and also the owner of generosity and generosity “جَنك مع مختصر وقاية” With the help of the respected, assistant Makhdumi Mullah Muhammadi Makhdum in the city of Bukhara, [it was prepared] by selecting [the fiqh issues] from the books that were valid and in practice (ma'mula) among the scholars... and [this book] was published in the Kogon printing house in the month of Muharram 1327/1909 published.*

The information presented above shows that the jungs began to be established from a long time ago, that is, from the Shaibani period (1501-1601), and from that period they began to served as a program in the administration of judicial affairs. It is noteworthy that in the construction of this lithographic jungs other jungs up to its time were effectively used [16].

Another jung was composed during the Kokand khanate (1709-1876), and its colophon contains important information about who it was composed for [8]. The manuscript of this collection is kept at the Institute of Oriental Studies of the Academy of Sciences of the Republic of Uzbekistan under number 8388. It was compiled together with the text of *Mukhtasar al-wiqaya*. The total volume of the work is 185 pages. Size: 30.5x23.5 cm. Although this jung of the khanate of Kokand was moved in 1845 before the arrival of the Russian Empire, it was filled again 40 years later, namely in 1886, after the termination of khanate of Kokand. Information about this is given in two colophons of this manuscript:

In the first colophon (185b): “*This work was copied in 1261/1845-46, and the scribe's name appears on the seal below*”. Three seals are stamped on the bottom. Two of these are the same octagonal seal with the name of the scribe written on it: “*Mufti Chairman Khudoyar b. Mulla Amonqul (no date given)*”. In the third seal “*Muhammad Sharif Khoja Qazi ibn Podshah Khoja Umari Sheikhtonohury 1300/1882-83*”. the name is written.

In the second colophon (185b): *Allohga hamdu sanolar bo'lsin ... ustozimiz Mavloi oldin va hozir ham qozi bo'lgan Umariy Tohuriy Sharif ismli uning nasabi oliy bo'lgan ko'rsatmasi (ishora) bilan shar'iy ilmlarni egallagan talabalar o'rtasida ishonchli va mo'tabar nusxa bo'lgan Muxtasar [al-wiqoya] asari hoshiyasini avvalidan oxirgacha zaruriy shar'iy masalalar bilan ta'minlab va uni Shosh qozixonasidagi tajribali ulamolarning foydalanishida fatvo so'rab keluvchilarga (mustafti) fatvo berish uchun va muftiylar odoblari qonuni doirasida mo'min va musulmonlarning hojatini chiqarish uchun yozdim. Va uni 1303 yilning ramazon oyi oxirgi arafa kunida (1886 yil 2 iyul) tugatdim. Men zaif va ojiz qul muftiy Muhammad Qurbondirman.*

It can be understood from the given information that this Jung was compiled for the Shosh (Tashkent) courthouse where he worked under the instructions of the famous judge of the Sheikhtonohur region of Tashkent, Mohammad Sharif Khoja Qazi ibn Podshah Khoja Umari Sheikhtonohury. It is possible that copies were made for other courthouses in Tashkent on the basis of this manuscript copy.

COPIES OF JUNGS

Initially, the jungs were compiled for the *mufti* and *a'lam* to use in their service, but later it was found that there were copies (with some changes and additions) copied from the original for treasury officials (*qadis*, *mufti*, *muhtasib*, *muharrir*, etc.). This was the basis for conducting court proceedings in courtrooms based on the set of rulings established by *a'lam* and *muftis*.

For example, the collection of 8470 (size 397 sheets, 26x15 cm, letter intact) stored in the fund of the Institute of Oriental Studies of the Academy of Sciences of the Republic of Uzbekistan was compiled in the Khiva Khanate, and its author is

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Muhammad Rasul, a *a'lam* of the Khiva Khanate. The author wrote it until approximately 1296/1878 and it is considered an autograph copy [6]. Jurisprudential issues in it are explained in Arabic, Persian, and sometimes Turkish languages. The writings in the manuscript are different from each other (light or dark inks, small and bold writings in a random form, many pieces of paper of different shapes are pasted between some pages). This is the basis for concluding that the compiler completed the collection under different conditions over the years. In the course of research, the second copy of the above Jung of Muhammad Rasul *a'lam* was found. Its total volume is 345 sheets, size 26x15 cm. Handwriting - nastalyq. There is no word beginning in it either. The name of the compiler of interest is also not indicated. The name of the work is listed as “*joyang*” at the top of the fihrist of the work. It was moved and completed in “zu al-Qa'da” 1305/1888 [7]. In this collection, as in the autograph copy, pages 331b-345a contain mahdars, examples of narrative documents, stories, several hadiths and prayers. The main difference between these two sets is that the copy is a *slave* (For example: “*Kitab itaq*” (*Emancipation of the slave*), *jihād* chapters have been omitted. The fact that such issues have lost their relevance in the social and political life of the Khanate of Khiva, which was under the control of the Russian Empire by that time, is also reflected in the text of Jung. Alternatively, additional issues not found in the autograph have been included in the extract, and we can see that about 60 new jurisprudential issues have been added in the waqf section alone [7]. With the passage of time, it will be possible to observe the dynamics of new problems and solutions related to the endowment issue with the help of this text.

The tradition of copying Jungs can also be observed in the Bukhara Khanate. For example, in the fund of the Institute of Oriental Studies of the Academy of Sciences of the Republic of Uzbekistan, there are two copies of jung written by Amir Baqi Mawlavi, who was a scholar of Samarkand during the Ashtarkhanid period. One of them is manuscript №4782, 323 pages, size 24.5x18.5 cm. The colophon of the manuscript contains brief information about the author of the work. According to him, the author is Mawlavi Amir Baqi ibn Amir Muhammad Sharif ibn Amir Muhammad Amin, originally from the village of Konibodum in the Ferghana Valley. This manuscript was copied by Abdulwadud ibn Mawlana Dost Muhammad on 12 Jumadi al-Awwal 1092/25 September 1681. His autograph copy is unknown to us. The index of this collection clearly shows the titles, chapters and pages of 46 books. The work includes jurisprudential issues starting from the chapter “Tahorat” and ending with the “Book of Wills”. Another copy of it is in the Institute of Oriental Studies of the Academy of Sciences of the Republic of Uzbekistan under the number 4929, and its volume consists of 724 pages. The size is 12x19 cm. This second copy was copied 30 years after the previous one, that is, on April 7, 12 zu al-Hijja 1116/1705, by Muhammad Ismail ibn Hazrat Ishan Amir Ibrahim. When we get acquainted with the two copies of this book compiled by Mawlavi Amir Baqi, copied at different times, the following differences between them are noticeable. The first copy (Academy of Sciences of the Republic of Uzbekistan Institute of Oriental Studies No. 4782) is presented in Abu Hanifa's Arabic treatise “Al-Wasiya li Imam Azam” [22] on the issue of dogmatic text before the main text. It is followed by a list of the authors of the sources used in Jung (Asma' al-musannifin) (pages 3b–5a) and the date 1092/1681 is noted at the end (page 5b). On page 86a of the book, Khoja Abu Zarr's (Abu Zarr Jundub bin Janada al-Ghafiri was one of the close companions of the Prophet Muhammad (pbuh)) treatise “Repelling Defects (diseases)” is presented (Sheets of paper attached to the Jung at different times were not taken into account here. Differences in the base text are noted here). These additional subjects are not found in the second copy. It is not known whether these themes were included in the author's autograph copy. The second copy of this jung is distinguished by some differences. Its main difference from the first copy is that it comes with the text of Ubaidullah ibn Mas'ud al-Mahbubi al-Bukhari (d. 747/1347) *Mukhtasar al-wiqaya*. 48 book titles and pages are clearly indicated in the table of contents. The work includes jurisprudential issues starting from the chapter “Tahorat” and ending with “Khunasa” (hermaphrodite). There are two chapters here that were not given in the previous version, i.e. the chapter on Hajj and the second chapter on “Hunasa” (hermaphrodite). As we can see, although the main part of the text remains intact when copying copies, but over time, there are cases of adding or omitting additional topics to the texts. From this, it can be concluded that the topics were enriched or copied and edited, depending on the requirements of each jung user (*qazi and mufti*) and the nature of the period.

GENERAL STRUCTURAL STRUCTURE OF JUNG

The sequence of themes in Jung's collections is similar to the works composed in the traditional Hanafi school. The main one of them is Ubaidullah b. Mas'ud al-Mahbub al-Bukhari's work of (747/1348) is *Mukhtasar al-wiqaya*. This work has been taught as the main textbook on fiqh in Central Asian madrasahs for a long time, and many commentaries have been written on it. There are translations of this work into local Turkish and Persian languages, as well as verse forms [9]. There are 50 *kitab* in this work, starting with *Tahorat* and ending with the book of *Hunasa*.

Most of the jung composed in Movarounnahr were composed along with the text of this work. Also, the main noteworthy aspect of jungs is that the source of each of the mentioned issues is clearly indicated, sometimes down to its chapters and pages. For example, in the chapter *Tahorat* of the collection Jung numbered 10727 in IVANUZ, several issues of purification from impurity are addressed, and each of them is indicated up to the source, season and page number. For example, the source of a Shariah issue “*Fatavo as-sirojiya*” *asarining najosatdan poklanish bobi 8 varaq*”, source of another issue ““*Bahr al-fatava*” *fi fasl fima yanqudu al-vudu', varaq 34*” (“*Bahr al-fatava*” of his work “About the factors that invalidate *Tahorat*” chapter, fol. 34)

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is specified in detail [15]. Sometimes in this collection it is enough to give only the name of the sources. For example: “*Xulasat al-fatava*”, “*Qazikhan, Navadir*”, “*Targib as-salat*” and so on.

The following topics, as well as other jurisprudential works, are included in the composition of Jungs:

1. Prayers: ablution, prayer, zakat, fasting, pilgrimage (The solution of prayer issues was regulated by the founders of the sect based on the original sources (Qur’an and hadith, ijma’ and qiyas).

2. Muomalat.

In turn, circulation issues are divided into several sections:

- social issues (marriage, divorce, inheritance, testament, oath, slavery and inheritance issues);
- economic and financial issues (use of real estate, lease, purchase rights, endowment, depositing money, partnership, khiroj, ushr);
- agricultural issues (development of new lands, establishment of forests and plantations);
- matters of crime and punishment (lawsuits, confessions, rape, payment for crimes and violations of the law, spiritual purification, theft, recantation, libel);
- spiritual and moral issues (about what is found, what is lost, the manners of slaughtering animals and consuming drinks, about actions considered good and bad).

Although the above-mentioned topics appear in many jungs, they differ between copies in terms of the nature and extent of the exposition of shari’i rulings and issues. Jungs differ from many jurisprudential works in these respects. In this, the compilers (*mufti* or *a’lam*) of Jungs summarized some issues that were considered relevant and important at the time, taking into account the social, economic and cultural conditions of the state and community life of each period, as well as certain historical features of the period. For instance, in some jungs created during the Russian colonial period (For example: during the Russian colonial period, the above-mentioned issues were omitted in the logs compiled in Khiva Khanate) slavery and jihad chapters have been omitted [7]. This shows that by that time such issues had completely lost their importance in the social and political life of the khans under the Russian Empire.

CONCLUSION

In conclusion, it can be said that in Movarounnahr, as in other regions, from the time of the Shaibanis, in order to coordinate the Islamic legal system, especially in the judicial courts, by *a’lam*, *mufti* and *kadis*, a collection of valid fatwas that were relevant and important issues of their time and recognized by local scholars was compiled and kept as Jung. Sharia law rules and fatwas were systematically given in Jungs, and court officials used them as guidelines.

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