

Nomadic Land Claims in the Colonized Kazakh Steppe¹

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In the second half of the nineteenth century, the Russian empire colonized the Kazakh steppe with Slavic peasant settlers and erected legal and administrative institutions of power over the indigenous Kazakh nomads of the Middle Horde.² In this context, competition over land was fierce. While the Middle Horde Kazakh nomads had been involved in conflicts for centuries with other nomads of the region over who had the right to occupy pasturage and traverse migration routes, now the struggle was with a foe that sought to challenge fundamentally the very existence of nomadic pastoralism as a way of life: to Russian colonizers, nomadic pastoralism was “uncivilized” and disorderly; seasonal migrations made the effective administration of the region and the pursuit of trade routes deeper into Central Asia difficult at best. And so the ultimate goal of Russian colonial rule in the Kazakh steppe was to settle the nomads, transform them into sedentary peasant agriculturalists, and make them into “loyal subjects” of the empire.

By the end of the nineteenth century, these imperial policies significantly altered Kazakh land use practices, as Kazakh nomads attempted to accommodate structures of colonial rule that were erected throughout the steppe. They did so in a variety of ways. Some abandoned nomadic pastoralism and engaged instead in agriculture or trade as their main source of subsistence, while others (increasingly

¹ This paper is based in large part on research published in Chapter Five of my book, entitled *Law and Custom in the Steppe: The Kazakhs of the Middle Horde and Russian Colonialism in the Nineteenth Century*.

² The Middle Horde (*Orta Zhuz*) is one of three supratribal units into which all Kazakh nomads were organized from at least the 17th century (the other two are the Great [*Uli*] and Little [*Kishi*] Hordes). The traditional lands of the Middle Horde were located in the central, north-central and northeastern regions of the Kazakh steppe, roughly coterminous with the nineteenth century provinces of Akmolinsk and Semipalatinsk. My focus in this paper is on the Middle Horde only, although I refer to these nomads with both the specific horde name and the more generic “Kazakh” ethnonym.

at the end of the century) took on jobs in Russian mines or as labourers on the railroads being constructed throughout the region. Others became semi-nomads, who spent up to nine months of the year on their winter pastures; there, they ensured the fodder needed to feed livestock herds of horses, sheep, goats and some cattle through the frigid winters by demarcating pastures for hay fields. In the remaining three months of the year, they migrated relatively shorter distances to summer pastures. The Russian state organized these semi-nomads into administrative *auls* – encampments – and designated each with a fixed population and locally-elected legal and administrative representatives of the empire. By the end of the nineteenth century, “pure” nomadic pastoralists (those who were fully able to maintain seasonal migrations in spite of colonial rule) were very few in number, and they were concentrated in the western and south-western regions of the steppe that were more arid and therefore less viable for agriculture and peasant settlement. Thus, the majority of Middle Horde Kazakhs had learned to live with the Russian presence by adopting land use strategies that required them to remain sedentary for a substantial part of the year.

The story of changes in Kazakh land use as the nomads interacted with an imposing sedentary state in the nineteenth century is not one of passive acceptance and submission. On the contrary, Kazakhs actively engaged with colonial institutions in order to help them lay claims to and protect their lands. They did this in two ways, which I examine in this paper. First, traditional Kazakh political elites – White Bone – claimed their right to ownership of inherited patrimony, a claim which Russian imperial law recognized for the Middle Horde Kazakhs in the 1820s. Second, non-elite nomads made claims to private landholdings as part of an inheritance, a right not granted under customary law [*adat*] in the pre-colonial period. In both cases, Kazakhs used traditional approaches to land use alongside alternatives presented to them by Russian imperial laws and colonial administrative rules. But ultimately, again in both cases, these claims to land were delegitimized and annulled as the empire increased its colonization of the steppe and confiscated nomadic lands for Slavic peasant settlement at the turn of the twentieth century. This brief examination of nomadic and imperial land rights and claims in this period serves as evidence to substantiate a larger conclusion that I have drawn from my research, namely that active accommodation, rather than resistance or submission, was the most common strategy employed by Kazakh nomads who interacted with the Russian state.

Kazakh political elites were called the White Bone; this hereditary nobility traced its ancestry back to the Mongol leader Chinggis Khan and his descendants. The White Bone distinguished itself from non-elite Kazakh kinship groups, collectively called the Black Bone. Both White Bone and Black Bone claimed membership in one of the three Hordes, but only Black Bone Kazakhs were organized into clans; the White Bone stood apart from these kinship structures. Traditionally, dating back to Mongol times, Kazakh White Bone elites claimed the right to their own inherited patrimony, called *ulus* from the Mongol. In the eighteenth century, when Kazakh clans began seeking Russian protection from other nomadic invaders of their territories, White Bone leaders accepted Russian land grants approved by the tsar as replications of their rights to an *ulus*, and in return they vowed their loyalty to the Russian tsar. After 1822, when Regulations were issued that for the first time erected legal and administrative structures in Middle Horde Kazakh lands, these types of arrangements were formalized in colonial law: the Russian government issued deeds to lands in return for government service and as a way to encourage agricultural development of the land. Plots or large tracts of land were set aside for private use outside of the nomadic community's common pasture. Ownership was protected, and inheritance rights could be claimed, as long as the deeded land was developed with structures or tilled for agriculture.³ Most commonly, these deeds were granted to men whom the Russian administration designated as "Sultans" that is, to Kazakhs who worked as administrators to collect taxes and keep the peace within each administrative unit.⁴ According to an official tally conducted in 1871, 236 deeds had been granted to Middle Horde Kazakhs since 1822.⁵

While the purpose of these land deeds had been at least in part to promote settlement, their selective designation only to elite colonial servitors caused land use

³ 1822 "Regulations on Siberian Kirgiz", Articles 174 & 179. "Siberian Kirgiz" was the term used by the Russian imperial government to refer to the Middle Horde Kazakhs for much of the nineteenth century.

⁴ Of course the word "sultan" has an etymology that long predates Russian adoption of its use. In the Kazakh steppe, the title was traditionally claimed by the White Bone descendants of Chinggis Khan. See Kliahstornyi / Sultanov, *Kazakhstan*, 346–348. In most cases, officially-designated Sultans were, in fact, traditional White Bone Sultans.

⁵ Gosudarstvennyi Arkhiv Omskoi Oblasti [GAOO], f. 3, op. 6, d. 9390, ll. 59–127. The 236 deeds were distributed in the counties [*uezd*] of Akmolinsk province [*oblast*] in the following way: Omsk (19), Petropavlovsk (52), Sary-su [Atbasar] (39), Akmolinsk (5) and Kokchetav (6); and in the *uezds* of Semipalatinsk *oblast*: Semipalatinsk (4), Pavoldar (6) and Kokpekty (105).

conflicts in a region still largely unaffected by long-term imperial settlement goals. Specifically, the creation of private holdings for sultan-servitors disturbed nomadic migration routes in some regions, and as a Russian observer of nomadic land use patterns concluded in 1865, these deeded lands “only created land disputes”.⁶ It appeared that the lands designated by deeds as more-or-less permanent land holdings interfered with the more flexible land use patterns of seasonal migrations. These patterns allowed for individual nomadic clans to change pastures and migratory routes as their herd sizes changed year to year, with clan leaders meeting annually to resolve disputes based on those changes, if traditional mechanisms for reducing competition for land, such as observing kinship seniority rules or the “right to first seizure”, failed to work.⁷

In part in response to the number of land disputes increasing because of permanent land claims, imperial lawmakers moved to delegitimize these deeds. The imperial administration tried to move away from White Bone land claims as part of a gradual recognition that the White Bone nobility failed to exercise unquestioned authority over Black Bone nomads and that they therefore should not represent all Kazakhs in the colonial administration to the exclusion of Black Bone clan leaders.⁸ Thus, according to the Provisional Statute for the administration of the steppe, which was promulgated in 1868 and which became the vehicle for formalizing colonial rule over the Middle Horde Kazakhs, the government recognized the steppe as “state land,” which was granted for “communal use” of the Kazakhs.⁹ Since this emphasis on “state” land and “communal use” contradicted the right to ownership granted in many of the deeds that Kazakhs held, the statute ordered a review of all deeds in order to ensure their legality, according to current law as well as the procedures followed at the time that the deeds were issued. This review

⁶ Krasovskii, *Oblast' Sibirskikh Kirgizov*, 160f.

⁷ The process of resolving land disputes was to become much more complex as the steppe lands were gradually more closely incorporated into the empire and its legal-administrative system after the 1860s. But even prior to this more formal imposition of colonial rule, it was clear that nomadic land use patterns and the dispute resolution process based on them would be severely challenged.

⁸ See, e. g., Valikhanov, “Zapiska o sudebnoi reforme”, 80–82; and Alexei Levshin’s comments to the 1865 Steppe Commission, *Russkii Gosudarstvennyi Istoricheskii Arkhiv [RGIA]*, f. 1291, op. 82, d. 5a, l. 248.

⁹ “Vremennoe polozhenie ob upravlenii v Ural'skoi, Turgaiskoi, Akmolinskoi i Semipalatinskoi oblastiakh,” Article 210.

was undertaken in 1871,¹⁰ and the result was that most of the 236 deeds held by Middle Horde Kazakhs were legitimated; very few were annulled at this time.¹¹

However, at the same time as deeded lands were being legitimated, the Russian imperial government began to restrict the rights of all imperial subjects to “own” land. Debates about the legitimacy of private land claims ensued in the 1870s and 1880s, and culminated in the issuing of new articles of the Russian Imperial Civil Code in 1887, which stated that land could only be considered privately owned if it had been granted in an official document “in perpetual and hereditary ownership” [*v vechnoe i potomstvennoe vladenie*].¹² As a result of this change in imperial law, colonial law in the steppe was revised,¹³ and by 1895, only two deeds held by Middle Horde Kazakhs were still recognized as legitimate proof of private ownership of land, because the language within them conformed to the Russian civil laws on rights to inheritance of land throughout the empire.¹⁴ The criteria for establishing the legitimacy of a land grant to Kazakh nomads had thus been integrated into analogous imperial laws.

The upholding of imperial policy that put severe restrictions on private ownership and inheritance rights concerning land came paradoxically at a time when nomads and semi-nomads needed legal support for claims to pasture lands that increasingly were being threatened by overcrowding and in-migration of Slavic peasants. Competition over land rights had become so fierce in many areas of the steppe in the 1880s and 1890s that manipulating the colonial legal system by making land claims had evolved into its own type of nomadic survival strategy. Thus, Middle Horde Kazakh elites submitted petitions to the colonial administration requesting that the legitimacy of their deeds be confirmed and upheld. Their purpose was to protect their claims to government service land grants and avoid

¹⁰ Explanatory footnote to Article 211; GAOO, f. 3, op. 6, d. 9390, ll. 21–23; Artemenko, “O nasledstvennom zemlepol’zovanii u kirgizov”, no. 39:3.

¹¹ Tsentralnyi Gosudarstvennyi Arkhiv Respubliki Kazakhstan [TsGARK], f. 369, op. 1, d. 7322, l. 2.

¹² Artemenko, “O nasledstvennom zemlepol’zovanii u kirgizov”, no. 40:1.

¹³ “Stepnoe polozhenie ob upravlenii oblastei Akmolinskoi, Semipalatinskoi, Semirechenskoi, Ural’skoi i Turgaiskoi” (1891), Articles 120, 122, 125.

¹⁴ TsGARK, f. 369, op. 1, d. 4936, ll. 1–19; the two recognized deeds in Akmolinsk *oblast’* were held by Lt. Ibragim Dzhaikpaev (for 3000 *desiatinas* of land in Kulan-Kipchakovskii district [*volost’*] in Akmolinsk *uezd*) and Elder Sultan Maior Aryslan Khudaimendin (for 460 *desiatinas* of land in Churubai-Nurpinsk *volost’* in Akmolinsk *uezd*) [*ibid.*, l. 10]. Artemenko (“O nasledstvennom”, no. 40:2) contended that there were three deeds, but did not provide the names of the deed-holders.

having to face land disputes with other struggling nomads that required resolution by customary law courts, a process from which they had been exempted by virtue of the legal authority invested in their official deeds by Russian colonial institutions.

While elites' decisions to appeal to the imperial administration to protect land claims affected the desired results in the short term, it rarely made a difference in the long run. One case is particularly revealing of the process by which White Bone elite claims to land were being stripped away by the end of the nineteenth century. This case involved Chingis Valikhanov, son of the last khan of the Middle Horde, Vali Khan, and an official with a rank of colonel in the imperial administration. He had sought for years to legitimize claims to his family's land called Agym-Kyzyl, located in northern Akmolinsk province in close proximity to a major trade route that led to the town of Petropavlovsk. The right to full ownership of this land had originally been granted by an 1824 decree of the Russian Ruling Senate to the widow of Vali Khan, known as Khansha Valieva.¹⁵ The land in question amounted to two thousand *desiatinas* (ca. 5400 acres) of high quality winter pasture used by about fifty *auls*. In 1871, the provincial administration determined that Valikhanov's claims were legitimate, citing the 1824 decree and a subsequent confirmation of ownership rights. But in 1872, the main administrative body overseeing Middle Horde Kazakh territory from the city of Omsk overruled the provincial administration's decision, arguing that "descendants of Khansha Valieva have undisputed right only to *use* of the land claimed by them" but not to ownership.¹⁶

Not willing to accept this decision as defeat, Valikhanov waged a battle with the colonial administration for years thereafter. In 1878 and again in the mid-1880s, Valikhanov appealed directly to the Governor-General of the steppe to have himself, as descendant of Khansha Valieva, recognized as "full legal owner of the settlement at Agym-Kyzyl."¹⁷ Demonstrating a sophisticated grasp of the law, Valikhanov claimed ownership based on language in sections of the imperial civil code regarding inheritance, which stipulated that rights to land were generally legitimate when the land was granted by the imperial government, and particularly for economic development. Because the land in question was originally granted to Khansha Valieva under the condition that it be tilled for agriculture, and since a

¹⁵ TsGARK, f. 369, op. 1, d. 7322, l. 1.

¹⁶ *Ibid.* Emphasis added.

¹⁷ *Ibid.*, l. 2; GAOO, f. 3, op. 6, d. 9390, ll. 169–176.

mill [*mel'nitsa*] had been located there since the 1830s, Valikhanov believed that he should be considered owner of the land.¹⁸ The Governor-General of the steppe was sympathetic to the case, but the county administrator who had direct oversight over the land in question argued to the Governor-General that the land was situated on an important trade route, and he was concerned that trade would not flourish and proper taxes and duties would not be collected if Valikhanov retained control of these well situated lands.¹⁹

The case was finally decided in 1895 by a new Steppe Governor-General, who ruled that according to the new (1891) statute for administration of the Kazakh steppe, all lands occupied by nomads were state property and therefore historic deeds no longer had legal meaning.²⁰ In one legal action, based on a rigid reading of colonial law, traditional rights to inherited patrimony were annulled.

Valikhanov conceded defeat by signing a document acknowledging removal of all ownership claims to the land. But just one year later, in 1896, when much of the land in question was designated as peasant settlement plots for incoming Slavic migrants from central regions of the empire, Valikhanov once again appealed to the steppe administration, this time with an urgent telegram to stop the confiscation. He argued that peasant settlement would permanently render the land uninhabitable to his herds and the nomads who tended them. Officials responded that Valikhanov did not “need” the land, arguing that he had other land upon which he wintered, and that he only used a small portion of the two thousand *desiatinas* for a few weeks in the summer while migrating.²¹ Thus, the government concluded that Valikhanov’s urgent appeal be denied, and that if any of the other Kazakhs who occupied the land more permanently wanted to object to peasant settlement there, then they could submit their own petitions to the provincial administration.²²

The government’s annulment of deeds which had once served as the basis of elite claims to their former patrimony made more land available not only to peasant settlers, but also to struggling Black Bone nomads who were being displaced, and they too began manipulating the colonial status of land to protect their own

¹⁸ GAOO, f. 3, op. 6, d. 9390, ll. 171, 175–176.

¹⁹ TsGARK, f. 369, op. 1, d. 7322, ll. 6–7.

²⁰ *Ibid.*, l. 23.

²¹ Official imperial documents frequently display ignorance of nomadic land use principles, which held that pasture lands in the fragile steppe ecosystem must remain untrammled except during the season designated for their use.

²² RGIA, f. 391, op. 1, d. 288, ll. 6–7.

small claims. The most significant method through which poorer Kazakhs sought protection of their land claims was by appealing to customary rights to land as private or inheritable property.

Under *adat* (customary law), the practice had long existed of passing rights to pasture lands down to one's descendants and making claims to it based on the length of time [*davnost'*] that the land had been occupied by the same kinship group, and this practice continued under colonial rule. For instance, a Kazakh claimant to land threatened by peasant encroachment submitted a complaint to the regional administration in 1896 arguing that he had a right to the land because "[a]bout 200 years ago, our ancestors occupied as winter pastures the place by the river Kairakty, and that place has passed from generation to generation, and since then through to today it was occupied by us, already seven generations, totalling 150 yurt owners consisting of eighteen separate winter sites."²³ However, *adat* did not stipulate the right to claim it permanently as one's own. For most Black Bone Kazakhs of the Middle Horde, inheritance, or the "share" of property that was set aside for use by a father's children, did not include land.²⁴ But with the erection of the colonial system, Kazakhs began to take advantage of Russian rules that gave them exclusive rights to land. Under the 1822 Regulations, Middle Horde Kazakhs (non-elites as well as elites) could claim plots as their own as long as they developed them for agriculture. And the 1868 Provisional Statute stipulated that "land that is occupied by structures becomes hereditary as long as the structures exist," and those structures were considered private property. Kazakhs interpreted these laws with concern for their own cultural needs shaped as they were by the context of stiff competition for land.

In land cases heard in colonial courts from late in the century, Kazakh litigants argued that winter pastures and hay fields belonged to individuals, rather than the lineage, community or family. They referred to these individual holdings as the "father's reserve" [*ata-bölek*] and they became the main expression of private, inheritable land plots in Kazakh *auls*.²⁵ Thus, when a husband died, his wife could claim the right to her husband's *ata-bölek*, e. g., one set of hay fields, for her own

²³ TsGARK, f. 369, op. 1, d. 4619, l. 48.

²⁴ Inheritance was *enshi* for sons and dowry [*zhasau*] for daughters. In the late 1880s, N. I. Grodekov found that land was only inheritable in the southern parts of Syr-Darya *oblast'*, and not in the northern part of that *oblast'*, where some Middle Horde Kazakhs had their winter pastures. See Grodekov, *Kirgizy i Karakirgizy Syr-Dar'inskoi oblasti*, 102.

²⁵ *Materialy po kirgizskomu zemlepol'zovaniiu*, 21.

use rather than allowing the community to claim it and reassess the larger territorial needs of its herds.²⁶ Winter pasture land had even become currency as the symbol of the bond of eternal friendship between two kinsmen, called *tamirliq*. When a relationship of *tamirliq* was agreed upon, one man would give the other “his” land [*zher*], and the land so given was labelled *zher-tamirliq*. And the buying and selling of landed property became common among Middle Horde Kazakhs by the turn of the century.²⁷

But even as Kazakhs came to consider land as private property through their own interpretations of both *adat* and imperial laws, the colonial administration refused to protect the right to Kazakh “ownership” of land. Even more, administrators left Kazakh land vulnerable to blatant confiscation without remuneration, citing the 1891 Statute for administration of the steppe, which more strictly enforced the earlier declaration that all steppe territory was “state land”. This ruling was put into practice in the second half of the 1890s, when land surveyors began a bureaucratic process that determined how much land the nomads “needed” to feed 24 head of cattle (without consideration of soil quality or water access); anything above this bureaucratically determined need was considered “excess land,” which could then be confiscated and given to incoming peasants for agricultural development.²⁸ Kazakh pastures were taken in this way even if they were “developed” with structures according to the law. As a result, more and more traditionally nomadic pasture and migration land was set aside for peasant settlement. In 1909, the final piece of security against land confiscation was removed, when a new law ruled that: “Previously designated [Kazakh] structures for household needs or temporary shelter do not serve as barriers to seizure.”²⁹

By the end of the nineteenth and beginning of the twentieth centuries, observers noted increased tension between rich and poor over their mutual land claims. Competition over land pitted Kazakh against Kazakh, nomad against semi-nomad or settled Kazakh, in a struggle for survival that was more intense than in any previous era. But these struggles over land rights were waged within a colonial system that provided nomads and former nomads the opportunity to find new ways to ensure their subsistence, even as it changed their lives in fundamental ways.

²⁶ TsGARK, f. 369, op. 1, d. 7630, ll. 2–3.

²⁷ Baitursynov, “Zher zhaldau zhaiynan”, 229.

²⁸ TsGARK, f. 369, op. 1, d. 6594; TsGARK, f. 369, op. 1, d. 4619; RGIA f. 391, op. 1, d. 250, l. 7.

²⁹ Quoted from *Istoriia Kazakhskoi SSR*, 406.

While it would be wrong to go so far as to argue that the practitioners of nomadic pastoralism benefited from colonization, it is certainly true that Kazakhs were adept at learning how to use to their advantage the legal apparatus in a colonial system that sought to change them. It would not be until the forcible and violent collectivization policy of the 1930s that virtually all Kazakhs were sedentarized, but nineteenth century imperial policies did force Kazakhs to make significant changes to their nomadic land use patterns. For a time and with measured success, Kazakhs manipulated colonial land laws as well as traditional land use customs to protect their lands and their livelihoods rather than accept colonial impositions outright.

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