

CHAPTER 3

Crossing the Border, Transformation of Belonging, and “International” Conflict Resolution between the Russian and Qing Empires

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This chapter will focus on changes in the relationship between the Kazakhs, Russia, and the Qing Empire during the 19th century. The main focus will be on the Kazakhs living between the empires and their changing status as imperial subjects. Their border crossing was closely connected with the establishment of their subjection, as will be shown. In this sense, the confrontation between empires and indigenous ethnic groups including the Kazakhs can be discussed from a legal viewpoint, since the conflicts caused by border crossing usually required a system of judicial resolution. Thus, the first topic that must be addressed is the concept of “subjection,” or belonging, as regulated by the empires.

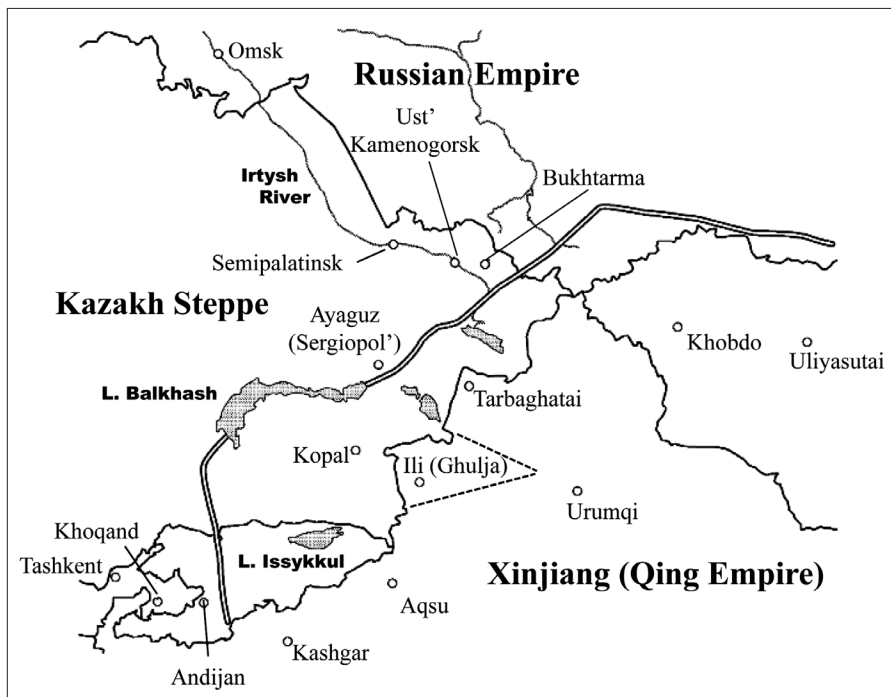
For the ethnicities of Xinjiang, residing within the Qing Empire, the conclusion of the 1864 demarcation treaty proved to be an important turning point. During this period, the Qing found it necessary to develop deep diplomatic and international ties with other nations, and consequently felt the need to consider the status of “their own ethnic groups” to a greater degree than in the past. Before this period, the Qing only vaguely governed the ethnic groups under its control, referring to the *huidian* and other codes. In contrast, the 1864 “Treaty of Tarbaghatai” demanded clear statements regarding the status of subjects or, in other words, the “citizenship” of those residing within Qing boundaries.¹

Russia, on the other hand, made clear distinctions regarding its own ethnicities. It is well known that Central Asian ethnicities, including the Kazakhs, fell into the category of aliens (*inorodets*). The specific term for the Kazakhs was “nomadic aliens” (*kochevye inorodtsy*), and their subjection was characterized by the term *poddanstvo*.² Apparently, “citizenship” was not clearly defined by the empires at this

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¹ Article 5 of the treaty will be discussed below. In a stricter sense, the Qing only regulated its citizenship in 1909.

² For Kazakhs under the administration of the Western Siberian Governor General, there were regulations introduced in 1822. I prefer to use the term “subjection” instead of



Map 3.1. The Russo-Qing Border in Xinjiang

The double-line is the border claimed by the Qing Empire. The other borders depicted are modern. Source: J. Noda, *The Kazakh Khanates between the Russian and Qing Empires* (Leiden: Brill, 2016): 221.

time. Thus, I will use the term “subjection” rather than “citizenship” in reference to the status of the Kazakhs. Even if “citizenship” can be applied to the Kazakhs discussed in this chapter, it simply indicates citizenry within imperial territory and does not refer to ethnic or political nationality.³

“subjecthood” for the Russian word *poddanstvo*. See Lohr’s overview on this issue, E. Lohr, “*Grazhdanstvo i poddanstvo. Istoriia poniatii*,” in “*Poniatiia o Rossii*.” *K istoricheskoi semantike imperskogo perioda* 1, eds. A. Miller et al. (Moscow: Novoe literaturnoe obozrenie, 2012): 197–222.

³ R. Brubaker, *Citizenship and Nationhood in France and Germany* (Cambridge, MA: Harvard University Press, 1992): 27. A recent study by Lohr indicates the citizenry was not restricted by the physical border, see E. Lohr, *Russian Citizenship: From Empire to Soviet Union* (Cambridge, MA: Harvard University Press, 2012): 1.

1. Kazakh Nomads between the Two Empires

1.1. Background

In a previous study I analyzed the relations between the Kazakhs and the Qing and Russian Empires. In it, I detailed the development of relations between the three parties, which resulted in Russian hegemony in the eastern Kazakh Steppe bordering Qing-ruled Xinjiang by the 1850s.⁴ This chapter will describe changes occurring after that period caused by the establishment of clear demarcations between the empires.

From the middle of the 18th century (relations between the Qing and the Kazakhs commenced in 1757), the Qing Empire regarded the Kazakhs as subjects (*albatu*) of the Manchu emperor (*ejen*).⁵ However, Kazakh pasturelands were situated beyond the western territory of the Qing, in an area where the Russian Empire later came to have significant influence. In fact, Russia also viewed the Kazakhs as its own subjects (*poddannyyi*). As a result, Kazakh khan aristocrats (Chinggisid sultans) found it necessary to conduct bi-lateral diplomacy between the two empires by making use of different positioning and wording in their communications with each side. This style of Kazakh diplomacy was practiced effectively,⁶ at least up until the end of the 18th century, and both empires were aware of it.⁷ In their relations with the Qing, the Kazakhs were specifically considered to be “crossing the border” into Qing territory for various reasons, including tributary missions, trade, seeking vacant pasturelands, and so on.

1.2. Qing Policy and the Migration of the Kazakhs

In the view of the Qing government, its northwestern territory was delineated by “double” borders: *jie* as far as Lake Balkhash (or the Semireche region), and *ka*, the line of Qing *karuns* (outposts). Needless to say, the latter functioned as the effective border of the empire. The Kazakhs were considered by the Qing to be located beyond

⁴ J. Noda, *Kazakh Khanates between the Russian and Qing Empires* (Leiden: Brill, 2016).

⁵ T. Onuma, *Shin to Chūō Ajia sōgen: Yūbokumin no sekai kara teikoku no henkyō e* (Tokyo: Tōkyō daigaku shuppankai, 2014). In Chinese literature, the subjection of the Kazakhs to the empire was described in various ways. See Noda, *Kazakh Khanates*: 267–72.

⁶ A letter dated 1778 from a Kazakh elder to Ogarev, commander of the Siberian corps, mentions a report by a Kazakh elder describing Ablai’s two-faced character (*iki yaklı*). This demonstrates that the Kazakhs themselves recognized the true nature of their bi-lateral policy toward the empires. See B. Nāsenov, ed. *Abilay khan (II tarauı). Ombı arkhivı söyleydi XII–XVII* (Almaty-Novosibirsk, 2005): 346–8.

⁷ Noda, *Kazakh Khanates*: 273.

the *karun* line, even though they were also regarded as similar to the *wai fan* (outer vassal) status holders like the Torghuts. In this sense, the Kazakhs were seemingly categorized in the same manner as tributary states (Ch. *chaogong guo*).⁸

The nomadic migration of the Kazakhs to the east of Lake Balkhash was principally an “invasion” into Qing territory according to the main concepts of the Qing administration. However, the existence of Kazakh pasturelands in Semireche was originally accepted by the Qing court due to exceptional privileges that allowed the Kazakhs to enter the “outer” border (*jie*).⁹ In contrast, the pasturelands of the Uriankhai, Oyrat, and Torghut peoples were situated within the *karun* line.¹⁰ Thus, if the Kazakhs (who often moved from west to east, mainly for environmental reasons)¹¹ crossed the *karun* line into Qing territory, it was necessarily considered a border violation by the Qing Empire.¹² The Qing strictly forbade the Kazakhs from crossing the “inner” *karun* lines. Whenever nomadic people entered Qing territory within the *karun*, the Qing authorities took a range of measures, including exceptional accommodation, punishment, and expulsion.¹³ Through this process, the virtual border lines of the Qing Empire shifted to the east. In any case, Kazakhs residing within the “outer” border (*jie*), or migrating near this border in such areas as Semireche or Lake Zaisan, were kept under Qing control—though quite loosely—by means of the bestowal of titles and the institution of a horse tax (discussed below), among other means.¹⁴

On the other hand, the Qing court did maintain particularly close relations with the Kazakh Chinggisid sultans themselves, who were bestowed titles by the empire. For example, during the 18th century, Abulfeiz sultan, who was given the title of *wang*, was highly regarded for his loyalty to the empire. The Qing therefore entrusted him with control of all people under his responsibility (i.e. patronage).¹⁵

⁸ Ibid., 186.

⁹ Noda, *Kazakh Khanates*: 276. The border was considered to run from Semipalatinsk to Tashkent.

¹⁰ For the memorial regarding the mutual robbery between the Uriankhai (Tuva) and Kazakhs in 1789, see Zhongguo diyi lishi dang'anguan, ed. *Qianlong chao manwen jixindang yibian* (hereinafter QMJD) (Changsha: Yuelu shushe, 2011), 21: 244–6.

¹¹ Noda, “Yūbokumin no idō to kokusai kankei: Chūō Yūrashia kankyōshi no ichi danmen,” in *Kankyō ni idomu rekishigaku*, ed. T. Mizushima (Tokyo: Bensei shuppan, 2016).

¹² There were cases in which Kazakhs were allowed to enter Qing territory according to the Qing's extraordinary *neifu* policy. See Onuma, *Shin to Chūō Ajia sōgen*: 200–3. For the symbolic incorporation of Kazakhs into the *Niru* system, see T. Onuma, “Lun qingdai weiyi de Hasake niulu zhi bianshe ji qi yiyi,” in *Qingshi lunji: Qinzhu Wang Zhonghan jiaoshou jiushi huadan xueshu lunwenji*, ed. Ch. Zhu (Beijing: Zijincheng chubanshe, 2003): 568–75.

¹³ Onuma, *Shin to Chūō Ajia sōgen*: 246.

¹⁴ More concretely, audiences with the emperor, tributes (horses), trade, and the Qing legislation over the Kazakhs.

¹⁵ When Abulfeiz died, the edict mentioned his loyalty in controlling the nomads, and possible confusion after his death (1783). See QMJD 16: 339–42. The Qing authority also

However, the Qing authorities did not trust all of the Kazakhs to the same degree and thus never gave required military service from them. The Qing also had its own troops posted on the border for protection and peacekeeping.

In the 19th century, especially after 1822, Russian influence over the Kazakh Steppe gradually increased, and Kazakh relations with the Qing became more segmented. Put simply, the Qing government no longer viewed the Kazakhs as a single ethnicity, but instead dealt with each clan (*otok* in Qing literature) and its leaders separately.¹⁶ This implies that the Qing government maintained its relations not with the Kazakhs as a whole, but only with some Kazakh clans that migrated to areas near Xinjiang.

1.3. The Horse Tax and Subjection to the Qing Empire

The horse tax (Tu. *alim*) was an important element of Kazakh belonging to the Qing. This is because the Kazakhs were required to pay the tax whenever their lands were seen to fall within Qing territory. Although the Qing originally established this tax in response to “temporary” crossings of their border by groups of Kazakhs, the Kazakhs themselves understood it in a different way.¹⁷

The following quote from a letter written by a Kazakh sultan gives an example of how the Kazakhs viewed their lands in relation to the Qing Empire:

Because we, the Kazakh nomads, have had our winter and summer pasturelands within the territory of the Qing (*Khitāy jurti*) ... we have paid the horse tax (*alim*) [to the Qing].

This remark clearly shows how the Kazakhs residing near the borders understood which empire their pastures belonged to.¹⁸ In all likelihood, the Kazakhs interpreted the *karun* line to be the “border” that divided “Qing territory” from other lands.¹⁹ The document also indicates that the Kazakhs felt obliged to pay the tax because of the

established the post of *aqalaqchi* to supervise the sultans.

¹⁶ Songyun, comp. *Xichui zongtong shilüe* (Taipei: Wenhai chubanshe, 1965).

¹⁷ This tax was in line with that paid by the Kirghiz and Khoqand, who were also required to pay the tax (*alban*, in the text) when they came to the inner territory of Xinjiang for trade. See QMJD 7: 268–71, QL32/3/15, edict to Agui.

¹⁸ A letter from Kazakh Boteke sultan to the local Russian authority on Sep. 11, 1865, TsGA RK: f. 15, op. 1, d. 133, ll. 16ob.–17. In short, he wanted to enter the Russian territory. A similar document (1.25, dated Oct. 3, 1865) was examined in Noda, “The Qazaqs in the Muslim Rebellion in Xinjiang of 1864–65.” *Central Eurasian Studies Review* 5.1 (2006): 28–31. The date indicated in this chapter is based on Russia’s Julian calendar.

¹⁹ Onuma has pointed out that the Kazakhs considered the *karun* line to be a border (Onuma, *Shin to Chūō Ajia sōgen*: 237–8).

location of their pastures. Another document demonstrates how the Kazakhs actually recognized their own subjection to the Qing Empire by using the verb *qara-* (to belong).²⁰

The payment of taxes may have initially led to the Kazakhs developing a sense of subjection to the Qing Empire. As the Russian influence increased over the Kazakh Steppe during the first half of the 19th century, however, the Kazakhs gradually stopped paying these taxes. There was even a case in which the Russian authorities prohibited the “Russian” Kazakhs from paying taxes to the Qing.²¹ The sense of subjection was also closely related to the issue of jurisdiction. The Qing tried to control the Kazakhs and exercise jurisdiction over those whom the Empire regarded as its own subjects. When disputes arose, the local Qing authorities presided over cases in which Kazakhs were prosecuted according to Qing legislation. In most such cases, Kazakhs were blamed for stealing cattle from the Manchu, Mongol, and Muslim populations (Ch. *huizi*).²² Punishment was usually based on the *Mengguli* (Mongol Code), since the Kazakhs were also a nomadic people.²³ Kazakh sultans who had received Qing titles, as well as their supporters (*aqalaqchi*), were responsible for locating the suspects.

Nevertheless, some Kazakhs continuously attempted to escape from Qing control by crossing the “border” into the west—in the direction of the Russian Empire.²⁴ This tendency led to a discussion between the two empires aimed at clarifying the status of the Kazakhs, which I will examine in the next section.

²⁰ The letter from the elders of the Baijigit clan to the Russian local authority said that “we had been subject to the Qing” (*Khitāy yurtına qarab edük*). TsGAR K: f. 15, op. 1, d. 133, l. 2 (Jul. 2, 1865).

²¹ N. Konshin, “Materialy dlia istorii Stepnogo kraia: VI. K istorii otkrytie Kokpektinskogo okruga,” in *Zapiski Semipalatinskogo Podotdela zapadno-sibirskogo otdela Imperatorskogo Russkogo geograficheskogo obshchestva* 2 (Semipalatinsk, 1905): 40, 112. In 1845, a local Qing administrator talked with the Russian authorities to announce the capture of a Russian official, who prevented Kazakhs from paying the horse tax to the Qing. See also Noda, “Yūbokumin no idō to kokusai kankei”: 331.

²² For example, two Kazakhs stole 240 head of livestock (horse, sheep, and cattle). *Junjichudang* (hereinafter JJD) (The Palace Museum of Taipei): 080315 (document in the DG era).

²³ Kazakhs, who crossed the *karun* line on their own initiative (Ch. *sijin kaiqi*), were executed for stealing. See a document within the *Bing-bu* dated DG24/3/2 (1844), *Neige daku dang'an* (hereinafter NDD) (Fu Sinian Library at the Institute of History and Philology, Academia Sinica, Taipei): 158760.

²⁴ Escape by crossing the border occurred in both direction: there was also a case in which Kazakhs escaped from the Russian administration to the Qing. See Noda, *Kazakh Khanates*: 94–5. Though there was regulation regarding extradition within the Kiakhta Treaty between the Qing and Russia, it did not work effectively.

2. The Issue of Subjection

2.1. Border Movement to the East

In 1851, the Treaty of Ghulja (Ili) was concluded between the two empires. Although it focused on trade in the region, it also showed that the Russians were actually advancing into the Kazakh Steppe near the Qing border. Some local officials even considered the former westward border to remain functional—Ayaguz, for example, was still considered to be a mark on the border.²⁵ Such understandings, however, did not necessarily correspond to reality, and further negotiations on demarcation were required.²⁶

The Treaty of Tarbaghatai (September 25, 1864 in Julian, TZ3/9/16 in the Chinese calendar) was the result of such negotiations, and demarcated the border between the two empires from Shabin Dabaga to Lake Issyk-kul.²⁷ As is well known, the treaty's negotiations were based on the principles of the previous Treaty of Beijing (1860), Article 2 of which determined that the border should be lined along the line of the Qing's permanent (*changzhu*) *karun*. As both sides correctly understood, the border created by this treaty split the pasturelands of the Uriankhai (Tuva), Kazakhs, and Kirghiz.²⁸ It is important to remember that the border in this region was first established by this treaty.

Until this period, the Qing Empire did not clearly recognize a homogenous Kazakh ethnicity, but rather understood them by clan, as mentioned above. While the

²⁵ A Qing official regarded Ayaguz (river or basin) to be a marker (*obo*) that split the territory of both empires. See Zhongguo diyi lishi dang'anguan, ed. *Qingdai Zhong E guanxi dang'an shiliao xuanbian* 3.1 (Beijing: Zhonghua shuju, 1981): 174–80 (XF5/8/22, memorial from Yingxiu and others). During the Russo-Qing negotiation in 1862, one of the issues was the belonging of Lepsi and Altannoor, see I. Babkov, *Vospominaniia o moei sluzhbe v Zapadnoi Sibiri (1859–1875 gg.)* (Saint Petersburg, 1912): 224.

²⁶ The Chinese translation of the document (from the Western Siberian Governor to the Ili Military Governor) clearly mentions that the Kazakhs and Kyrghyz belonged to Russia (Ch. *suoshu*, in the original Manchu document *harangga*). JJD: 091956 (TZ2/7/4 [Aug. 5, 1863]).

²⁷ N. Shepeleva, "Formirovanie zapadnoi chasti russko-kitaiskoi granitsy," in *Granitsy Kitaia: istoriia formirovaniia*, eds. V. Miasnikov and E. Stepanov (Moscow: Pamiatniki istoricheskoi mysli, 2001): 149–58. For the text of the treaty, see P. Skachkov and V. Miasnikov, eds. *Russko-kitaiskie otosheniia 1689–1916: Ofitsial'nye dokumenty* (Moscow: Izdatel'stvo vostochnoi literatury, 1958): 46.

²⁸ Baoyun, comp. *Chouban yiwu shimo, Tongzhi chao* (hereinafter CYS) (1889; repr. Taipei: Wenhai chubanshe, 1971), 27: 32, DG3/7/29 (dingmao), memorial from Mingyi, the Governor at Uliyasutai, and others. The local Qing officials were concerned about the future treatment of the Kazakhs outside of the karun line. See CYS 26: 15, DG3/7/29, memorial from Mingyi and others. For the perception of the Russian side, we can refer to the memoir by I. Babkov, who worked in the Russian Irtysh fortified line under the Western Siberian Governor-Generalship, Babkov, *Vospominaniia o moei sluzhbe*: 162–71.

Kazakhs were vaguely considered to belong to the empire (Ch. *neifu*),²⁹ they were not officially registered, and no tax was ever collected beyond the horse tax discussed above. On the eve of the conclusion of the 1864 Treaty, the Qing court began to display an understanding of the Kazakhs as subject to the empire due to their payment of the horse tax. Although this understanding was different from the original conception found in the Qianlong era, it was similar to the Kazakhs' own understanding and may well have been a more natural interpretation at this time.³⁰ As indicated above, there were Kazakhs who considered themselves to be Qing subjects residing within Qing territory, but, in any case, the 1864 Treaty newly clarified the status of the Kazakhs as belonging to either Russia or the Qing.³¹ The principle of territory-based subjection (Ch. *rensui digui*) was formulated at this time according to Article 5 of the treaty.³² It is also necessary to discuss the fact that the subjection of the peoples of Xinjiang easily switched between empires due to the successive revolts in the region.

This border demarcation process generated other issues as well, such as changes in terminology regarding Kazakh subjection. While the Russian side continued to use the conception of "subject status" (*poddanstvo*), the Qing side, not yet in possession of a clear conception,³³ was required to create new ways of thinking regarding the subjection of Central Asian ethnic groups.

After the conclusion of the treaty, examples of a new Qing conceptualization appeared referring to the "Kazakhs belonging to (Ch. *suoshu*) Tarbaghatai."³⁴ It seems that the Qing government put the Kazakhs under the administration of local councilors according to their residence: Ili, Tarbaghatai, and Khobdo. However, at the same time, all of Xinjiang was in a state of confusion, due primarily to the

²⁹ CYS 26: 13, TZ3/6/9 (*wuyin*). The text is "*Neifu zhi hasake*."

³⁰ CYS 28: 9, TZ3/8/15 (*jimo*), memorial from Guangfeng, the Councilor of Khobdo. Originally, the horse tax did not imply subjection but merely permission to temporarily migrate within Qing territory.

³¹ I have already discussed this issue, but in this chapter I will focus more on the legal aspect. See Noda, "The Qazaqs in the Muslim Rebellion."

³² Later, Yinglian referred to this principle in his memorials. See Yinglian, *Yinglian zoushu*, comp. Wu Xiangxiang. (Taipei: Taiwan xuesheng shuju, 1966): 246 (TZ13/5/26).

³³ Before the 1864 Treaty, the Qing government complained to the Russian Governor that "Russians entered our Kazakhs' territory [*women hasake difang*] and set the border-mark [*obo*] without any consultation" (JJD: 090528, TZ2/6/4, memorial from Mingzhu). On the other hand, the Russian authorities used the phrase "Kazakhs who were subjects of our country" (Ma. *meni gurun i harangga hasak*) to confront the Qing court with the reality of the existence of Russian-subject Kazakhs (JJD: 091956, see also note 26). The Qing government also stated to the Khoqand Khanate that the territory of the Junghars should belong to the Qing emperor, including the pasturelands of the Kazakhs. See NDD: 409000447 (probably from the DG period).

³⁴ CYS 44: 28, document by Rongquan dated TZ5/9/8 which was attached to a memorial from Prince Gong on TZ5/9/13 (*jisi*).

Muslim rebellions which began in Kucha in 1864. In this situation, the Qing Empire could not even keep the Kazakhs within its territory under control.

2.2. Muslim Rebellions, Disorder in Xinjiang, and Kazakh Migration

Next, I will analyze cases of border crossings that occurred after 1864, focusing on those involving Kazakhs. In spite of the demarcation between the Russian and Qing Empires, detailed border markers had not yet been set in place. Qing control was highly disrupted due to the confusion within Xinjiang and the subjection of ethnic groups became ambiguous. Furthermore, there were many migrations of Kazakhs and other ethnicities across the "border." These migrations can be categorized into the following two types:

(1) Migrations from east to west

When the Muslim rebellions occurred, ethnic tensions grew rapidly. The unrest drove the population in northern Xinjiang (Kazakhs, Oyrat, Solon, etc.) to the west, and these groups eventually crossed the "border" in spite of the demarcations established by the 1864 Treaty.³⁵ Qing authorities demanded that their subjects be repatriated from Russia. Nevertheless, it is known that many of these refugees preferred to remain in Russian territory.³⁶

For example, a document from the Councilor of Uliyasutai, Rongchuan, to the Governor of Semireche mentioned that those who fled into Russian territory were "people of China" (Tu. *Khitāy kishi*).³⁷ As a result of these negotiations, the refugees were sent back to the Qing in return for compensation.

(2) Migrations from west to east

The main Kazakh clans who had close relations with the Qing Empire included the Kerei and Kuzai clans. First, in the Tarbaghatai region, the former Kerei clan was known for its consistent subjection to the Qing. The leading Chinggisid sultans of this clan had held the Qing title of *gong* since the 18th century. After the 1864 demarcation, Russian pressure caused a part of this clan to move eastward into Qing

³⁵ Noda, "The Qazaqs in the Muslim Rebellion."

³⁶ TsGA RK: f. 22, op. 1, d. 52. Some of these later converted to the Russian orthodoxy, on which see T. Uyama, "'Kobetsu-shugi no teikoku' Roshia no Chūō Ajia seisaku: Seikyōka to heieki no mondai o chūshin ni." *Surabu kenkyū* 53 (2006): 27–59. Some were even incorporated into the Cossack army. See Y. Malikov, *Tsars, Cossacks, and Nomads: The formation of a borderland culture in Northern Kazakhstan in the 18th and 19th centuries* (Berlin: Klaus Schwarz, 2011): 60.

³⁷ TsGA RK, f. 44, op. 1, d. 3, l. 242 (dated TZ7/2/28. Texts in Manchu and Turkic). The population was counted as more than ten thousand.

territory.³⁸ Their original pasturelands had been situated around Lake Zaisan, which subsequently became Russian territory.³⁹ Although the Kazakhs were known to be Muslims, the Kerei clan, not participating in the Muslim rebellions, took part in the loyalist coalition led by a lama of “Torghut” origin, Kungajalsan (or Chagan-gegen), who invaded Russian territory.⁴⁰

Another case is illustrated by a document found from this period in which a group of Kazakhs petitioned for belonging to the Qing emperor.⁴¹ In the same way, it was reported that Kazakhs located north of the Bukhtarma River petitioned to submit to the “Great Qing Emperor.”⁴² This group in Kopal also figured in Russo-Qing negotiations regarding refugees from the Qing. In communications with Russian officials, the Qing authorities still considered Kazakhs residing beyond the *karun* line—the new border—to be under its influence.⁴³ However, Russia could not agree to this understanding.⁴⁴

Secondly, in the Ili region, we can refer again to the petition by Boteke cited

³⁸ CYS 26: 14–5. In one rare case, the Qing authority anticipated the loyalty of this clan against the Russian troops. Aji’s loyalty was also shown in the following memorial: Zhongguo diyi lishi dang’anguan ed. *Guangxu chao zhupi zouzhe* (hereinafter, GXZZ) (Beijing: Zhonghua shuju, 1996), 111: 818.

³⁹ *Tacheng zhili ting xiangtu zhi*, in *Shinkyō shō kyōdoshī sanjū shu*, ed. K. Kataoka (Nagareyama: Chūgoku bunken kenkyūkai, 1986): 107.

⁴⁰ The Kerei clan were considered to be a loyal people, at least in the view of the Qing Empire. Later, the title holder of this clan, Mamurbek, was clearly referred to as “*meni harangga*” (our subject) by the Qing authorities (TsGA RK: f. 21, op. 1, d. 701, l. 17). Cooperative relations between the Lama and Kazakhs are mentioned in the historical sources. Aji Sultan contributed horses and silver to the Lama (Yinglian, *Yinglian zouzhu*: 430–43). However, Kazakhs of the Baijigit clan were attacked by the Lama (mentioned in the memoir by Geins as well). This led to negotiations between the empires according to Article 9 of the 1864 Treaty regarding the transaction of punishment for crimes committed beyond the border (CYS 57: 17), a document from Russia attached to the edict to Grand Councilor (*junji dachen*) dated TZ7/2/18 (*bingshen*). In other sources, we can find mention of the fact that some Kazakhs had to leave Russian territory for Qing lands because of the pressure by the Lama. For the 1865 migration, see Babkov, *Vospominaniia*: 351. For the attack on Kazakhs in 1881, see GXZZ 115: 605. For the forced migration to the Khobdo region, see Diplomatic Archives of Institute of Modern History (hereinafter DA) (Academia Sinica, Taipei): 01-17-050-02-014, GX7/10/1 [Nov. 22, 1881], memorial from Qing’an, Councilor of Khobdo. Further investigation is still required for the relations between Kazakhs and the troop led by the Lama. Recently, Kamimura discussed the confrontation between the Kazakhs and the Lama from the viewpoint of the Uriankhai people. See A. Kamimura, “Arutai-Orianhaijin ha naze Arutai wo koetanoka? 1930 nen no “shūdan tōbō” nitsuite.” *Nairiku Ajiashi kenkyū* 31 (2016): 128–9.

⁴¹ Xinjiang shehui kexueyuan lishi yanjiusuo, ed. *Xinjiang difang lishi ziliao xuanji* (Beijing: Renmin chubanshe, 1987): 444–5.

⁴² CYS 44: 15, TZ5/8.

⁴³ CYS 45: 39, a document to Russia cited in the memorial from Prince Gong dated TZ5/10/15 (*gengzi*).

⁴⁴ Babkov, *Vospominaniia*: 413.

above. Boteke was a Chinggisid sultan of the Kazakh Middle Juz, and the Kuzai clan was under the patronage of his family.⁴⁵ As Muslims, some of the Kazakhs, including those of the Kuzai clan, took part in the Muslim rebellions in Xinjiang after 1864.⁴⁶ In fact, this confusion triggered the initial emigration of the Kuzai clan into Russian territory. This fact is clearly shown in an 1865 petition by Boteke to the local Russian authority. The following is a continuation of the citation above (see footnote 18):

Now [in 1864] that our peace was lost, I came [to Russian territory] to seek protection from the golden sleeves of the His Majesty, Emperor Aleksandr [the Second] Nikolaevich, due to the Qing's *Qalmaq* [Oyirad] and Dungans giving a stick [= attack] to our head and our cattle being forced to enter the wasteland.⁴⁷

As this document shows, the Kazakh Kuzai clan requested Russian protection, at least formally. However, they actually seemed to have been requesting a change in subjection. In reality, Qing control over the Kazakhs of the border area became much looser after the 1864 Muslim rebellions. As a result, escaping Kazakhs travelled to and fro across the Russo-Qing border. Finally, the Boteke family and its clan reached the Ili district, which the Russian Empire aimed to occupy in the near future.

The Adban (or Alban) clan was also migrating through the border region, and eventually entered Qing territory. The thousand households of this clan, led by Tazabek,⁴⁸ crossed the border, resulting in the "Ili crisis"—Russian occupation of the

⁴⁵ Noda, "Teikoku no kyōkai o koete: Roshin teikoku no kyōiki toshite no Kazafu." *Rekishigaku kenkyū* 911 (2013): 10–8.

⁴⁶ A report by Geins and Gutkovskii from 1865 describes the sympathy the Kazakhs had for the Dungans (TsGA RK: f. 44, op. 1, d. 38257, l. 27). The Qing record also pointed out the Islamic religion of the Kazakhs (CYS 35: 26). See also the memoir by A. Geins: "Dnevnik 1865 g. Puteshestvie po Kirgizskim stepiam," in *Sobranie literaturnykh trudov A. K. Geinsa* 1 (Saint Petersburg, 1897): 451. For an account by a Tatar Mullah, Qurban Ali Khalidi, see Noda, "The Qazaqs in the Muslim Rebellion." In this article, I analyzed the confusion in Xinjiang at this time.

⁴⁷ TsGA RK: f. 15, op. 1, d. 133, l. 17. In the document, Boteke mentioned the turbulent conditions in Xinjiang at the time. Although Boteke had received a Qing title before, he petitioned for permission to enter Russian territory twice (in 1846 and 1864, as discussed here).

⁴⁸ V. Moiseev, *Rossia i Kitai v Tsentral'noi Azii: vtoraiia polovina XIX v.–1917 g.* (Barnaul, 2003): 86. Aristov mentioned that one of the reasons for the Ili occupation was the plundering within Russian territory by the Kazakhs who were under the administration of the Ili sultan. See N. Aristov, "Otnosheniia nashi k dunganam, Kashgaru i Kul'dzhe," in *Trudy po istorii i etnicheskomu tiurkskikh plemen* (Bishkek: Ilim, 2003): 287. In a Turkic historiography, *Taranchi Tārīkhi*, as well, the refusal of the Ili sultan to turn Tazabek in to the Russians resulted in the Russian occupation of the territory. See P. Miao, ed. *Qingdai chahetaiwen enxian yizhu* (Ürümchi: Xinjiang renmin chubanshe, 2013): 577–8.

Ili district in 1871. Local Russian administrations attempted to intervene with these migrations. In other words, the Russian authorities tried to maintain relations with the Taranchi government as well as the Kazakhs of the Adban clan.⁴⁹

Those located in Ili district, after its Russian occupation, took an oath of Russian subjection. This meant that the inhabitants within the district converted their subjection to Russia, whereas it had previously been to the Qing. An example of such “oath-swearing” documents is found in Central State Archive of Kazakhstan.⁵⁰

3. Border Crossing and “International” Disputes

3.1. Clan Identification and Subjection

During the 1860s, all of Xinjiang experienced great confusion and ethnic tensions increased, as symbolized by the Muslim rebellion and the activity of Kungajalsan Lama. Mass migrations and border crossings occurred in connection with these circumstances. Throughout this process, ethnic groups came into conflict with each other, and, even within the same ethnicity, inter-clan disputes were a frequent occurrence.⁵¹

Such conflicts easily escalated into “international” problems because concerned groups often crossed national borders and rendered harm to people under the subjection of the other state.⁵² Legislation adopted on the occasion of such disputes led to the particular subjection of either side becoming clearer. This was especially true because the Qing’s frontier administration only vaguely grasped the population then living in the boundary region. For instance, it was only after 1881 that the Qing began to register the Kazakhs (but still incompletely).

In the first stage, discussions were held regarding repatriation and trial by the

⁴⁹ As the memoir of Miliutin, a foreign minister, indicated, there were various opinions on whether Russia should attach to the government of the Ili sultan or conciliate it. See L. Zakharova ed. *Vospominaniia general-fel'dmarshala grafa Dmitriia Alekseevicha Miliutina* 7 (1868–nachalo 1873) (Moscow: Rossiiskii Arkhiv, 2006): 330–1. On the other hand, a Russian document reported that Tazabek had cooperative relations with Russian administrations (TsGA RK: f. 3, op. 1, d. 275, l. 43ob, from the Vice chief of the Alatau district to the Chief, Mar. 3, 1867). Therefore, we have to consider more deeply the differences between the politics of the Russian central government and those of the local administrations.

⁵⁰ For example, there is a submission document by the Hui Muslims (TsGA RK: f. 21, op. 1, d. 20, l. 19, Jun. 20, 1871).

⁵¹ On the disputes between the clans, see V. Martin, *Law and Custom in the Steppe: The Kazakhs of the Middle Horde and Russian Colonialism in the Nineteenth Century* (Richmond, Surrey: Curzon, 2001): 122. See also Zh. Dzhampeisova, *Kazakhskoe obshchestvo i pravo v poreformennoi stepi* (Astana: ENU, 2006): 101.

⁵² Aristov, “Otnosheniia nashi k dunganam, Kashgaru i Kul’dzhe.”

laws of the original state of the accused.⁵³ However, this method turned out to be difficult to implement, and the regulations failed to function satisfactorily. As I will discuss later, only after 1871 (when Russia occupied the Ili district) were more practical measures—direct meetings between the parties involved—realized. This course eventually led to the creation of the International Assembly Court.

As for the Kazakhs, those who resided near the Russo-Qing border were categorized into the following three groups in 1871: 1) subjects of the Qing, 2) those who resided in Ili (Russian subjects), and 3) those in Semireche and other Russian peripheries. Because Ili district was located next to an area where Qing subjects were living, we can find many cases of “international” conflicts even during the 1870s. Let us turn our attention to the negotiations held between the Qing and Russia during the 1870s, which reflected their conceptions regarding the belonging of the Kazakhs under consideration.

To begin with, a statement by a Qing official shows that the Qing authorities adhered to their own laws, referring to Article 8 of the 1860 Treaty of Beijing. For example, Yinglian, a Councilor of Tarbaghatai, sent a letter to the Governor of Semireche regarding a case in which the Kazakhs of the Kuzai clan “which has been subject to your state [Russia]” (*Ma. suweni gurunde dahaha*) did harm to those of the Kerei clan “who belong to us [the Qing].”⁵⁴ In the letter, he insisted that “if our side apprehends the criminals, we can establish their crime and take measures against them according to the legislation of our state [the Qing]” (*meni gurun i fafun kooli songkoi*). However, his understanding did not correspond to the Russian text of the treaty,⁵⁵ and Russia was unable to acquiesce to this request.

We can see how the conception of the Qing authorities regarding the subjection of the Kazakhs became clearer through the process of such negotiations regarding crimes. That is to say, the Qing also clearly distinguished the Kazakhs under Russian subjection in Ili district from those under Qing subjection. Later, the Qing local authorities mentioned that it was necessary to clarify the subjection of the criminals

⁵³ CYS 51: 6. Article 8 of the 1860 Treaty was mentioned there regarding repatriation as well (memorial from Prince Gong and others, TZ6/10/15 [*jiawu*]). It was necessary to identify to which empire the related Kazakhs were subject.

⁵⁴ TsGA RK: f. 21, op. 1, d. 243, l. 3ob. (Jan. 2, 1876 [GX1/12/18], texts in Manchu and Chinese). The same discussion was found in the case of Tarbaghatai (Yinglian, *Yinglian zoushu*: 576–7). Yinglian mentioned that Kazakhs with Russian subjection committed crimes in the territory of the Tarbaghatai administration. See DA: 01-17-042-05-001, the copy of the document from Yinglian to Semireche Governor, GX2/6/5 [May 24, 1876], which was attached to the document of a Russian envoy in Peking, E. Biutsov on May 20, 1877. The phrase “according to the codes of the original state” is found there too.

⁵⁵ The Chinese text of Article 8 seems to leave more room for interpretation than the Russian one, which has a more detailed description. Anyway, the Russian text clearly mentions that criminals should be judged according to the laws of their own country. See Skachkov and Miasnikov, *Russko-kitaiskie otnosheniia*: 34–45.

so as to make clear their responsibilities, according to the principles of the Beijing Treaty.⁵⁶ In this case, the Qing authorities in Tarbaghatai asked the criminals about their subjection.⁵⁷ When it turned out that they belonged to Russia, the Qing side repatriated them to the Russian side so that Russia could assume the responsibility of continuing the legal process. Interestingly enough, the Qing authority also mentioned that it should judge runaways according to the official Qing law.

As for the Russian understanding, we can refer to a communication from the Semireche Governor to the Ili Military Governor. Here, the Russian governor mentioned that “if a crime was committed by the Kazakhs under our administration” (*kirgizy nashego vedeniia*), Russian officials would be responsible for the provision of compensation.⁵⁸ In that period, the Russian subject status (*poddanstvo*) was still in effect, and the acceptance of the status was crucial for the Russian administration.⁵⁹ Another document indicates that the Russian Empire considered the *volost’* (“administrative rural district” in the original sense) as a unit to distinguish the Kazakh clans or sub-clans. In contrast with Qing understanding, for Russia, the territory of a *volost’* and its leader (*volostnyi upravitel’*)⁶⁰ were significant as representing a group that was under Russian administration (*vedenie*). The Qing concern was whether a leader of the group belonged to the empire.⁶¹

In contrast, how did the Kazakhs themselves view their subjection? Documents relating to the Kuzai clan⁶² show that the Kazakhs paid attention to differences in administration according to the Russian administrative division, i.e., *volost’*. They mentioned that while the Kazakh Kuzai clan of two *volost’* (Ka. *bolos*) was within Ili district (*Yilide yürgän Qizay*), other *volost’* were under the administrations of the

⁵⁶ A letter from the Councilor of Tarbaghatai to the Semireche Governor in Manchu (GX7), TsGA RK: f. 21, op. 1, d. 699, l. 46.

⁵⁷ In this process, the Russian side also confirmed the subjection of criminals, TsGA RK: f. 21, op. 1, d. 699, l. 16, from the Ili Secretariat to the troop chief at Bakht (Okt. 6, 1881).

⁵⁸ The document (copy) of Sep. 28, 1878, TsGA RK: f. 21, op. 1, d. 436, l. 4. This document was a reply to the previous document from Jinshun dated GX4/7/21 [Aug. 7, 1878].

⁵⁹ See the document described in footnote 57.

⁶⁰ Report to Governor of Semireche on Aug. 23, 1879, TsGA RK: f. 21, op. 1, d. 420, l. 33.

⁶¹ In a court record of the international cases, belonging to the Qing was described as “a certain criminal under jurisdiction of a certain Chief of the Thousand Households [Ch. *qianhu zhang*],” while that to Russia was described as “a certain criminal belonging to a certain *volost’*.” See DA: 01-17-044-01-009 (GX21/7, from Fulmingga, Councilor of Tarbaghatai, to Zongli Yamen).

⁶² The letter from Khudaimende Sultan to the chief of the third division of the Ili district, TsGA RK, f. 21, op. 1, d. 52, l. 40ob. For another example, see TsGA RK: f. 21, op. 1, d. 694, l. 48, petition by elders of Kuzai and Baijigit clans to Semireche Governor (Jun. 27 1881). Their hope was to move to land that belonged to the Russian emperor. As shown here, at least in the framework of the documentation of the Russian Empire, the concept of subjection was based on the territory where those under consideration resided.

Sergiopol' and Temirsu (Issyk-kul) Prefectures.⁶³ Remarkably, in addition to the difference in subjection (to Russia⁶⁴ or Qing), the Kazakhs in Ili district and those in Semireche were clearly distinguished.

These clear distinctions in jurisdiction allowed each Kazakh party to sue the others for compensation in the event of criminal activity. As a result, the crimes could be judged by the assembly court (*s'ezd*) and involve the concerned parties, the Kazakhs and the two empires, as will be discussed later. In summary, the disorder that erupted in 1864 and the later reestablishment of order led to border crossings by various ethnic groups, as well as disputes involving them in areas beyond the border. Such confusion required the stabilization of conceptions of subjection in order for the disputes to be resolved. It is true that the Treaty of Tarbaghatai (Article 5) had already declared that the conception was to be based on the demarcated territory. Nevertheless, further negotiations were still needed. These clearer concepts of subjection seemed to be a prerequisite condition for establishing the new order. The "International" Assembly Court was able to balance the interests of the parties involved.

3.2. *Methods of Dispute Resolution*

Here, let us consider the origin of the comprehensive system of dispute resolution. The process led to the establishment of a system of dispute resolution between Russia and the Qing involving the following three steps:

First, returning to the Treaty of Beijing (1860), there was a regulation regarding conferences or meetings of the two sides.⁶⁵ Articles 8 and 10 of the treaty regulated the meeting of the Russian consuls and the Qing local officials to judge criminal cases beyond the border.⁶⁶ However, due most likely to the complicated situation in Xinjiang, such meetings were yet to produce results. Thus, discussion on a more appropriate resolution system continued even after the period of Russian occupation

⁶³ TsGA RK: f. 21, op. 1, d. 48, l. 16ob.

⁶⁴ For example, see TsGA RK: f. 21, op. 1, d. 699, l. 49 (text in Manchu) and 54 (original in Turkic). Interestingly, in this deposition for the judicial process, the social structure of an *otok* was presented as consisting of several *bolos* (*volost'*).

⁶⁵ See Article 8 of the treaty. As mentioned above, the Qing side adhered to the application of its own laws, which the case mentioned in footnote 54 illustrates well.

⁶⁶ The cases in the western border had to be compared with those in the eastern Russo-Qing border (Mongolia, Manchuria). See DA: 01-17-043-01-001. A similar *s'ezd* assembly court was held in the western Mongolian region, though it was limited to Kazakh-related cases. On this, see A. Sizova, *Konsul'skaia sluzhba Rossii v Mongolii (1861–1917)* (Moscow: Nauka-Vostochnaia literatura, 2015): 170.

of the Ili district.

Second, conflicts beyond the border frequently occurred during the time of the Russian occupation of the Ili district (1870s), leading to requests from the Qing side for a conference (*huitong banli*).⁶⁷ This is an example of how the two empires intended to actively involve themselves in international dispute resolution. Nevertheless, it is remarkable that a single case required extensive correspondence between the empires, which may have been an obstacle to a speedy resolution. Meetings were, in fact, held in the presence of local Qing officials in Xinjiang and the Russian “judicial investigator” (*sudebnyi sledovatel’*), a position that was newly established for the Russian Ili district.⁶⁸ It was the judicial investigator who conducted the criminal investigation together with local Qing officials in Xinjiang, and arranged the negotiations with the Qing side.⁶⁹

Finally, an International Assembly Court (Ru. *mezhdunarodnyi s’ezd*) came into being between the two empires. The system of the assembly was officially established only after the conclusion of the Treaty of Saint Petersburg (1881).⁷⁰ However, the idea of a large-scale assembly involving all of the concerned parties was already mentioned in the memoirs of the Russian official I. Babkov in regards to the events of the 1860s.⁷¹ According to his record, the assembly aimed to resolve conflicts beyond the border.

During the 1870s, when the Ili district was under Russian control, the Russian local administration tried to resolve disputes among the various ethnicities within

⁶⁷ TsGA RK: f. 21, op. 1, d. 420, l. 82, the letter from the Ili Military Governor, Jinshun, to the Governor of Semireche (GX5/11/2). See also TsGA RK: f. 21, op. 1, d. 554, l. 18. Jinshun, in the second letter to the Semireche Governor dated GX5/9/25 [Oct. 27, 1879], confirmed that there were regulations regarding negotiations to resolve conflicts by both sides.

⁶⁸ The earliest appearance in historical records is found around 1879. This official also engaged in the inquiries of litigants as a preliminary judge (TsGA RK: f. 21, d. 511, l. 208). The full title of this post was “*sudebnyi sledovatel’ kul’dzhinskogo raiona i pogranichnoi s Kitaem polosy*.” Thus, it covered not only cases in the Ili district, but also cases that took place around the border, especially in Tarbaghatai. The process of the negotiation at Tarbaghatai in 1880 was also recorded in the Qing document, where the Qing Tarbaghatai official met with Russian officials to solve these cases. See a report of *Hu-bu* to Zongli Yamen dated GX6/3/29 [Apr. 25, 1880], DA: 01-17-049-05-011. Notably, this document contains the earliest mention of the *ji’an* (legal cases that were accumulating without decision) between Russia and the Qing.

⁶⁹ The secretariat of the Ili district directed the judicial investigator to conduct the investigation. See TsGA RK: f. 21, op. 1, d. 521, l. 12 (Mar. 3, 1880).

⁷⁰ For the process behind the creation of the assembly system by the two empires, see Noda, “Teikoku no kyōkai o koete.”

⁷¹ Babkov (*Vospominaniia*: 361) regarded the assembly of various ethnic groups as a practical measure to resolve the conflicts beyond the border in 1865.

the district via a similar *s'ezd* assembly.⁷² The *s'ezd* convened in this period also tried to resolve disputes beyond the administrative borders—that is, among the “Russian” Kazakhs; for example, between those of Semireche province and those in Ili district. N. Pantusov, who worked in the Secretariat of Ili district, recorded four assemblies held in the period of 1871–77.⁷³

It is not clear when the Qing administration began to be involved in this type of conflict resolution, which was apparently derived from the Russian judicial institution.⁷⁴ Nevertheless, a broader “international” resolution system was certainly generated between the two empires around 1881, although diplomatic documents from this period are lacking.⁷⁵

The earliest public mention of this system by the empires is the text of *Zhong'e tacheng hasake guifu tiaoyue* (Qing-Russian Treaty on the Belonging of Kazakhs) from 1884 (December 28 or GX10/11/24, according to the Russian translation). As to its background, we also know that in 1883 a treaty was concluded for cases involving “Muslims” from both empires.⁷⁶ The 1884 Treaty definitely mentions that an assembly court would be held between the empires. First of all, the assembly court would treat many cases (more than 1,000) at a single time. The second point is that it was intended for this system to use the local Kazakh customary law (*Hasake daoli* in the Chinese text),⁷⁷ avoiding both the Russian and Qing imperial laws.⁷⁸ The Turkic text of the treaty specifies in detail that decisions would be “according to the

⁷² N. Aristov, the chief of the secretariat of Ili district, reported on the assemblies held by the Kazakhs and Torghut (TsGAR: f. 21, op. 1, d. 51, l. 115). For the assembly between Kazakhs and Qing Oyrads in 1873, see TsGAR: f. 21, op. 1, d. 51, l. 49.

⁷³ N. Pantusov, *Svedeniia o Kul'dzhinskoi raione za 1871–1877 gody* (Kazan, 1881): 54.

⁷⁴ Moiseev, *Rossia i Kitai v Tsentral'noi Azii*: 240; S. Li, *Hasakesitan ji qiyu Zhongguo Xinjiang de guanxi: 15 shiji–20shiji zhongqi* (Harbin: Heilongjiang jiaoyu chubanshe, 2004): 260. Li indicates that the first session of the assembly was held experimentally in 1879, while Moiseev regards the first instance as that of 1883. According to the later understanding of Qing officials, the Qing side recommended in 1887 to hold the assembly with Russian officials. See GXZZ 111: 861 (document composed in GX 33).

⁷⁵ I found one of the earliest references to the *s'ezd* assembly in a document from 1881 (from the Semireche Governor to the Councilor of Tarbaghatai). See TsGAR: f. 21, op. 1, d. 701, l. 9; Noda, “Kazafu yūbokumin no ‘kanshūhō’ to saiban,” in *Sharīa to roshia teikoku*, eds. T. Horikawa et al. (Kyoto: Rinsen shoten, 2014).

⁷⁶ V. Miasnikov ed., *Russko-kitaiskie dogovorno-pravovye akty (1689–1916)* (Moscow: Pamiatniki istoricheskoi mysli, 2004): 146–7. The treaty required that the judgement be made according to Islamic law (*sharīgat* in the text).

⁷⁷ The original text of the treaty should have been in Chinese and Turkic. For the Chinese text, see the website “Ch’ing Dynasty Treaties and Agreements Preserved by the Ministry of Foreign Affairs of the Republic of China”: no. 910000126001. In terms of “customary laws,” the emphasis was put on the symbolic taking of an oath by the individuals involved, such as witnesses and the accused. For the assembly court itself, see K. Khafizova, “Mezhdunarodnye russko-kitaiskie s’ezdy na granitse.” *Mysl’* 6 (2015): 44–50; Li, *Hasakesitan ji qiyu Zhongguo*; and my most recent discussion: “The Conflicts beyond the Border and Their Resolution

customary law and Sharia” (‘*adāt hām sharīghat boyuncha*).⁷⁹

Although the assembly court was an ideal system for international conflict resolution, needless to say it had several defects. Thus, it required some supplementary institutions such as the new position of “Chief of Assembly,” who saw to the minute details of negotiations.⁸⁰

Conclusion

During the second half of the 19th century, Russia and the Qing frequently negotiated with each other regarding the issues involving Xinjiang. Among the topics addressed, border demarcation played an important role both politically and economically. This process of border demarcation led to another issue: the question of the subjection to the empires or imperial citizenship of various ethnic groups. Given that the fixed border line divided the lands of the ethnic minority groups such as the Kazakhs and the Kirghiz, these populations often crossed back and forth and committed criminal acts against those who were under subjection to the other state.

The two empires were obliged to cooperate with each other to resolve disputes between these various ethnic groups of differing subjection or citizenship. Eventually, a system of international assemblies (*s”ezdy*) was created as an effective device for conflict resolution. The features of the system were as follows: 1) all three parties participated—the local Muslims (especially Kazakhs) and the two empires, 2) it was based on local customary laws and situated within the framework of imperial laws as well,⁸¹ and 3) its goal was to maintain stability in the region. I again place emphasis on the fact that the development of this conflict resolution system required a clear conceptualization of subjection that was not shared among the people in the boundary

between Russia and the Qing China,” in *Crossing the Boundaries: Asians and Africans on Move* (Tokyo: International Office, Tokyo University of Foreign Studies, 2017).

⁷⁸ A Qing document also mentioned not using the Qing and Russian laws (GXZZ 111: 861).

⁷⁹ See the photocopy of the Treaty found on this website, “Ch’ing Dynasty Treaties and Agreements Preserved by the Ministry of Foreign Affairs of the Republic of China”: no. 910000126. The Russian text also contains the phrase “*po obychaiam i sharigatu*” (Miasnikov, *Russko-kitaiskie*: 165). The term “*shariat*” does not always mean Islamic law. However, I assume the usage here implies a reference to Islamic *Sharī’a*.

⁸⁰ Noda, “The Conflicts beyond the Border.” Dzhampeisova (*Kazakhskoe obshchestvo i pravo*: 225) claimed the *s”ezd* assembly could only have resolved a limited number of cases. However, the assembly certainly could judge many cases according to the court records, which I will analyze in detail in the further research.

⁸¹ In particular, the Russian imperial law covered the entire system. See the discussion by Burbank about the parallel judicial institutions in Russia: J. Burbank, “An Imperial Rights Regime: Law and Citizenship in the Russian Empire,” in *Kritika: Explorations in Russian and Eurasian History* 7.3: 415.

region. One reason for this necessity of conceptualization was that during legal proceedings, plaintiffs had to make clear the subjection or belonging of the defendants.

We have to pay attention to the fact that the "family register" appeared on the Qing side after the return of the Ili district in 1881. Thereafter, consultation of the register played an important role in dispute resolution, since it was reported that cases were difficult to decide due to confusion surrounding registration, and that the number of undecided cases built up.⁸² Actually, registration was referred to in the process of international conflict resolution.⁸³ Moreover, there was a case where the Kazakhs petitioned the local authorities for a change in their subjection (from Qing to Russia).⁸⁴ The issue of the family register and that of the legislation regarding citizenship afterward require further investigation, which will lead to a better understanding of changes in the sense of imperial belonging in modern Central Eurasia.

It is evident that the attempt to restore order in the boundary region examined in this chapter accelerated the formation of a sense of subjection. In a later period, this would develop into the ethnic identity of the region. Thus, we can say that the processes of stabilizing the sense of belonging to the particular empire and arranging the International Assembly Court system between the empires were parallel and correlated processes. As a result, the *s"ezd* assembly system remained in effect and was in fact necessary for the maintenance of order beyond the Russo-Qing border, even after the end of the Qing Empire.⁸⁵

⁸² GXZZ 111: 710. This report (dated GX23) from Changgeng, Military Governor of Ili, also mentions differentiated belonging within a family (the father was under Russian subjection, the children were under the Qing, for instance).

⁸³ DA: 01-17-040-09-002, from Zongli Yamen to the Russian envoy, Girs, GX25/9/17 (1899).

⁸⁴ TsGA RK: f. 44, op. 1, d. 37291, l. 21, from Semireche Governor to the Chief of Zharkent district (June 10, 1885).

⁸⁵ A similarly positive evaluation of the assembly court can be found in Khafizova's most recent discussion ("Mezhdunarodnye russko-kitaiskie s"ezdy na granitse"). However, my emphasis here is placed on the process and conditions in which the new conflict resolution system came into being.