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"The story of the Dragon island (*jaẓīrat al-tinnīn*)", miniature from '*Ajā'ib al-makhlūqāt wa gharā'ib al-mawjūdāt* by Zakarīyā' b. Muḥammad b. Mahmūd al-Qazwīnī (ca. 1203–1282), manuscript D 370 in the collection of the St. Petersburg Branch of the Institute of Oriental Studies, 988/1580, Baghdad school, fol. 64 a.

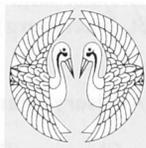
### Back cover:

**Plate 1.** "The giant snake or dragon (*thu' bān*)", miniature in the same manuscript, fol. 219 a.

**Plate 2.** "The cat with the wings of a bat, Island of Java (*jaẓīrat al-zābih*) dweller", miniature in the same manuscript, fol. 60 a.

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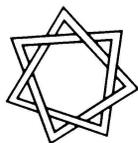
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## ITTIFĀQ AGREEMENTS IN DAGHESTAN IN THE EIGHTEENTH — NINETEENTH CENTURIES

This article examines the historical and legal content of Arabic-language agreements (Arab. *ittifāq*) in Daghestan. They were a popular genre. Several hundred such documents have survived from the fifteenth — nineteenth centuries; they were drawn up in the communities (Arab. *jamā'āt*) of mountain peoples who inhabit that small region on the outskirts of the Muslim world. The majority date from the eighteenth and first half of the nineteenth century, although they are frequently copies of earlier documents. The primary significance of these legal documents is for the study of the wars, social upheavals, and political and legal reforms in the local Muslim community that began in the sixteenth — seventeenth century and ended with the subjugation of the North Caucasus by Russia and the creation of the so-called military-popular administration (1860—1917).

The sources for the present study were Arabic manuscripts from Highland Daghestan preserved in state, mosque and private archives. The largest collection of *ittifāq* known to us is in the manuscript holdings of the Institute of History, Archaeology and Ethnography at the Russian Academy of Sciences Daghestani Scientific Centre (henceforth IHAE) in Makhachkala [1]. Private and mosque collections were used mainly in the form of materials copied by the author in the 1990s in various Avar and Andi settlements in North-West Daghestan, primarily in the Tsumadin region, where numerous large manuscript collections have survived [2]. Moreover, this study analyses *ittifāq*-genre Arabic inscriptions of a historical and legal nature from central and southern Daghestan.

Only a handful of Daghestani contracts were published in Russian translation (in rare cases together with the Arabic originals) in the 1950s—80s. The Daghestani historians M.-S. J. Saidov and Kh.-M. O. Khashaev, and legal scholar A. S. Omarov made great efforts to select and publish them [3]. In 1999, one of the best specialists on Arabic-language medieval Daghestani literature, T. M. Aitberov, published in Makhachkala Arabic texts and an annotated Russian translation of several dozen agreements from the eighteenth — nineteenth century [4]. But neither his collection, nor earlier publications, analyses the *ittifāq* genre and its characteristics in the North-East Caucasus in the late-medieval and modern period. Our predecessors limited themselves to the archaeographic description of manuscripts.

What are these agreements? Before the region was integrated into the legal realm of the Russian Empire, they

were the main type of normative legal document for the local Muslim communities. They established legislative and judicial norms that combined elements of local customary (*rasm*, *'ādāt*) law and Muslim law (*fiqh*, *shar'*) of the Shāfi'ī school, which predominated in the North-East Caucasus from the Middle Ages onward. Hence, these agreements should not be seen as texts of Daghestani *'adat*, an error of most scholars who have written about *ittifāqs* [5]. They should instead be considered examples of local communal law. It is no accident that the genre's name comes from the Arabic verb *ittafaqa* 'they agreed, came to an agreement', the words that usually opened laws passed at village gatherings of the Muslim community.

One can identify four main levels on which these agreements were concluded: clan (general Dg. *tukhum*, And. *ghay*, Avar. *libil*, in Arab. translation *qabīla*) or neighbourhood (*mahall*, *jamā'a*), community (*qarya*, *jamā'a*), union of communities (Avar. *bo*, And. *iha*, in Arab. translation *jaysh*, *nāhiya*), and, finally, the overall union of communities, or khanate (*wilāya*), ruled by a hereditary military leader, the khan, bek, *nutsal*, etc., who is called *amīr* or *sultān* in the texts. Using a concept that was introduced in the 1970s by the American researcher S. F. Moore and has since gained acceptance in the field, one can call these levels *semi-autonomous social fields* [6], which are understood as social spaces capable of developing their own relatively autonomous systems of law and norms of conduct.

The first type of agreement is a rarity. Among published agreements we find the decision by inhabitants of the village of Machada in 1178/1764—65 about the Darchulal *tukhum*'s shift to the protection of the Khunzakh's lineage (*qabīlat Qhunderilal*) and the agreement of the Samilaqh quarter (*jamā'a*) (of the village of Khunzakh) from 1239/1842 [7]. Typical examples of this second type of *ittifāq* can be seen in resolutions of the Usisha village written on the last page of an Arabic dictionary copied in 1077/1666—67, the agreement of the Assab (ʿīs) village of 1154/1741—42, and the agreement between members of the Akusha *jamā'at* from 1162/1748—49 [8]. The third level is represented in agreements published by Kh.-M. O. Khashaev. Some of them come from the union of Keleb villages in the seventeenth — eighteenth century; besides, there are contracts of the Ratlub village with Gidal union of village communities and of the Akhvakh confederation with the village of Ratlub from 1070/1659—60

which later became a part of the famous “Gidatl ‘ādāt” co-dex; a contract between the inhabitants of the villages Andikh, Mogokh and Upper Batluq from 1225/1810; agreements of the villages of the Mekhtula khanate, the Kumyk (*Gumuq*) villages and all the residents of Arakani (*Ḥarakāni*) from 1235/1819—20 [9]. The semiautonomous social field of a union of khanate-level communities that includes small community unions can be seen in the agreements between the unions of Gidatl and Khunzakh in the above-mentioned Gidatl ‘ādāt, eighteenth-century contracts between unions of the Tindi and Karata communities (*ju-yūsh*), between the Akusha-Dargva union and the Kaytag princes (*utsmiy*), the agreement between the inhabitants of the village of Koroda and the family of the bek (*amīr*) they killed, Kinkhosro of Gonoda, from 1175/1761—62, the contract of the Mekhtula khans ‘Alī-Sulṭān and Ahmad Khān with the inhabitants of the village of Okhli at the turn of the eighteenth — nineteenth century [10].

In order for the reader to gain a sense of the content of *ittifāqs* at all levels, we present here a translation of 12 short and more extended texts of Arabic agreements discovered by the author in copies dating to the eighteenth — twentieth century. Today they are held in the mosque archive of the village of Khushtada and in the IHAЕ in Makhachkala. We have retained the paragraph divisions of the original. Socionyms and some descriptive expressions have been translated with an eye to local historical and ethnographic realities. As concerns the structure and form of the *ittifāq*, we will analyse it below on the basis of published originals; when copied into codices of local law (*ku-tub/dafātīr ‘ādāt*), and especially as historical notes (*tawārīkh/tadhākīr*), introductory and concluding parts were omitted. Though this did not affect their content, it significantly changed their form. Below, we give the translation of the *ittifāq* agreements.

## 1. Clan agreements

1.1. “This is an explanation for the future (*hādḥā bayān li-yawm al-ghad*) and a reminder for he who would forsake his lineage (Avar. *tlibil*) [11]. The *tukhum* (*qabīla*) Edī Saralal has conferred and decided (*qad ittaḥada wa-ittafaqa*) [12] to all be as the sons of a single father (*ka-abnā’ rajul wāḥid*) in joy and in sorrow (*fi-l-khayr wa-l-sharr*). If one of them should commit an attack and kill or wound a person not from our *tukhum* (*min ḡayr qabīlati-nā*) in response to violence [caused to him] (*bi-sabab al-ẓulm*), the wergild or blood payment (*fa-l-diya wa-l-arsh*) [falls upon] each person of them (i.e. members of the Edī Saralal *tukhum* — *V. B.*). If blood vengeance (*dam*) should fall to someone, then each [person] from our *tukhum* [is obligated] to work a day for him (*yawm li-l-ḥirfa lahu*) [13] and bring a [bundle of] wood (*‘aud*) on an ass. He who leaves [the *tukhum*] without lawful cause [will give] Chirilav of Tidib and Muḥammad of Machada, son of ... [14], a field sown with a single measure (Avar. *qali*, from Arab. *kayl* — *V. B.*) [of grain] worth 120 kettles. From he who causes conflict between [his own] fellow *tukhum* members and one or more other people from another *tukhum* [a fine shall be levied] of the same ploughland (*mazra’a*) of the same [15] value. If someone should select a legal confidant (*wakīlan*) from another *tukhum* (*min qabīla ukhrā*) to bring a property suit and he recovers property (*al-māl*), from him shall be taken a similar piece of ploughland. If [an accusation of] calumny arouses doubt, he (the accused — *V. B.*) shall be made to give a [cleansing] oath (*tahliḥ*) together with three men from among his relatives on the father’s side (*min ‘asabati-h*). If he lacks such a quantity of relatives on the father’s side, then let him [cleanse himself] with three of his fellow *tukhum* members (*min al-qabīla*)” [16].

## 2. Community agreements

2.1. “This is an explanation for the future. The inhabitants of the village of Khushtada [17] have concluded an agreement (*qad ittaḥada*) to treat their slaves (*‘abīda-hum*) as their sons and daughters in all cases of armed conflict (*ḡurūb*), injury, penalty (*al-ḡidya*), etc., that can happen to their children” [18].

2.2. “The inhabitants of the village of Khushtada, young and old (*saghīru-hum wa-kabīru-hum*), have concluded an agreement to exact a measure [penalty] of three cows from [a woman] who has become pregnant through adultery. If she kills her child, the [penalty] is fifteen cows [19]. He who committed adultery with her shall pay [a fine] of four cows. If he should reject [the accusation of] adultery and the child, then he shall be obligated to give an oath with twelve men from his kin”.

2.3. “The inhabitants of the village of Khushtada have concluded an agreement to exact [a fine for the benefit of the community] of ten cows from him who has killed a man [20] in a fight (*fi-l-muḡāraba*) with the inhabitants of the village. A fine of wergild (*diya*) [21] is also to be exacted for the man killed from [the inhabitants] of the village, and [the guilty party is obligated] to feed the wounded man and supply him with bread and what to drink”.

2.4. “The inhabitants of the village of Khushtada have concluded an agreement to exact a penalty of thirty cows from he who kills a man in a fight after an arrow is deflected”.

2.5. “The inhabitants of the village of Khushtada have concluded an agreement to give fifteen cows to the [relatives] of he who is killed in a fight” [22].

2.6. “The inhabitants of the village of Khushtada, young and old, have concluded an agreement to appoint a village executive (*al-ajīr*) to adjudicate in what occurred among them. [It is forbidden] to change this [agreement] after the following *āya* [from the noble Qur’ān] has been heard...” [23].

2.7. “This is an explanation for the future. The inhabitants of the village of Khushtada, young and old, men and women, have agreed to compensate [the owner of cattle] (*damān*) in the form of half a bull from the shepherd [24] whose carelessness (*bi-taqṣīr*) should cause [his cattle] to perish, become lost, be stolen, expire or be mauled by a wolf or die”.

2. 8. “The inhabitants of the village of Khushtada, young and old, have agreed to observe [the following] agreement (*al-wa'd al-maw'ūd*) concluded [between them]. If one should charge another with a suit over the theft of his horse or bull or other livestock or because it was mauled, and that one should deny [his guilt] or give [a cleansing] oath (*ḥalf*), and [more-over] initiate a suit against the other, asserting that he committed the theft or killing, the suit shall be considered against him (the defendant in the first case — *V. B.*) and not against the third party”.

### 3. Union and “international” agreements

3. 1. “In the name of [God] [25], the Merciful, the Compassionate. This is an explanation for the future. In truth the village of Tlissi [26] has become one of the members (*ahl*) [of the community of] the village of Khushtada. They have agreed and affirmed with an oath (*wa'adū*) this affiliation, making of both villages a single village in all initiatives. In truth they (the Tlissi's — *V. B.*) communal law (*adl*) will be like the law of the Khushtada (*ka-'adl Khushdāl*), be it good or bad. Their law will include no part [of the law] of [their own] community (*jaysh*) and no other. If they change this law and treaty after this *āya* [from the Qur'ān] [27] has been heard, then they — those of both communities who change this [28] — [will be fined] 100 sheep. The witnesses to this treaty: ... [29] of Koroda (*al-Qurudī*), pilgrim of both holy places, Mūsā of Gakvari (*al-Ḥakvarī*), Ḥājji-Muḥammad of Anchik (*al-Anchiknī*) and people worthy of trust (*ṣawāhib al-wuthūq*) from the village of Khushtada, Muḥammad, son of the deceased Ghāzī-Muḥammad, Shakal-Muḥammad Mukushalav (Avar. son of Mukush — *V. B.*), Muḥammad son of Shundulav (Avar. son of Shunda — *V. B.*), Ḥazm, and others of their elders (*ru'asā'*), and from the village of Tlissi — Ḥusayn, Muḥammad son of Murghib, Muḥammad son of Veched and Qadilav (Avar. son of the *qādī* — *V. B.*). And they confirmed [this agreement] with sound oaths”.

3. 2. “This is an explanation for the future.

The village of Ratlub and the villages of the Gidatl Union (*qurā nāḥiyat Ḥīd*) have agreed to join together and become a single union (*nāḥiya wāḥida*) in all initiatives, as well as to use [that, which is found] in the codex [of law] of the union (*kitāb al-nāḥiya*) [30] for the people of Ratlub (Avar. Rahiq, meaning ‘those in the village of Ratlub’; Loc. in *-q* — *V. B.*). [For the time] that they (the Ratlub's people — *V. B.*) will [remain] in the union and [observe] this agreement (*itiḥāq*), the people of Gidatl (Avar. *Ḥīd*) will give them [31] the pass of Bitlyanub without [the right] to build [there] fortifications and houses. If they (the Ratlub's people) secede (*ḥalafū*), all of its [land] (the pass — *V. B.*) will belong to the Gidatl Union (*li-nāḥiyat Ḥīd*). [They also agreed] to demolish the bridge that leads to the pass of the Keleb's people (Avar. *Qēl* — *V. B.*). They will never rebuild it without the permission of the Gidatl [Union]. As concerns the wergild (*diyā*) for murder, between the [communities of] Gidatl and Ratlub (Avar. *Ḥīd wa Rahiq* — *V. B.*) it [is set] at forty kettles [for the community] and a bull for the heirs of the murdered man, which they are to be given at their request along with the kettle.

He who harmed the [fields of] Tsumakhishikh, drying out [and ruining the lands] between Bashcharab and Ros'a Tlyara' (Avar. ‘Village Spring’) and beneath the mountain, as well as he whose [cattle] trampled another's hay-field (*marj*) during the time [of the year when it is] under guard [and closed to cattle], compensates the damage to the owner of the *mulk* (*al-mālik*) [in an amount set] according to the oath (*ḥalf*) of the owner of the *mulk* and one trustworthy man known to be just, with the exception of the *qādī* (*imām* of the mosque — *V. B.*) and the *budun* (*mu'adhdhin*). He who violates this treaty (*al-'ahd*) [will pay a fine] of one hundred sheep. Moreover, the land [that belongs to him] is made unfit. He who inflicted a wound [that entails blood vengeance] compensates the spilling of blood with a kettle. He who harms a limb [of the body] with the exception of a finger [pays] ten kettles. Witnesses: Ikhako Muḥammad, Haril (Avar. ‘son of Har’ — *V. B.*) Muḥammad, ‘Alī son of Zadu, Ghāzū-Muḥammad” [32].

### 4. Community agreements with the nobility

4. 1. “This is an explanation for the future.

Hence. The inhabitants of the villages of Andikh (Avar. *Ḥanqhal* — *V. B.*), Mogokh (Avar. *Mahqhal* — *V. B.*) and Upper Batlukh (Avar. *Amsal* — *V. B.*) [33] have made an agreement and joined together to become as members of a single village [society] (*ka-ahl qarya wāḥida*) both in joy and in sorrow (*fi-l-khayr wa-l-sharr*) with [mutual] aid and support (*wa-l-'awn wa-l-naṣr*). They will obey the orders of the great ruler (*al-sulṭān al-a'zam*), Sulṭān-Aḥmad-khān, and observe his prohibitions. They have secured [this agreement] with a pledge of two Crimean rifles (Avar. *qhirīm* — *V. B.*) [34] in working order from each village so that they will trust one another. They have also established a fine (*fidya*) of one hundred sheep for the most esteemed khan (*al-amīr al-mukarram*) so that the khan can impose this on a village that secedes (*al-mukhālifa*) [from the union]. This took place in the blessed month of Rabī' al-akhīr of 1225 [35]. Witnesses [to this] were a large assembly [of people], including the *budun* of the Avar village (*mu'adhdhin al-qarya al-awāriyya*) [36], Ḥājjiyāv, Shāmil, and the one who recorded these words [37], as well as the khan's seal as the most important witness.

From the records of Dibīr-qāḍī, the notary of the Avar nobility (*kātib umarā' Awār*). [Copied] in the village of Gotsob (in 1936)” [38].

The texts show that the same questions of criminal and land law were sometimes discussed at all four levels. But one can discover certain differences in the Daghestani texts in accordance with the semi-autonomous social field to which they belong. At the clan or neighbourhood level, the

unity of the clan or local community was discussed at the meeting as an indivisible legal entity. Special attention was accorded the honour of the lineage; all unworthy members who had besmirched themselves with a crime or debauchery were expelled [39]. *Thukhum* agreements could also fix

the transfer of weaker *tukhum* clans (*qabīla*) to the protection of *tukhums* of the mountain nobility [40].

Members of a single community (*ahl al-qarya*) usually gave their approval at a village assembly (*maḥfil*) to individual norms of criminal law that regulated blood vengeance (*qiṣās*), punishments for premeditated and negligent homicide, wounds, stealing, adultery, the abduction and dishonouring of women, as well as damage inflicted on private (*mulk*) and community (*ḥarīm al-qarya, al-mawāt*) property. Moreover, they decided issues of civil and hereditary law. The eighteenth and nineteenth centuries especially have left us many resolutions that defend the property rights of women and the shift of individual village communities to dividing property according to the *shari'a* [41].

Assemblies of village community representatives (*aḥālī al-qurā, rijāl al-naḥiya*) passed entire codices of local law that included ten or more individual resolutions. They established the borders (*ḥudūd*) of the union's lands, rights to use pasturing hills jointly owned by the union, rules of seasonal guard (*hiḏ*) for these lands to protect them from being trampled by livestock or people, and the conditions for conducting border patrols. When a new community joined the union, it had to follow the accepted laws, promising to "be as a single society" (*ka-jaysh wāhid*) [42]. Union treaties frequently dealt with a sort of "international law", regulating debts between communities and the rules of exacting the *ishkīl* — the arrest and seizure of property from an insolvent debtor's fellow villagers [43].

Agreements between the larger unions and khanates established the privileges of the local nobility, levies (*kharāj, jizya*) that migrant villagers and *rayats* were obligated to pay them, and the rights and obligations of khans and beks (*umarā, salāḥīn*) before free community members (*uzdens*). Such agreements often dealt with reconciling (*sulḥ*) the clans of nobility and village communities divided by blood feuds [44]. More often, however, one finds in the eighteenth — nineteenth centuries *ittiḥāqs* that establish the freedom of community unions from the clans of beks, *chankas*, and other local nobles analogous to the powerful rulers of the Kazikumukh khanate, who carried the title *shamkhāl*. The community unions placed both the nobility itself, as well as members of lower classes who aided it, beyond the law [45].

The *ittiḥāq* genre in the North-Eastern Caucasus took shape gradually. Its roots should be sought in the treaties that have been preserved by early medieval Daghestani epigraphics. The most ancient of these are documents of land and criminal law from the villages of Khuduts (718/1318—19) and Kurakh (757/1356), as well as a record of the privileges granted by the Kazikumukh *shamkhāl* the village of Kubachi after the Kubachis voluntarily adopted Islam in the fourteenth century [46]. One can even move the *terminus post quem* for the first sort of legal documents up to the twelfth century if one takes into account the legend, recorded by A. R. Shikhsaidov in 1962, of an inscription with the text of an agreement between the upper and lower parts of the Legin village of Akhty (the inscription was later destroyed by the inhabitants of lower part of the village) [47]. Beginning in the sixteenth — seventeenth century, the texts of agreements are recorded not in stone, but as "historical records" (*tawārikh*) in manuscript books and collections. At the same time, the tradition of inscribing the most important *ittiḥāqs* in stone remained. One such record from the turn of the eighteenth — nineteenth century

teenth century was discovered by T. M. Aitberov on the minaret of a mosque in the village of Shinaz in southern Daghestan [48].

In the 1980s, A. R. Shikhsaidov discovered a certain formula for legal documents in medieval Daghestan. The author's study of the earliest epigraphic texts of Daghestani treaties showed that by the fourteenth century the region already possessed a certain formula for the legal composition of court decisions. It assumed its final shape by the sixteenth — seventeenth centuries [49]. The mountaineers' legal mentality was quite conservative, and the formula for legal documents underwent few changes until the Russian conquest. The Arabic-language administrative process for village and local '*adat* and *shari'a* courts that was created by the Russian authorities in pre-Revolutionary and early Soviet Daghestan was significantly influenced by *ittiḥāq* agreements.

The formula for agreements included the following component parts. The *basmla* usually served as the preamble. More rarely it includes the *ḥamdala, tasliya*, and a Qur'ānic quote. The preamble ends with the phrase "This is an explanation (and argument) for the future". Less important records begin with the words *amma ba'd* (hence). The actual text then began, introduced by the words "they agreed and fixed with an oath..." (*fa-qad ittafaqu wa-wa'adū*). In the case of union or inter-union agreements the main text enumerated the parties to the treaty. The most important agreements concluded with the names of witnesses. Some agreements repeat the conditions of the treaty after the *shahāda*. The name of the scribe (*kātib*) follows (and sometimes the copyist), as well as the date. To give the document legal force, an *āya* from the Qur'ān was frequently added.

The formula's terse hints allow us to reconstruct the court's actions in hearing and approving the community's laws. For example, the Khuduts inscription tells how the residents of the village of Anchibachi, having secured the support of the *qādī* and a certain Ayūb from Richa, came to Kumukh. Their case was heard at a *godekan* (Arab. *maḥfil*, Lak. *kkurch'a*), the central square before the mosque, in the presence of the *shamkhāl* and the judge-rulers of the Kumukh community [50]. T. M. Aitberov published a resolution of the *uzdens* from the village of Kuma that places the local mountain nobility (*salāḥīn*) above the law. It vividly illustrates the debate at the village meeting. When some members of the community began to speak out in support of the beks, Shahumilav rose and made an oath (*nadhr*) to cede his field to the community if he should go over to the bek's side after the agreement was concluded. He was supported by 37 influential *uzdens* of Kuma and the verdict against the bek was approved [51]. One can see from the Khushtada agreements cited above that after it was approved, a treaty was ratified with the signatures of witnesses, some a party to the deal and others from neutral villages. A certain *āya* from the Qur'ān was then read and the agreement was considered ratified. The case and discussion were, of course, heard in one of the local Nakh-Daghestani languages. One sees this from the local place names in Avar. A record of the agreement in Arabic then had to be drawn up. In especially important cases, it was inscribed on stone.

In closing, one should note the importance of *ittiḥāqs* for reconstructing the formation of local community law codes (*dafātir 'ādāt, qaws rasmā*). Some historians tend to regard these as later documents created at the behest of

Russian military authorities in the second third of the nineteenth century and never put to real use [52]. This is hardly justified. The history of law presents us with no examples of legal codes that were drawn up overnight. Moreover, the information found in late-medieval agreements casts doubt on this view. The example of the Gidatl *‘ādāt* has shown us that the texts of *ittifāqs* could become part of local legal codes.

A palaeographic analysis of the codes that have reached us in nineteenth-century copies suggests that the latter appeared not at once, but gradually on the basis of emerging agreements that were filed and added to earlier norms of local community law. The Gidatl *‘ādāt* and agreements in Aitberov's collection show later additions written into the end of the document after the list of witnesses, and sometimes after the date of the first agreement [53]. Codices originally limited to a single community could become codes for unions of communities. One can get a sense of how this happened from the Khushtada mosque Qur'ān cited above. Two folios inserted in the middle of the book gradually recorded the texts of new resolutions from a time when Khushtada was already changing from a small village and tributary of the Tindi community to the head of the union of Bagulal communities. When the norms recorded there changed, they were erased and a new text was copied over them. This practice, occasioned by a shortage of paper in medieval Daghestan, caused the pages of the Khushtada Qur'ān to turn black at times with copies of local agreements. By the nineteenth century, codes drawn up from individual agreements were already written in quires (*dafātīr ‘ādāt al-qurā*).

Some of them are even known by the name of the codex. The full name of the Andalal union's codex of com-

munity law, published by Kh.-M. O. Khashaev, is as follows: "These are treaties and resolutions (*fa-hādhihi ‘uhūd wa-mawāthiq*) concluded between all of the villages of Andalal from the most ancient times and written down according to their agreements (*bi-ttifaqi-him*) by [the predestination of God]". The text of the resolutions themselves begins with a phrase typical of the genre: "they agreed (*fa-qad ittafaqū*)". It is no coincidence that this sacramental phrase, without preamble, opens the codex of the Keleb union (*fa-inna ahl qurā qel qad ittafaqū*) [54]. One finds a similar shift from the preamble to the legislative section in a number of codices that record the norms of local community law; for example, in the "Quires [of *‘ādāt*] of the village of Genta", completed in 1879 [55].

As the main genre for normative legal documents in the Muslim society of late-medieval Daghestan, the *ittifāq* requires scrupulous study. In order to describe them, it would be interesting to juxtapose the formulas of Daghestani agreements with similar legal documents from neighbouring Safawid Iran, as well as the Ottoman Empire, and especially the Shāfi'ī communities of Syria, Egypt, and Yemen, with which the Muslim jurists of the North-Eastern Caucasus maintained lively relations up through the end of the eighteenth century. The large number of agreements would allow one to conduct a prosopographic study, determining connections and relations between the people who are frequently mentioned in them. The present article is only the first step in the historical and legal analysis of the agreements by examining their form and main themes to show the significance of these documents for describing the development of socio-normative culture among the Muslims of the North-Eastern Caucasus as they moved from the medieval period into the modern.

## Notes

1. *Ittifāq* agreements (originals and copies) of the eighteenth and the nineteenth centuries are kept in collection (*fond*, henceforth f.) No. 16 of the IHAЕ which includes documents and letters in Arabic and other Oriental languages. There are also several hundred copies of such documents written by A. Kaiaev, M. Inqachilav, B. Malachikhanov, M. Nurmagedov, K. Barkuev, A. Gaidarosmanov and other fellows of the Institute in the 1920s—1970s. They are in collection No. 1, inventory (*opis'*, henceforth op.) 1, files (*dela*, henceforth d.) 286, 289, 426, 444 fols. I am very grateful to A.I. Osmanov, the director of the IHAЕ for his kind permission to publish these materials. I would also like to thank Michael Kemper from the Ruhr University (Bochum) for his valuable comments on issues raised in this article.

2. This article is based primarily on legal cases and historical notes copied by the author in the villages of Khushtada, Agvali, Kvanada and Tlondoda.

3. See *ittifāq* agreements published in *Gidatlinskīe adaty* (The Gidatlīn *‘ādāt*), trans. M. S. Saidov, ed. Kh.-M. Khashaev (Makhachkala, 1957), pp. 32—41; *Pamiatniki obychnogo prava Dagestana XVII—XIX vv. Arkhivnye materialy* (Written Monuments of Customary Law of Daghestan in the 17th — 19th Centuries), compiled with an introduction and comments by Kh.-M.O. Khashaev. Trans. M.-S. Saidov (Moscow, 1965), pp. 71—92; *Iz istorii prava narodov Dagestana. Materialy i dokumenty* (From the History of Law of the Daghestani Peoples. Materials and Documents) ed. A.S. Omarov (Makhachkala, 1968), pp. 221—32; *Katalog arabskikh rukopisei Instituta istorii, iazyka i literatury im. G. Tsadasy Dagestanskogo filiala AN SSSR* (Catalog of Arabic Manuscripts from the G. Tsadasi Institute of History, Language and Literature of the Daghestani Branch of the USSR Academy of Sciences), compiled by M.-S. Saidov, trans. M.-S. Saidov, K. Akhmedov, K. Nurmagedov (Moscow, 1977), fasc. 1, pp. 24—5, 43—5.

4. *Khrestomatiia po istorii prava i gosudarstva Dagestana v XVIII—XIX vv.* (The Reader on the Daghestani History of Law and State in the 18th — 19th Centuries), ed. T. M. Aitberov (Makhachkala, 1999), pt. 1—2. See also his earlier publications "Soglasheniia avarskikh obshchin XVIII — nachala XIX v." ("Agreements between the Avar village communities in the 18th and the early 19th centuries"), in *Pis'mennye pamiatniki Dagestana v XVIII—XIX vv.* (Makhachkala, 1989), "Obzor nekotorykh rukopisnykh sobranii Dagestana" ("An outline of several manuscript collections from Daghestan"), in *Rukopisnaia i pechatnaia kniga v Dagestane*, ed. A. R. Shikhsaidov (Makhachkala, 1991).

5. For example, M. A. Aglarov shares this misleading view, though he is one of the best specialists in Daghestani customary law. See his *Sel'skaia obshchina v Nagornom Dagestane XVII — nachale XIX vv.* (Rural Community in Highland Daghestan in the 17th — early 19th Centuries) (Moscow, 1988), pp. 163—6.

6. S. F. Moore, "Law and social change in the semi-autonomous social field as an appropriate subject of study", *Law and Society Review*, No. 7 (1973), p. 720.

7. *Khrestomatiia*, pt. 1, pp. 73—4, 98—100, documents 17, 39.
8. *Ibid.*, pt. 1, pp. 42, 47—9, documents 9, 13; *Iz istorii prava*, pp. 231—2; *Katalog arabskikh rukopisei*, pp. 43—5.
9. *Pamiatniki obychnogo prava*, pp. 71—92; *Gidatlinskie adaty*, pp. 32—7; *Khrestomatiia*, pt. 1, pp. 91, 96—8, documents 33, 38.
10. *Khrestomatiia*, pt. 1, pp. 33—5, 43—4, 72—3, documents 2, 11, 16; pt. 2, pp. 102—4, document 12; *Gidatlinskie adaty*, pp. 38—41.
11. Here and further in the text, the notary unconsciously displays his Avar mother tongue by putting the word *qabīla* in Masc.
12. Scribe's mistake: both verbs should be in Fem. (*ittahadat wa-ittafaqat*), as is the subject (*qabīla*) in this sentence.
13. The same symbol, resembling the small Arabic number ٧, is put under the word *rajul* and under the attached pronoun *-hu* in order to stress their interconnection. On a complicated system of syntactic symbols in the Arabic manuscripts from Daghestan in the eighteenth and the nineteenth centuries see A. M. Barabanov, "Poiasnitel'nye znachki v arabskikh rukopisiakh i dokumentakh Severnogo Kavkaza" ("Explanatory signs as used in Arabic manuscripts and documents of the North Caucasus"), *Sovetskoe vostokovedenie*, III (1945), pp. 113—5.
14. The name of the father of Muḥammad from Machada is omitted by the scribe. Chirilav from Tidib and Muḥammad from Machada are likely to have been two elders (Avar. *ch'ukhbi* or Arab. *ru'asā'*) representing the union government of the Gidatl confederation of highland villages.
15. A grammatical mistake of the notary: before the word *mazra'a* stands the Arabic pronoun "this" (*dhālik*) in Masc. instead of Fem. *tilka*.
16. IHAЕ, f. 1, op. 1, d. 426, leaves (*listy*, henceforth l.) 149—148 (pages' numeration of this file (*delo*) is reverse). A copy made by M. Inkvachilav in Gidatl (?) in 1936. A draft translation of the agreement from Arabic into Russian is made by K. Barkuev on pages 16 and 17 of the same archive file.
17. *Khushdāl* in Avar. In this manuscript, all the toponyms are given in Avar and marked with a line drawn over the word, which was used to show the subject or homogeneous parts of sentence. See Barabanov, "Poiasnitel'nye znachki v arabskikh rukopisiakh", p. 113.
18. This and the following seven documents, related to the community topic of the Daghestani agreements, as well as union contract 3.1. were taken from the Qur'ān found at the great mosque of the village of Khushtada. Its copyist is Muḥammad, son of Isalasalav from Gochob. The copy of 1153/1740—41. The *ittifāq* records, as well as a list of *waqfs* from the end of the eighteenth — first half of the nineteenth centuries, are written on two leaves put into the central part of this book in folio. In the 1980s, these records were found by the Daghestani historian T. M. Aitberov. The author of this article copied Khushtada's agreements in November, 1995, with the aid of the village *mullā* Magomedseid Gaziev. For more details on the Arabic legal documents from Khushtada, see Aitberov, "Obzor nekotorykh rukopisnykh sobraniĭ Dagestana", pp. 157—8; *Khrestomatiia*, pt. 1, pp. 26—7, 108—9, document 46. See also V. O. Bobrovnikov, *Musul'mane Severnogo Kavkaza: obychnai, pravo, nasilie. Ocherki po istorii i ėtnografii prava Nagornogo Daghestana* (Custom, Law and Violence among the North Caucasus Muslims: Studies in Legal History and Anthropology of Highland Daghestan) (Moscow, 2002), pp. 118—23, 126, 130, 140—41.
19. Here and further in the text, the notary repeatedly commits mistakes in Arabic grammar when using countable nouns with cardinal numbers. He tends to put nouns in Sing. after numbers as it would be in Bagvalal, Avar and other Caucasian languages.
20. Grammar mistake: the word 'man' here requires Acc. (*rajulan*, not *rajul*).
21. After the word *diya* one finds a word written by error and crossed off by the scribe.
22. At the end of the agreement, the conjunction *wa* ('and'), probably related to the next contract, is crossed out by the notary.
23. The very end of this agreement, as the case of contract 3.1, seems to have been omitted by the notary. A symbol like tilde, written over the word *āya*, means 'the noble Qur'ān'. This is one of the most common abbreviations in Arabic manuscripts from Daghestan.
24. After this word the scribe first wrote erroneously *nisf* ('half'), but then crossed it off.
25. The word Allah is omitted here.
26. The Avar consonant *l* is rendered by the Arabic letter *lām* with three diacritical points under it. This letter was introduced into the Daghestani 'ajam alphabet by Dibīr-qāḏī (1762—1817), son of the qāḏī Maqṣūd al-Avarī from the village of Khunzakh at the end of the eighteenth century. Therefore, this contract must have been concluded between the end of the eighteenth and the early nineteenth century. Later, both villages of Khushtada and Tlissi joined the Avar khanate.
27. Here we find an abbreviated form for "the noble Qur'ān", a symbol like tilde. See n. 23 cf. agreement 2.6.
28. The notary wrote erroneously *fa-man* ('those who'), then crossed this phrase off.
29. The first name of the witness from the village of Koroda is omitted. All of the *niṣbas* of the witnesses are marked with a line written over the word in order to show that the *niṣbas* are homogeneous parts of the sentence.
30. Here the copyist crossed off the word Allah written erroneously after the word *kitāb* ('codex').
31. Here, to clarify the meaning of the pronoun *-hum* ('them'), the scribe put a sign resembling a small Arabic number ٧, both under this word and the word 'inhabitants of Ratlub' (Avar. *Rahiq*) to which it relates. Cf. nos. 13, 17, 29.
32. IHAЕ, f. 1, op. 1, d. 426, l. 150. A copy made by M. Inkvachilav in 1936. It is noteworthy that this agreement reproduces a part of the famous "Gidatl 'ādāt", with insignificant differences in some expressions and the names of witnesses. One may guess that it was one of the main sources of the Gidatl codex whose origin is remains unclear.
33. As was mentioned above, all the place-names are written in Avar with the local 'ajam letters dating back to the late eighteenth — nineteenth century. The names of the Avar villages were identified by T. M. Aitberov in his *Khrestomatiia*, pt. 1, p. 91 and pt. 2, p. 73.
34. Crimean rifles were considered as the best and precious arms in the North Caucasus, beginning in the seventeenth to the mid-nineteenth centuries. These rifles were made by local gunsmiths of Crimean origins.
35. This date corresponds to A. D. 1810.
36. That is from the village of Khunzakh.
37. This is the well-known Muslim scholar and lawyer Dibīr-qāḏī (see n. 26). Among his works are the dictionary *Jamī' al-lughatayn li-l-talīm al-akhwīn*, an Avar version of the famous poem *Kalīla wa Dimna*, and some other works on Arabic grammar and Islamic law. See *Katalog arabskikh rukopisei*, pp. 37—41; B. M. Ataev, *Avartsy: istoriia, iazyk, pis'mennost'* (The Avars: Their History,

Language and Literature) (Makhachkala, 1996), pp. 59—61; M. Ye. Alekseev and B. M. Ataev, *Avarskii iazyk* (The Avar Language) (Moscow, 1997), p. 21.

38. IHAE, f. 1, op. 1, d. 426, l. 165. Copied by M. Inkvachilav who added to the document its last paragraph. T. M. Aitberov has published another Russian version of the document. See *Khrestomatiia*, pt. 1, p. 91, document 33.

39. *Pamiatniki obychnogo prava*, pp. 19—20, 35, 44, 48.

40. *Khrestomatiia*, pt. 1, pp. 73—4, document 17.

41. *Ibid.*, pt. 1, pp. 44—8, documents 12, 13. See also IHAE, f. 1, op. 1, d. 286, l. 73; f. 14, No. 583.

42. See above-mentioned agreements 3.1, 3.2, 4.1. See also *Khrestomatiia*, pt. 1, pp. 33—4, 90, 98—9, documents 2, 32, 39.

43. *Ibid.*, pt. 1, pp. 96—8, document 38. See also letters about *ishkil* regulations kept in the IHAE, f. 16, op. 1, Nos. 1260—1310.

44. See, for example, the contract between the members of the Chokh village community (*ahl baldat Chaqhal*) and the kinsmen of Surhay-khān, copied by A. Kaiaev (in the holdings of IHAE, f. 1, op. 1, d. 289, l. 60); see also *Khrestomatiia*, pt. 1, pp. 72—3, document 16.

45. See a contract between the village of Chokh and the village confederation of Tsudakhar, another agreement between the inhabitants of the village of Batlaich, copied by M. Inkvachilav: IHAE, f. 1, op. 1, d. 426, l. 166, 163—164; cf. *Iz istorii prava*, p. 223.

46. *Ėpigraficheskie pamiatniki Severnogo Kavkaza* (The Epigraphic Monuments of the North Caucasus), ed. L. I. Lavrov (Moscow, 1966), pt. 1, pp. 118, 196—9, 287; A. R. Shikhsaidov, *Ėpigraficheskie pamiatniki Dagestana X—XVII vv. kak istoricheskii istochnik* (The Epigraphic Monuments of the 10th — 17th-Century as a Historical Source for Daghestani History) (Moscow, 1984), pp. 82—8, 374—7.

47. A. R. Shikhsaidov, *Islam v srednevekovom Dagestane (VII—XV vv.)* (Islam in Medieval Daghestan: 7th — 15th Centuries) (Makhachkala, 1969), pp. 141—2.

48. *Khrestomatiia*, pt. 1, pp. 19, 82, document 26.

49. Bobrovnikov, *Musul'mane Severnogo Kavkaza*, pp. 119—20. Cf. Shikhsaidov, *Ėpigraficheskie pamiatniki*, p. 362.

50. Shikhsaidov, *Ėpigraficheskie pamiatniki*, pp. 87—8.

51. *Khrestomatiia*, pt. 1, p. 44, document 11. See also IHAE, f. 1, op. 1, d. 289, l. 25.

52. T. M. Aitberov suggests that the majority of the Avar codices of communal law appeared under the impact of Russian colonial reforms, the suggestion not shared, for example, by V. G. Gadzhiev. See his "Pamiatniki obychnogo prava Dagestana" ("Documents of Daghestani customary law"), *Izvestiia Severo-Kavkazskogo nauchnogo tsentra vysshei shkoly. Seriya Obshchestvennye nauki*, No. 3 (1987), p. 86.

53. *Gidatlinskie adaty*, pp. 40—1; *Khrestomatiia*, pt. 1, pp. 32—3, 72—3, documents 1, 16; pt. 2, pp. 102—4, document 12. I am grateful to Michael Kemper who drew my attention to this interesting fact.

54. *Pamiatniki obychnogo prava*, pp. 67, 82.

55. *Daftar qaryat Henta*, in IHAE, f. 5, op. 1, d. 59.