

Historical Basis Confirming Signs of the Existence of “Meokhi”-Lawyer in Feudal Georgia

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Abstract

The article discusses historical basis confirming signs of existence “Meokhi” (intercessor, advocate, protector) in feudal Georgia that certainly, has its reasons. History of advocacy is an important integral part of any country’s legal culture. “Meokhi” that stands for intercessor in Georgian or the words of foreign origin – Arabic “vekili” or Latin advocate were used to denote a “defender” in Georgian legislation. Lawyer’s profession counts several thousand years. Presumably, there were layers of the society bearing this profession in feudal Georgia which is directly or indirectly confirmed by Georgian literary sources and the fundamental researches. Advocacy originated in the ancient era. Lawyer’s profession was considered as a free and honorable profession in ancient Rome. It is a well-known fact that in the Roman Empire qualified lawyers were selected to make explanations at the court.⁷⁴ It is noteworthy that in the period of unification of Georgia, in the 11-12 centuries, law specialists were “scholars of the assembly”, who were invited to the court and there is a high probability that they participated in the processes.⁷⁵ We want to prove that in the united Georgia there was a layer of the society which had the function of “meokhi” – representatives of parties who actually provided defense. We believe that all this, as a historical reality, will be interesting for individuals who work in this profession, lawyers, and generally, for the whole society.

Keywords: Meokhi, vekili, representatives in the IX century Georgia

Introduction

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The term “meokhoba” is explained in Sul Khan-Saba dictionary as “giving help”. According to David Chubinashvili “meokhi” is intercessor,

⁷⁴I. Surguladze. Opiza Deed.

⁷⁵ I. Surguladze. State and Legal Issues in “The Knight in the Panther’s Skin”. 1977. P. 219.

helper.⁷⁶ It is similarly explained by Niko Chubinishvili: intercessor, helper, protector. According to Georgian Explanatory Dictionary, “meokhi” is a protector, helper and “meokhoba” is to help, protect, to do favour.⁷⁷ “Komagi”, as David Chubinashvili defines, is a defender, intercessor, supporter and “sarcheli” is a dispute, claim.⁷⁸

Sulkhan-Saba clarified that the term “mosarchle” meant the one who accompanies or represents a plaintiff,⁷⁹ and “sarcheli” means arguing the case with the judge.

“Vekili” (Arab. Vakil) meant a trustee, protector, defender in feudal Georgia. According to Sulkhan-Saba, “vakili” is a co-litigant” whose job is compensated. The term “vakili” also meant an advocate.⁸⁰

“Advokati” (Lat: advocatus) is one who defends the accused or runs the case in the court, a lawyer.⁸¹

The main field of action for a lawyer was and is a court.

Court proceedings, judicial authorities and institutions, competence of judges, court staff, criminal trial proceedings and existence of “meokhi-advocates” in Kartli was thoroughly studied by a great Georgian scientist and academician Ivane Javakhishvili. In particular, in Georgian law history, as Ivane Javakhishvili indicates, “the criminal trial proceedings are not clearly described, though some deeds (documents) which describe punishment for those who committed crimes, and heavenly blessings for those who did not might be the reflections of the real trial proceedings of those days and not of heavenly judgment. So, these documents let us imagine the approximate picture of the court proceedings of the time”.

In 1123, David the Builder wrote in his will: “O, Saint Father Shio, when Christ sits to judge all tribes and deeds, ask Him to make a judgment against those who profane and those who dare to violate my will and monastery rights”.

While trial proceedings, the accused had a right to be present at the trial, litigate and prove their righteousness, thus, they could “take revenge”.

Certainly, culprits could, if they had something to say, justify themselves. Such justification speeches were called “sitkvisgebai”. In the translated versions this word stands for the Greek word “apologia”.⁸²

⁷⁶ David Chubinishvili. Georgian-Russian Dictionary. 1887.

⁷⁷ Niko Chubinishvili. Georgian Dictionary. 1961.

⁷⁸ David Chubinishvili. Georgian-Russian Dictionary. 1887.

⁷⁹ Sulkhan-Saba Orbeliani. Georgian Dictionary. Editors: I. Kipshidze, A. Shanidze. 1928.

⁸⁰ Soviet Georgian Encyclopedia. Vol. 4, 1979. P. 387.

⁸¹ Mikheil Chabashvili. Dictionary of Foreign Words. Tbilisi, 1964.

⁸² Apologia (Greek) – defense, justification speech. “Dictionary of Foreign Words”. Tbilisi, 1964.

The same studies “sigeltamcodneoba” (Eng. diplomatics, critical analysis of documents) makes us think that offenders at the court had defenders who drew up documents which proved their innocence or mitigated the sentence. Such a defender was called a “meokhi”; E.g. Grigol Eristavi, a nobleman in Kartli, wrote in his will: “Shio Mgvimeli was introduced as a meokhi-advocate to defend him before the judge and God”.

Thus, during the trial, “meokhi” made a justification speech, “sityvisgeba”, which was made before the seat allocated to a Judge.

It seems that presence of a culprit and “meokhi” at the trial was compulsory.

Who were these “meokhis”, was “meokhoba” (advocacy) legal, was this same as “advocatus” who defended all accused people, or did they defend only noblemen? These are the questions that cannot be answered yet because of lack of evidences.⁸³

Professor Ir. Surguladze in his monograph “State and Legal Issues in “The Knight in Panther’s Skin” points out that we can study the state and the judicial system of that period according to the poem and draw parallels, compare it with Georgian reality and prove the relevance of details given in the poem to reality.

I. Surguladze discusses the concepts regarding to “vekiloba” (advocacy) in a separate chapter. He gives citations from the stanza 201 and 3rd and 4th lines from the stanza 554. In the stanza 201 we read the following:

“We three brothers shamed the archers with us, so we three vied still one with another: 'I kill best, I am better than thou,' thus each pushed his claim with words; we could not manifest the truth, we wrangled, we strove with one another (none wanted to be last)”.

In the given stanza we meet rather interesting words and phrases: vied, pushed his claim with words, manifest the truth, wrangled.

It is noteworthy that dispute took place at the court and namely the concepts characteristic of court are used in “The Knight in the Panther’s Skin”. In this case it seems that they proceeded a trial in the court and a dispute took place. In old Georgian “tsiloba” means dispute between parties that was judged by a judge. In the given stanza the subject of dispute is to reveal a winner in the fighting competition and the competition was judged by “vekili” (an advocate). That is why Professor I. Surguladze states: “We can consider that the term “vavakilenit” (advocating) coincides with reality. It means that at that time, advocacy was a part of a trial showing real life processes”.⁸⁴

⁸³ Iv. Javakhishvili. History of Georgian Law. Vol. 7, book 2. Pp. 354-355.

⁸⁴ I. Surguladze. State and Legal Issues in “The Knight in the Panther’s Skin”. Tbilisi, 1977. Pp. 211-213.

The 3rd and 4th lines of the stanza 554 from “The Knight in the Panther’s Skin” are rather interesting for understanding the term “vakili” (an advocate). The idea of this stanza is as follows: How can I defend you? How can I justify you? How can I become your advocate? The aforesaid implies that “vekili’s” (advocate’s) function is to defend and intercede a culprit. Thus, we can suppose that the advocacy institution existed in feudal Georgia. It is surprising that the documents proving this fact are not preserved in the sources.⁸⁵

As it seems from the poem, at that time a lawyer was called “vekili”. This term entered from Arabic and maintains the same meaning in the Georgian word stock.⁸⁶

In 1958, the work of the candidate of historical sciences Ap. Rogava “On the Advocacy Institution in Old Georgia” was published in the Journal “The Society Law” (N 4). The scholar indicates that the manuscripts of David Batonishvili’s work on overview of Georgian law and jurisprudence and other historical sources indisputably prove existence of advocacy institution in Old Georgia.

Ap. Rogava emphasizes the Articles 750 and 753 of David Batonishvili’s work on overview of Georgian law and jurisprudence and thinks that the text is written in a way that only a real legislator could write. He is sure that David Batonishvili did not use any legal document as a manual. After analyzing the articles saying that an intercessor could lose his honorarium and professional worthiness if he showed carelessness toward his client, Ap. Rogava raised a question: “Who could deprive an intercessor of professional worthiness for violating the laws given in the Articles 750 and 753?” He himself had an answer to this question: “Certainly, lawyers’ corporation, intercessors’ guild... It can be assumed that intercessors’ guild existed in the kingdom of Erekle and Giorgi... It is obvious that intercessors’ institution could not have been established at a time during the reign of Erekle and Giorgi. It might have passed certain stages of development as it happened in other countries... Thus, the organization preceding the intercessors’ institution of the epoch of Erekle and Giorgi might have existed in Georgia of David Aghmashenebeli and Tamar”.

Ap. Rogava assumes that advocacy institution existed in old Georgia not only in the 18th century but also in the 11th century. To prove this he points to the words used in the 11th century literature: advocate, co-litigant, and intercessor.

To prove the existence of the advocacy institution in old Georgia, Ap. Rogava discusses the works of Eprem Mtsire, a great scientist, philologist,

⁸⁵ Ibid, p.213.

⁸⁶ Ibid, p.211.

philosopher and translator of the second half of the 11th century. Particularly, he focuses on the words which mean advocate: People of Meskhety (the Meskhy) called an advocate “varkiri” i.e. the one who worked to defend a culprit and received honorarium. There was another word used in the 11th century Meskhety – “svinogorosi” - from Greek meaning the same. This word was used as a juridical term in Byzantine in the 11th century. So, according to Eprem Mtsire, the Meskhy used the word “varkiri” for an advocate and in the other parts of Georgia the words which meant litigant, co-litigant, plaintiff and intercessor were used with the same meaning.⁸⁷

Thus, as Ap. Rogava assumes that the word “vekili” (advocate) is used in the Georgian language from at least the 11th century, more exactly, from the period when Eprem Mtsire lived and worked.

Ap. Rogava develops the idea that in the 10th-11th centuries in Georgia, according to the deed issued by King Bagrat IV – “Opiza Deed”, there were “Scholars of the Assembly” who were professionals in the field of civil law. There also existed the institution of scholars (judges) in the field of ecclesiastical or canonical law. “Opiza Deed” issued by King Bagrat IV (1027-1072) is, in its essence, a court decision which refers to the dispute on the estates between the two monasteries. The parties at the court were the famous monasteries in the valley of the rivers Opiza and Mijnadziri. It can be said that the trial was very important as the King himself led the process.⁸⁸

Ap. Rogava believes that ancient advocacy institution in Georgia might have been established at least in the 4th century. At that time the philological-rhetorical school existed near Poti and a lot of its students gained fame at festive meetings for their eloquence.

It is impossible to think that in highly-cultured old Georgia outstanding Georgians were not well aware of Roman advocacy institution. That is why it can be considered that the similar institution of professional advocates was established in Georgia not later than in the 4th century. Intensive political and economic relations with ancient Greece and Rome created the best grounds for founding such an institution.⁸⁹

Ap. Rogava thinks that outstanding Colchi orators Aetes and Partaz can be regarded as the best professionals in the field of advocacy in the 4th-6th centuries. Aetes was a famous political figure, orator, nobleman in the 6th century Georgia. At the Egrisi public assembly held to discuss the assassination of Gubaz II - King of Lazica by Byzantines, he addressed people to support his pro-Iranian orientation. Partazi was a Lazi nobleman,

⁸⁷ Ap. Rogava. On the Advocacy Institution in Old Georgia. Journal: The Soviet Law. N 4. 1958.

⁸⁸ I. Surguladze. Essay on the History of Georgian State and Law; Opiaza Deed. Tbilisi, 1963.

⁸⁹ Ap. Rogava, *ibid.* P. 36.

political figure in the 6th century Georgia. At the aforementioned public assembly he demanded from the Emperor Justinian I to severely punish assassins of King Gubaz II and addressed people to support his pro-Byzantine orientation. Ap. Rogava assumes that Aete's and Partazi's speeches made on the Egresi public assembly in 554 prove their high professionalism in the field of advocacy.

In the notes of the Egrisi assembly recorded by Roman statesmen we read how Agathias Scholasticus (Byzantine poet and historian – 536-582) describes political experience and public consciousness of the governing circles of Lazica kingdom as well as the high level of their jurisdiction. The notes recorded by the foreign officials prove that there was a high level of jurisprudence in Georgia.

More convincing seems the role of the “meokhi”- intercessor at King Gubaz assassination trial held by Romans. The case took place in Colchis and was led by the judge, Senator Anastasius, who was sent by Emperor Justinian I (483-565). This happened after the public assembly when the Colchis Ambassadors filed an action against the court decision.

The Colchian scholars who defended King Gubaz introduced themselves to the Roman court and made justification speeches in a special way which revealed the rules of behavior at the court in old Georgia.

As Agathias Scholasticus says, “Staid Colchians who speak the Hellenic language well seem highly qualified in jurisprudence”.

Ap. Rogava says that Georgian prosecutors had to behave according to the Roman court rules when they demanded to read the Emperor's letter, read the indictment and twice participated in the disputes. Minding these circumstances, it is impossible to think that there were no professionals among “meokhi”-intercessors. On the contrary, it makes us believe that several well educated, Hellenic speaker “meokhi”-intercessors participated in turns while disputing. After the hearings, the Roman judge Athanasius understood and investigated everything that was necessary to make a decision.

As Ap. Rogava concludes, if we consider the abovementioned facts and also Agathias Scholasticus' historical notes convincing, it will be clear that “meokhi”-intercessor institution existed in Georgia from the ancient times, more exactly, from the establishment of Poti Academy in the 4th century. We can also suppose that based on a centuries-old experience it could take even more developed form in the 11th – 18th centuries but here, we choose a careful approach and consider the existence of “meokhi”-intercessors institution in the 6th – 11th centuries as a hypothesis.

Proving the existence of “meokhi”-intercessors institution in the 6th – 11th centuries requires more investigations, finding more historical evidences. This should be done in the future. We cannot take it as a fact only on the

basis of Agathias Scholasticus' historical notes and the arguments discussed above, and now we can only state that the existence of “meokhi”-intercessors institution in the 11th – 18th centuries is indisputable.⁹⁰

I. Surguladze discusses Ap. Rogava's work “On Advocacy Institution in Old Georgia” where Ap. Rogava speaks about David Batonishvili's “Overview of Law”, namely, about the Articles 750 and 753 which give information about intercessors. According to David Batonishvili, intercessors were paid for the proceedings at the court. He writes: “If a man hires someone to claim at the court instead of him, the hired man is a real plaintiff”.⁹¹ At the end of the 18th century in the “samokalako sjulvileba”-Civil Law we still meet the word “vekili”.⁹²

I. Surguladze believes that Ap. Rogava's error lies in the fact that he does not distinguish institutions of intercessors and advocates from each other. While analyzing the legal document of the 11th century - “Opiza Deed”, Surguladze came to the conclusion: “It seems impossible not to have more reliable documents confirming the existence of advocacy institution in feudal Georgia if it really existed”.

Representatives, in general and particularly, at the court were common in old Georgia. In most cases the representatives were the closest relatives: fathers, brothers, nephews, etc. They represented people who were sick or had other reasons for the absence at the court. Sometimes representatives were guardians of orphans, juveniles, mental patients and others. As a rule, parties themselves had to be present at the court. That is why, in the “Book of Law” and “Book of Deals” by King Vakhtang, which discusses the court organization and trials, nothing is said about “vekili”-advocate.⁹³

While analyzing “Opiza Deed”, I. Surguladze emphasizes that the 11th century Georgian feudal law recognizes representatives at the court... The draftsman is well aware of the fact that monasteries are parties which protect their rights through representatives. All this is the result of well-developed juridical consciousness.

According to the document, “scholars of the assembly” meaning law specialists, scholars, lawyers of that time were invited to the court. The fact that lawyers were invited to the court for proceeding important and

⁹⁰ Ap. Rogava. On the Advocacy Institution in Old Georgia. Journal: The Soviet Law. N 4. 1958. P. 38.

⁹¹ I. Surguladze. State and Legal Issues in “The Knight in the Panther's Skin”. Tbilisi, 1977. Pp. 215.

⁹² Ibid. P. 216.

⁹³ Ibid. P. 218-219.

complicated trails proved that lawyers were considered as important and honourable figures.⁹⁴

Conclusion

Thus, based on the legal and literary sources that have been obtained so far, we can assume that in the 11th – 18th centuries Georgian legislation the words: “Meokhi” (intercessor, advocate, protector), “Vekili” (trustee, protector, defender), “mosarchle” (plaintiff), “monatsvle” (representative) were used in the court of feudal Georgia.

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⁹⁴ I. Surguladze. Essay on the History of Georgian State and Law; Opiazza Deed. Tbilisi, 1963.