The Muslim WORLD

"Formalism, Puritanicalism, Traditionalism: Approaches to Islamic Legal Reasoning in the 19th-Century Russian Empire"

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Abstract

As early as the 1730s, the Russian imperial state sought to incorporate its Muslim subjects into the tsarist bureauacracy, first by co-opting Muslim legal scholars, and later, beginning in 1788, by placing the whole of the *ulama* under government control. This led to a marginalization of Islamic legal institutions and a transformation of Islamic legal practice under Russian rule.

In the early 19th century, *ulama* sought ways to adapt Islamic law to these institutional changes, and vibrant debates about the purpose and function of legal theory represented an important part of the religious discourse among these Muslim communities. This paper addresses the approaches of three scholars, Abu Nasr Qursawi (1776–1812), ʿAbd al-Rahim Utiz-Imani (1754–1834) and Fath Allah Uriwi (1767–1843), who strongly disagreed regarding issues such as the use of *usul* and *furuʿ*, the permissibility of *ijtihad*, and the relationship between the *ulama* and the community.

I argue that while each scholar puts forward a different approach to the law — which I term, respectively, formalism, puritanicalism and traditionalism — each of these positions represents a response to their communities' shifting circumstances under Russian rule and a way for the discursive tradition of Islamic law to continue despite the marginalization of legal institutions.

Introduction

I argue that while each scholar puts forward a different approach to the law — which I term, respectively, formalism, puritanicalism and traditionalism — each of these positions represents a response to their communities' shifting circumstances under Russian rule and a way for the discursive tradition of Islamic law to continue despite the marginalization of legal institutions.

1552 marks the beginning of the Russian Empire. With Ivan the Terrible's conquest of the Khanate of Kazan, Moscow took the unprecedented step of annexing a neighboring

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kingdom that had never been part of its domains previously.[1] The annexation of Kazan and subsequent conquest of much of the former territory of the Golden Horde brought for the first time a large Muslim population under Russian rule. Governing this population, which was composed of a number of different sedentary, semi-nomadic and nomadic groups, spread out over an enormous swath of territory, presented particular difficulties, and the next two centuries saw varying degrees of success for attempts to incorporate these new Muslim subjects into the governing structures of the Russian state.[2]

These efforts naturally affected the *ʿulamāʾ*, but it wasn't until the very turn of the 18th century that tsarist administrators first recognized the importance of scholars' collective role within these Muslim communities.[3] Though initially negative,[4] this acknowledge-

[1] Cf. A. Kappeler, *The Russian Empire* (New York: Longman, 2001), 21. On the imperial claims involved with the conquest, see J. Pelenski, *Russia and Kazan: Conquest and Imperial Ideology (1438–1560s)* (The Hague: Mouton, 1974).

[2] See A. Kappeler, *Russian*; M. Romaniello, *The Elusive Empire: Kazan and the Creation of Russia, 1552–1671* (Madison, WI: U of Wisconsin P, 2012); A. Donnelly, *The Russian Conquest of Bashkiria 1552–1740: a Case Study in Imperialism* (New Haven, CT: Yale UP, 1968); M. Khodarkovsky, *Russia's Steppe Frontier: the Making of a Colonial Empire, 1500–1800* (Bloomington: Indiana UP, 2002). Khodarkovsky writes that conversion was an important part of Russian attempts at bringing Muslims under tsarist rule. "At all times," he states, "religious conversion remained one of the most important tools of Russia's imperial policies;" M. Khodarkovsky, " 'Not by Word Alone': Missionary Policies and Religious Conversion in Early Modern Russia", *Comparative Studies in Society and History* 38/2 (Apr. 1996), 267–293: 268. Given the central role the Orthodox Church played in administering the tsars' subjects, this is not surprising. However, it is important to note that conversion was often considered by the state to be secondary to assimilation into tsarist rule, and Russian missionary policies were neither continuously nor uniformly hostile or oppressive toward Muslims. On Russian missionary efforts, see M. Khodarkovsky, "Word"; Ch. Lemercier-Quelquejay, "Les missions orthodoxes en pays musulmans de moyenne- et basse-Volga," *Cahiers du monde russe et soviétique* 8 (1967), 369–403; A-A. Rorlich, *The Volga Tatars: a Profile in National Resilience* (Stanford, CA: Hoover Institution Press, 1986), 37–47. For Muslim perspectives, see Shihāb al-Dīn Marjānī, *Mustafād al-akhbār fī aḥwāl Qazān wa-Bulghār* [*Beneficial Reports on the Circumstances of Kazan and Bulghar*], 2 vols. (Kazan: tipografiia B.L. Dombrovskago, 1897 [vol. 1]/Kazan: tipografiia Universitetskago, 1900 [vol. 2]). Reprinted as Şehabeddin Mercani, *Müstefadʾül-ahbar fi ahval-i Kazan ve Bulgar*, 2 vols. (Ankara: Ankara Üniversitesi basımevı, 1997), ii. *passim*; Muḥammad Murād Ramzī, *Talfīq al-akhbār wa-talqīḥ al-āthār fī waqāʾiʿ Qazān wa-Bulghār wa-mulūk al-Tatār* [*Compiling Reports and Cultivating Traditions on the Events of Kazan and Bulghar and the Kings of the Tatars*], 2 vols., ed. I. Shams al-Dīn (Beirut: Dār al-kutub al-ʿilmiyya, 2002), ii. esp. 168–174; Ḥusayn Amīrkhān, *Tawārīkh-i bulghāriyya* [*Bulghar History*] (Kazan: Maṭbaʿat Wiyācheslāf, 1883). Reprinted with Russian translation as Kh. Amirkhanov, *Tavarikh-e Bulgariia (Bulgarskie khroniki)*, ed. A.M. Akhunov (Moscow: izd-vo Mardzhani, 2010).

[3] A. Frank, *Islamic Historiography and "Bulghar" Identity among the Tatars and Bashkirs of Russia* (Leiden: Brill, 1998), 22–24.

[4] In 1704, for instance, officials in Bashkiria issued new, punitive taxes on Muslims, including taxes on mosques and members of the *ʿulamāʾ*; A. Frank, *Historiography*, 25–26; D. Azamatov, *Orenburgskoe magometanskoe dukhovnoe sobranie v kontse XVIII-XIX vv.* (Ufa: Gilem, 1999), 22; see also D. Azamatov, "Russian administration and Islam in Bashkiria (18th–19th centuries)," in *Muslim Culture in Russia and Central Asia from the 18th to the Early 20th Centuries*, Vol. 1, eds. M. Kemper *et al.* (Berlin: Klaus Schwarz Verlag, 1996), 91–112.

ment soon led to policies of patronage for, and cooperation with, scholars: in 1736, tsarist administrators in the province of Bashkiria, with the approval of Empress Anna (r. 1730–1740), granted official recognition to four *ākhūnd*s — the title for the highest experts in Islamic law in the region — in exchange for their loyalty to the empire.[5] Once operating under government auspices, however, the *ākhūnd*s could continue to carry out their socio-legal functions on the empire's behalf, while officials placed limits and conditions on those scholars receiving patronage.

Thus began one of the earliest encounters between Islamic legal institutions and a European state. Yet for Muslims this introduced an unprecedented degree of government involvement in their affairs. With patronage, the *ʿulamāʾ* were made part of the imperial government — each of the recognized *ākhūnd*s was assigned to one of the four administrative districts of Bashkiria[6] — and thus directly subject to tsarist ruling policies.[7] From the beginning, the jurisdiction of the *ākhūnd*s' *sharīʿa* courts was limited to matters of personal and family law, while all other types of cases — debts, fights, thefts, sales, etc. — were removed from their competence. By the 1750s these cases had been made exclusively subject to the imperial legal system.[8]

Over the course of the 18th century the government increased its control over the *ʿulamāʾ*. In 1756, St. Petersburg delineated specific conditions for the construction of mosques,[9] and greater scrutiny was directed at *ākhūnd*s receiving patronage.[10] These measures by the government reached their apex in 1788 with the establishment of the Spiritual Assembly of Mohammedan Law on the order of Empress Catherine the Great (r. 1762–1796).[11]

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[5] The four *ākhūnd*s were obliged to swear an oath of loyalty to the empress, pledging that they would not attempt to convert anyone to Islam nor build mosques or *madrasa*s without special permission. In addition, they were required to report any anti-government activity, and the administrators recommended that any *ʿulamāʾ* suspected of the slightest offense were to be swiftly punished and/or exiled. Upon the death of an *ākhūnd*, the candidate for successor was to produce an official petition attesting to his loyalty to the empire; *Polnoe sobranie zakonov Rossiiskoi Imperii*, Series 1, 40 vols. (St. Petersburg: Gosudarstvennaia tipografiia, 1830) [hereafter *PSZ* I], ix. no. 6890, art. 14; *Materialy po istorii Bashkirskoi ASSR*, 5 vols. (Moscow/Leningrad: izd-vo Akademii Nauk SSSR, 1936–1960), iii. 493–494; see also A. Frank, *Historiography*, 28–31; D. Azamatov, *Orenburgskoe*, 16–17.

[6] *PSZ* I, ix. no. 6890, art. 14.

[7] *Ākhūnd*s were for instance forbidden from building new mosques without special permission from the government; *PSZ* I, ix. no. 6890, art. 14.

[8] D. Azamatov, *Orenburgskoe*, 17–18.

[9] *PSZ* I, xiv. no. 10597. New mosques were expressly allowed only in exclusively Muslim villages with at least 200 adult male residents.

[10] As early as 1771, *ākhūnd*s were required to pass an examination given by other members of the *ʿulamāʾ* in order to be officially recognized; D. Azamatov, *Orenburgskoe*, 20.

[11] On the Spiritual Assembly, see D. Azamatov, *Orenburgskoe*; D. Azamatov, "Russian administration;" A. Frank, *Historiography*; A. Frank, *Muslim Religious Institutions in Imperial Russia: the Islamic World of Novouzensk District and the Kazakh Inner Horde, 1780–1910* (Leiden: Brill, 2001); R. Crews, *For Prophet and Tsar: Islam and Empire in Russia and Central Asia* (Cambridge, MA: Harvard UP, 2005); C. Steinwedel, *Invisible Threads of Empire: State, Religion, and Ethnicity in Tsarist Bashkiria,*

Interference by the modern state in Islamic legal institutions has had a marked influence on the function and practice of Islamic law, to say nothing of Muslims' very conception of the *sharīʿa*.[12] The case of the Russian Empire was no different. Faced with changes to these institutions, legal scholars sought new approaches to the law and legal theory in order to preserve the *sharīʿa* and Muslims' religious and moral standing. This paper will address three markedly different approaches put forward by scholars during the first few decades after the Spiritual Assembly's founding. While each of these approaches focuses on a different aspect of the Islamic legal tradition, all share the same goal of preserving the *sharīʿa* in light of Muslims' status as subjects of a powerful non-Muslim modern state.

The *ʿUlamāʾ* and the Bureaucracy[13]

Since the time of its founding in the city of Ufa, the Spiritual Assembly of Mohammedan Law (*Dukhovnoe sobranie magometanskago zakona*) represented the institutional link between the Muslim community and the imperial government. Its function went far beyond mere sanction for *ākhūnd*s; rather, this administrative body, expressly formed as part of the government, brought the whole of the *ʿulamāʾ* into the imperial bureaucracy. All "ecclesiastical ranks of Mohammedan law" were placed under its authority, organized into an official hierarchy.[14] Under the *ākhūnd*s' control was the personnel of the *maḥallah*, the local mosque community — imams, *muʾadhdhin*s and *mudarris*es, as well as mosque custodians and caretakers. Every member of the hierarchy was subject to approval by the government on an individual basis, their loyalty to the empire as well as their competency and fitness the primary conditions for appointment.[15]

1773–1917 (Ph.D Diss., Columbia University, 1999); A. Fisher, "Enlightened Despotism and Islam Under Catherine II," *Slavic Review*, 27/4 (Dec. 1968), 542–553; M. Kemper, *Sufis und Gelehrte in Tatarien und Baschkirien, 1789–1889: Der islamische Diskurs unter russischer Herrschaft* (Berlin: Klaus Schwarz Verlag, 1998); M. Tuna, *Imperial Russia's Muslims: Inroads of Modernity* (Ph.D Diss., Princeton University, 2009); J. Meyer, *Turkic Worlds: Community Representation and Collective Identity in the Russian and Ottoman Empires, 1870–1914* (Ph.D Diss., Brown University, 2007).

[12] N. Brown, "Sharia and State in the Modern Muslim Middle East," *International Journal of Middle East Studies*, 29/3 (1997), 359–376; W. Hallaq, *Sharīʿa: Theory, Practice, Transformations* (New York: Cambridge UP, 2009), esp. 357–370.

[13] The bulk of this section is taken from my recent article, N. Spannaus, "The Decline of the *Akhund* and the Transformation of Islamic Law in the Russian Empire," *Islamic Law and Society*, 20/3 (June 2013), 202–241.

[14] *Materialy po istorii Bashkirskoi ASSR*, v. 563; see also *PSZ* I, xxii. nos. 16710, 16711; xxiii. no. 16759.

[15] *Materialy po istorii Bashkirskoi ASSR*, iii. 563–564; R. Crews, *Prophet*, 53; D. Azamatov, *Orenburgskoe*, 89; M. Tuna, *Inroads*, 81–82. Prior to the Spiritual Assembly's founding, sanctioned *ākhūnd*s were often given the power to appoint imams for villages under their authority, though this seems to have been carried out at the *ākhūnds'* discretion and without government oversight; cf. Riḍāʾ al-Dīn Fakhr al-Dīn, *Āthār* [*Traditions*], 15 parts in 2 vols. (Kazan: Tipo-litografiia imperatorskogo universiteta, 1900 [Part 1] /Orenburg: Tipografiia G.I. Karimova, 1901–1908 [Parts 2–15]), ii. 65–66.

Above the *ākhūnd*s was created the position of mufti.[16] Appointed by the imperial government, the mufti was granted extensive powers over the hierarchy, tasked with approving all prospective candidates for *ʿulamāʾ* positions and given oversight over the official actions of the Spiritual Assembly, including issuing judgments for the Muslim community and decisions regarding the construction of new mosques.[17]

The basic function of the hierarchy was legal. It was created with the intention of administering the empire's Muslim subjects, charged with settling disputes within Muslim communities and disseminating decrees from, and promoting loyalty to, the tsarist government.[18] In 1828, the duty of keeping systematic records of the Muslim community was also delegated to imams, who were tasked with maintaining "parish registers" (*metricheskie knigi*), recording on the government's behalf the births, deaths, marriages and divorces of the individuals within their *maḥalla*s.[19]

Imams were the most important rank of the *ʿulamāʾ*, and they represented the most basic link between the imperial government and the Muslim population. But the Spiritual Assembly operated in a hierarchical fashion. Muslims were to take their disputes falling under the Spiritual Assembly's jurisdiction first to an imam, and then, if disagreeing with his decision, to one of the *ākhūnd*s to whom that imam was subordinate. The *ākhūnd*'s decision on the matter could then be appealed to the mufti, whose judgment was considered final and legally binding.[20]

As a legal body, the Spiritual Assembly's operated alongside, as well as part of, the tsarist government. At the time of its founding, it was explicitly designated as

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[16] The function of this office bore little to no relation to the traditional role of the *muftī* as authoritative jurist charged with interpreting and formulating *fiqh*.

[17] D. Azamatov, *Orenburgskoe*, 19–23. Final approval for mosques rested with provincial governments; R. Crews, *Prophet*, 54. Initially, the office of kadi was created as a rank directly subordinate to the mufti but above the *ākhūnd*s. Three kadis were to serve alongside the mufti and perform consultative duties, thus constituting the "assembly" of the Spiritual Assembly. In practice, the kadis were never more than assistants for the mufti, who had virtual "one-man rule" over the hierarchy; cf. D. Azamatov, *Orenburgskoe*, 42.

[18] For example, the Kazan *ākhūnd* ʿAbd al-Sattār b. Saʿīd Shirdānī, a highly learned scholar who had studied *fiqh* in Bukhara, sent an official letter to the imam ʿAbd al-Naṣīr Raḥmānqulī in 1826 informing him of a decree (a "fatwa") from the mufti stating that all imams and mosque employees are obligated to read a prayer for the health of the emperor at all communal prayers. This prayer (the text of which is not given) was apparently to be read verbatim in Russian; R. Fakhr al-Dīn, v. 258–259.

[19] *Polnoe sobranie zakonov Rossiiskoi imperii*, Series 2, 55 vols. (St. Petersburg: Gosudarstvennaia tipografiia, 1885) [hereafter *PSZ* II], iii. no. 2296. The government described these records as helping to ensure proper legal protection and social services for Muslims. Though this is most likely true, the administration was also sorely lacking demographic information on its Muslim subjects, especially in rural areas, and the registers allowed for more efficient management; R. Crews, *Prophet*, 162. Paul Werth argues that the introduction of these registers played a principal role in the Spiritual Assembly becoming regarded as a state institution and the *ʿulamāʾ* as "state servitors"; P. Werth, "In the State's Embrace?: Civil Acts in an Imperial Order," *Kritika: Explorations in Russian and Eurasian History*, 7 (2006), 433–458: 441.

[20] *Materialy po istorii Bashkirskoi ASSR*, v. 564–565.

having "an intermediate judicial rank" subject to the provincial administration in Ufa.[21] In the beginning of the 19th century it was brought under imperial control, and in 1832 it was incorporated into the massive Ministry of Internal Affairs.[22] As with the *ākhūnd*s in Bashkiria, its jurisdiction was limited to family and personal status law, with the *ʿulamāʾ* granted only the authority to "resolve and decide matters regarding the religious part (*dukhovnaia chastʾ*) of Mohammedan law, including: circumcision, marriages, divorces and mosque services . . ." as well as control over questions of religious doctrine.[23]

Though these areas ostensibly represented the religious hierarchy's sole purview, in fact there was considerable overlap between the administration and the Spiritual Assembly over these matters. Muslims could — and did — address their disputes to a number of different government bodies, and it was not uncommon for two disputants to take the same case to separate venues.[24] In response, the imperial government issued new policies in the 1820s requiring Muslims to take all cases falling under the Spiritual Assembly's jurisdiction to an imam and making *ākhūnd*s' decisions on these matters final. This changed little in practice, however, and in 1836 the government reversed these measures.[25]

The religious hierarchy's standing was undermined by the fact that it was entirely dependent upon the government to enforce its rulings. Local and provincial authorities often ignored and/or refused to carry out orders from the Spiritual Assembly, or sided with one claimant in a dispute despite a contradictory judgment from the *ʿulamāʾ*. In such cases there was little the mufti or anyone else within the hierarchy could do.[26] Indeed, in 1815 the mufti sent a petition to the imperial government requesting that municipal-level administrators and lower courts — that is, bodies officially inferior to the Spiritual Assembly's judicial standing — be barred from interfering in Spiritual Assembly business. It was denied.[27]

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[21] *Materialy po istorii Bashkirskoi ASSR*, v. 563.

[22] R. Crews, *Prophet*, 23.

[23] *Materialy po istorii Bashkirskoi ASSR*, v. 564.

[24] In *Āthār*, a history of the Volga-Ural *ʿulamāʾ* compiled in part from the Spiritual Assembly's archives, there are reports from a number of cases brought before members of the *ʿulamāʾ* in which claimants had gone to various government departments in addition to the Spiritual Assembly, or the case was referred to the *ʿulamāʾ* by a government official who was unwilling to hear it; e.g. R. Fakhr al-Dīn, *Āthār*, iv. 191–192.

[25] R. Crews, *Prophet*, 154–158; *PSZ* II, xi. no. 9158.

[26] See, for instance, the protracted conflict between the first mufti, Muḥammadjān b. Ḥusayn, and Ḥabīb Allāh Ūriwī (brother of Fatḥ Allāh Ūriwī — see below), a Mujaddidi *shaykh* with a large personal following, in which provincial and even imperial authorities repeatedly sided with the latter against the former, even regarding matters ostensibly under the mufti's direct control; Sh. Marjānī, *Mustafād*, ii. 191–193; R. Fakhr al-Dīn, *Āthār*, iii. 145; iv. 186–189, 196; R. Crews, *Prophet*, 61–66; M. Kemper, *Sufis*, 58–62.

[27] D. Azamatov, *Orenburgskoe*, 22.

The direct involvement of the government in Spiritual Assembly affairs also led to a conflation among the empire's Muslims of imperial and Islamic law. As Stéphane Dudoignon has noted, such a conflation was the natural result of the inextricable link between spiritual and secular authority in post-Petrine Russia,[28] and it represented a significant shift in Muslims' conception of the *sharīʿa*.[29]

It was the *ʿulamā'* who were most directly affected by the principle of government control. By creating an official hierarchy that included all members of the *ʿulamā'*, scholars — in particular *ākhūnd*s — found themselves subject to oversight and interference in unprecedented ways. This began the process of the bureaucratization of the *ʿulamā'*, as the government sought to regulate and standardize scholars and, by extension, the whole of the empire's Muslim community, through the Spiritual Assembly hierarchy.[30] As far as the state was concerned, the hierarchy's sole function was the management of the Muslim population and support for imperial decrees.[31] In this, as Crews writes, the government sought the application of the *sharīʿa* ". . . not as a malleable system of ethics and moral injunctions, but as a rigid code of law that Russian officials could administer . . ."[32]

The formation of the Spiritual Assembly forever altered the relationship between the government and the *ʿulamā'*. But it changed the relationship between the *ʿulamā'* and lay Muslims as well. With the hierarchy's standing and authority undermined by its abject reliance on, and subordination to, the government, Muslims often chose to bypass the *ʿulamā'* altogether when addressing their disputes. In addition, the appellate function of the Spiritual Assembly "substantially broadened lay opportunities to engage in controversies about Islamic interpretations,"[33] and Muslims would appeal to the tsarist administration on the grounds that their particular claim — unlike their opponent's — was correct under the *sharīʿa*.[34]

Such pressures from the government inhibited the *ʿulamā'*'s ability to carry out their traditional socio-legal function. As Wael Hallaq notes, legal scholars represented "the interpretive agency through which the *fiqh* was mediated and made to serve the imperatives of social harmony."[35] Yet the process of incorporating the *ʿulamā'* into the imperial bureaucracy restricted this agency, and with it their ability to fulfill their role

[28] S. Dudoignon, *La Réforme des institutions d'enseignement éthique, théologique et juridique dans le monde tatar et en Transoxiane, du "premier renouveau" à la soviétisation (1767–1937)* (Ph.D Diss., Univ. de Paris III, 1992), 73.
[29] Cf. R. Crews, *Prophet*, 66, 76, 82.
[30] R. Crews, *Prophet*, 49–55.
[31] Cf. A. Frank, *Institutions*, 110.
[32] R. Crews, *Prophet*, 192.
[33] R. Crews, *Prophet*, 166.
[34] E.g. R. Fakhr al-Dīn, *Āthār*, vi. 317–319.
[35] W. Hallaq, *Sharīʿa*, 544.

within the community. Muslims instead sought out the government to press their legal claims and solve their disputes.[36]

Furthermore, the standing of legal scholars themselves was altered by the same process of bureaucratization. Prior to the founding of the Spiritual Assembly, the *ākhūnd*s had been the elite of the *ʿulamā'*, the region's highest-ranking legal experts, responsible for administering the *sharīʿa* within these Muslim communities.[37] Under the Spiritual Assembly, however, they found themselves in an intermediate position; the primary role of settling disputes (*qaḍā'*) had been given to imams, many of whom lacked the same level of education and legal knowledge,[38] while the *ākhūnd*s had been made subordinate to the state mufti, whose power to nullify their decisions circumscribed their authority and legal standing.

The office of the mufti was at the top of the *ʿulamā'* hierarchy, yet the muftis themselves were chosen for their loyalty rather than any stature as scholars.[39] The first mufti, Muḥammadjān b. Ḥusayn (r. 1789–1824), who spent much of his life in the imperial foreign service — even after being appointed mufti — was little more than an ambitious tsarist official. One of his superiors in government described him as "a greedy, sly person, disliked by even his co-religionists, a person at first displaying before the authorities a great concern for the common good, but always yearning for the satisfaction of his personal interests."[40] He was dogged by personal and professional scandals, while continuously striving to reach the upper echelons of imperial society,[41] and his religious knowledge and abilities as a scholar were widely derided among *ʿulamā'*.[42] Though perhaps less corrupt, later muftis were no less servants of the empire. For instance, the second mufti, ʿAbd al-Salām b. ʿAbd al-Raḥīm (r. 1825–1840), like Muḥammadjān had spied for the imperial government while studying in Central Asia.[43]

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[36] R. Crews, *Prophet*, 94.

[37] There are numerous examples of pre-Spiritual Assembly *ākhūnd*s resolving legal disputes, serving as teachers of Islamic law and composing scholarly works; cf. Sh. Marjānī, *Mustafād*, ii. 127, 187–189, 209, 215–216, 219–220; R. Fakhr al-Dīn, *Āthār*, i. 30–31; ii. 37–39, 40, 42, 45–46, 52–54, 56, 61–62, 64–67, 80–82; M. Ramzī, *Talfīq*, ii. 337–340, 342.

[38] Some imams barely knew how to write; M. Tuna, *Inroads*, 89.

[39] On the pre-revolutionary muftis, see R. Crews, *Prophet*; D. Azamatov, *Orenburgskoe*, esp. 40–69; D. Azamatov, "The Muftis of the Orenburg Spiritual Assembly in the 18th and 19th Centuries: The Struggle for Power in Russia's Muslim Institution," in *Muslim Culture in Russia and Central Asia from the 18th to the Early 20th Centuries*, Vol. 2: Inter-Regional and Inter-Ethnic Relations, eds. A. von Kügelgen *et al.* (Berlin: Klaus Schwarz Verlag, 1998), 355–384; Sh. Marjānī, *Mustafād*, ii. 287–313; M. Ramzī, *Talfīq*, ii. 181–189, 228–231.

[40] Qtd. in D. Azamatov, "Muftis," 360; D. Azamatov, *Orenburgskoe*, 45.

[41] D. Azamatov, *Orenburgskoe*, 24. On Muḥammadjān, see D. Azamatov, *Orenburgskoe*, 40–48; R. Fakhr al-Dīn, *Āthār*, iv. 182–200; Sh. Marjānī, *Mustafād*, ii. 287–298; M. Ramzī, *Talfīq*, ii. 181; R. Crews, *Prophet*, 55–61; M. Kemper, *Sufis*, 50–55.

[42] E.g. Sh. Marjānī, *Mustafād*, ii. 289; R. Fakhr al-Dīn, *Āthār*, iv. 182, 187.

[43] D. Azamatov, *Orenburgskoe*, 23, 29.

These bureaucratic structures imposed by the state left little room for traditional legal scholars, who found themselves marginalized within the *'ulamā'* hierarchy on the one hand and by the government on the other. In addition, the standardized administration of the *sharī'a* sought by the government had no use for *fiqh* experts and their seemingly inconsistent rulings.[44] Rather, St. Petersburg wanted a loyal and pliant bureaucracy to help govern its Muslim subjects. As a result of these pressures, the *ākhūnd*s as legal experts were forced into obsolescence, the rank losing its significance by the second half of the 19th century.[45]

The marginalization of legal scholars within the religious hierarchy had a marked impact on legal practice under the Spiritual Assembly. Traditionally, it was experts in the *sharī'a* whose knowledge of the interpretive process of the law upheld and maintained Islamic legal institutions. These institutions served an essential purpose within Islamic society, yet they were considered authoritative by Muslims precisely because the scholars who maintained them were considered authoritative. By bringing these scholars into the coercive state structures of the imperial government, the nature of their social standing changed. Their authority was no longer based on their knowledge of the law and their religious and moral comportment, but rather their compliance with, and service to, the government. For the pre-modern edifice of the *sharī'a*, which derived its authority from the community — often at odds with political elites — this shift necessitated a drastic transformation. In the Russian Empire, the proper exercise of traditional Islamic legal practice — the *sine qua non* of a *faqīh* — became, officially speaking, irrelevant for a scholar's standing, while the enforcement and propagation of imperial law became of utmost importance.[46]

Under the Spiritual Assembly, individual *'ulamā'* derived their *puissance* by virtue of their office — that is, derived from the government, rather than the community — and not by their scholarly qualifications; the mufti could overrule an *ākhūnd* because he was the mufti, without needing to appeal to any argument based on *fiqh*. For instance, in 1820 Mufti Muḥammadjān nullified a ruling on a marriage dispute by the very learned

[44] Cf. R. Crews, *Prophet*, 192.

[45] In 1847 the Spiritual Assembly removed any distinction in the official qualifications for imams and *ākhūnd*s, and by the 1850s the *ākhūnds'* prior duty of supervising the imams below them in the hierarchy had been taken over by the rank of *muḥtasib*, a strictly administrative position; D. Azamatov, *Orenburgskoe*, 92–95.

[46] This is borne out by the history of the tsarist-era muftis. All of them were appointed by the imperial government, while in each case a number of highly regarded Muslim scholars vied for the position, only to be denied in favor of less-qualified, though more transparently loyal, candidates. In fact, after 1865, the muftis ceased to be scholars at all. Mufti Salimgarai Tevkelev (r. 1865–1885) was a landowner and former officer in the imperial army whose religious training was so meager that he sought answers on *sharī'a*-related questions from Russian Orientalists. His successor, Mukhammad''iar Sultanov (r. 1885–1915), also a former military officer, was even less educated, having no knowledge of Arabic or even Tatar; see D. Azamatov, "Muftis," 375–7, 380–381; D. Azamatov, *Orenburgskoe*, 40–78; Sh. Marjānī, *Mustafād*, ii. 310.

and well-regarded *ākhūnd* Ibrāhīm b. Khūjāsh (1750s–1826), relying instead on the judgment of a provincial Russian official, a certain Nikolai Fedorovich, who was involved in the early stages of the case.[47] The mufti in fact provided no *sharīʿa* argument (actually very little of an argument at all) when overruling Ibrāhīm, despite the fact the *ākhūnd*'s official ruling was supported by a position of Hanafi *fiqh* on marriage contracts.[48]

The mufti's ruling in this case superseded the *ākhūnd*'s, becoming legally binding, by virtue of coming from the mufti, whose judgment on all Islamic legal matters was officially supreme. Likewise, an *ākhūnd* could overrule an imam based solely on the former's rank within the hierarchy. Such reliance on the office, rather than scholarly competence, is characteristic of a modern bureaucracy, rather than the pre-modern *ʿulamāʾ*.

Approaches to Legal Reasoning

The process of turning scholars into bureaucrats, despite being grounded in the Spiritual Assembly's institutional power structure, was gradual, and, although it undermined and marginalized scholars, it did not necessarily preclude the continued existence of legal experts in the ranks of the official *ʿulamāʾ*. In fact, particularly at the beginning of the 19th century, there were a number of prominent *ʿulamāʾ* who had substantial traditional Islamic education, having studied in places like Dagestan and Bukhara. Some even served as *qāḍī*s and *muftī*s abroad before returning to Russia.[49]

Despite the pressures they faced as part of the imperial religious hierarchy, their expertise did not simply disappear. In some cases brought before the Spiritual Assembly, a tension is evident between *ʿulamāʾ* regarding how to approach the matter, with some scholars choosing to fulfill their judicial function in a manner that is self-consciously falling within the discursive paradigm of *fiqh*, while others adopted a more pragmatic approach. For example, one case from the 1820s in Kazan involved a protracted dispute between four members of the *ʿulamāʾ* over whether or not the inheritance in question could or should be divided by agreement (*ṣulḥ*) or "according to the *sharīʿa*" (*muwāqif-i sharʿ*) — i.e., a standard division of shares.[50]

Differing claims such as these were settled by the mufti or government officials, who would select one or other argument, often in an apparently arbitrary fashion (as was the

[47] R. Fakhr al-Dīn, *Āthār*, iv. 191–192.

[48] R. Fakhr al-Dīn, *Āthār*, v. 233–235. Ibrāhīm position is taken from the *Kashf al-ḥaqāʾiq*, a work I have not been able to positively identify.

[49] The Kazan *ākhūnd* ʿAbd al-Sattār b. Saʿīd Shirdānī (1760s–1830) served as *muftī* in the city of Ghijduvān in the Amirate of Bukhara and was a companion of the ruling Manghit amir, Ḥaydar b. Maʿṣūm (r. 1800–1826); D. Azamatov, *Orenburgskoe*, 49; Sh. Marjānī, *Mustafād*, ii. 94–95.

[50] R. Fakhr al-Dīn, vi. 317–319. Dividing the inheritance by agreement should certainly not be seen as going against the *sharīʿa*, but simply that it does not involve self-consciously *legal* reasoning. On the importance of *ṣulḥ* within the pre-modern *sharīʿa*, see W. Hallaq, *Sharīʿa*, 159–164; A. Othman, " 'And Amicable Settlement Is Best': *Sulh* and Dispute Resolution in Islamic Law," *Islamic Law and Society*, 21/1 (2007), 64–90.

case with Mufti Muḥammadjān's nullification of Ibrāhīm b. Khūjāsh's ruling). Yet this distinction between reasoning explicitly grounded in *fiqh* and reasoning based on other concerns was important in terms of adherence to the *sharīʿa*. As Sherman Jackson writes,

> [*Fiqh*'s] essential function is to establish and maintain the parameters of a discourse via which views can be validated by rendering them identifiably *legal*, both in the sense of passing muster as acceptable (if not true) embodiments of scriptural intent *and* in the sense of being rendered distinct from views that are, say, scientific, ideological or simply pragmatic.[51]

Thus, a ruling reached with a practical aim may or may not conform to *sharīʿa* norms, but one derived through *fiqh* will *necessarily* conform to *sharīʿa* norms, as *fiqh* is itself the paradigm for the interpretation and formulation of those very norms.

The application of *fiqh* was the duty of the *ʿulamāʾ*, but there was no clear means for preserving the discourse of *fiqh* under the Spiritual Assembly. The question of how the *sharīʿa* should be applied in the Russian Empire was one of the most controversial issues among these Muslim communities, never more so than in the first few decades of the Spiritual Assembly. Three scholars in particular, all prominent *ʿulamāʾ*, were directly involved in this controversy: Abū Naṣr Qūrṣāwī (1776–1812), ʿAbd al-Raḥīm Ūtiz-Īmānī (1754–1834) and Fatḥ Allāh Ūriwī (1767–1843). Debates between and about them were a major feature of Muslim social and communal life in the 19th-century Russian Empire, and, though they had very similar backgrounds — they all hailed from villages in the Middle Volga region (modern-day Tatarstan), were Hanafi scholars educated by renowned teachers both in the Russian Empire and in Bukhara, and had been initiated into the Naqshbandi-Mujaddidi Sufi order[52] — each of their positions represents a markedly different approach toward the *sharīʿa* in light of changing circumstances for the *ʿulamāʾ* and within this shifting socio-legal context.

Qūrṣāwī and Formalism

As a response to these shifting circumstances, Abū Naṣr Qūrṣāwī, an important reformist scholar,[53] put forward a stance that focused on the paradigm of legal theory

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[51] Sh. Jackson, "Fiction and Formalism: Toward a Functional Analysis of *Usul al-Fiqh*," in *Studies in Islamic Legal Theory*, ed. B. Weiss (Leiden: Brill, 2002), 177–204: 178–179; emphasis in original.

[52] Ūtiz-Īmānī and Ūriwī in fact shared the same Mujaddidi *shaykh*, Fayḍ Khān b. Khiḍr Khān Kābulī (?–1802). For the biographical notices for Qūrṣāwī, see Sh. Marjānī, *Mustafād*, ii. 193–195; R. Fakhr al-Dīn, *Āthār*, iii. 95–131; M. Ramzī, *Talfīq*, ii. 343–345; Ḥ. Amīrkhān, *Tawārīkh*, 52–55. For Ūtiz-Īmānī: Sh. Marjānī, *Mustafād*, ii. 239–241; R. Fakhr al-Dīn, *Āthār*, vi. 300–316; M. Ramzī, *Talfīq*, ii. 360–361. For Ūriwī: Sh. Marjānī, *Mustafād*, ii. 193–195; R. Fakhr al-Dīn, *Āthār*, ix. 7–72; M. Ramzī, *Talfīq*, ii. 367; Ḥ. Amīrkhān, *Tawārīkh*, 42.

[53] Qūrṣāwī is a prominent figure in the historiography of Muslim reformism in the Russian Empire, yet much of the secondary scholarship on him suffers from a misleading teleological perspective, as well as other significant methodological and interpretive shortcomings; cf. A. Khalid, *The Politics of Muslim Cultural Reform: Jadidism in Central Asia* (Berkeley: U of California P, 1998). For detailed discussions of Qūrṣāwī and his reformism, see M. Kemper, *Sufis*; G. Idiiatullina, "Problema idzhtikhada i Abu Nasr

(*uṣūl al-fiqh*) as the primary vehicle for the application of the *sharīʿa*. For Qūrṣāwī, the continued exercise of *ijtihād* — the process of original juridical interpretation, utilizing the hermeneutical framework of *uṣūl al-fiqh*[54] — was necessary for the community's moral standing.[55] This position was a considerable departure from the prevailing view in the Volga-Ural region at the time, which held that *ijtihād* was no longer permissible and that legal scholars were to be constrained by the bonds of *taqlīd*.[56] (A position held by both Ūtiz-Īmānī and Ūriwī.) Qūrṣāwī, however, believed that *taqlīd* fostered the spread of religious error and deviation, as it involved reliance on individual scholars' knowledge, rather than on the consensus of the community (*ijmāʿ*) or indeed the very scriptural sources of the religion.[57] Qūrṣāwī held instead that legal norms and principles should be derived directly from scripture and, likewise, that any established position on a legal question must be verified that it conforms to scripture.

This stance was based on Qūrṣāwī's understanding of scriptural authority as the basis for the community's moral standing. Yet he took an even more radical step regarding the use of *fiqh* in the application of the *sharīʿa*. While *ijtihād* was conventionally understood as the exclusive domain of legal scholars, who had the ability (and therefore responsibility) to interpret and apply the law on the community's behalf,[58] Qūrṣāwī instead held that *ijtihād* was obligatory upon everyone.[59]

For Qūrṣāwī, legal reasoning plays an essential role in Muslims' moral comportment. Since *fiqh* is the paradigm through which the *sharīʿa* is made manifest, an individual, seeking to ensure his or her correct action, must utilize this paradigm in order to determine proper action from scripture. And to avoid relying on anyone else's

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Kursavi," in *Katanovskie chteniia* (Kazan: izd-vo Master Lain, 1998), 128–135; G. Idiiatullina, Vvedenie, *Nastavlenie liudei na put' istiny* (Kazan: Tatarskoe knizhnoe izd-vo, 2005), 10–88; also my forthcoming study, N. Spannaus. *Preserving Islamic Tradition: Abu Nasr Qursawi and the Beginnings of Modern Reformism*.

[54] On *ijtihād*, see B. Weiss, "Interpretation in Islamic Law: the Theory of Ijtihad." *The American Journal of Comparative Law*, 26/2 (Spring 1978), 199–212; M.H. Kamali, *Principles of Islamic Jurisprudence*, 3rd ed. (Cambridge, UK: Islamic Texts Society, 2003); W. Hallaq, *A History of Islamic Legal Theories: an Introduction to Sunni Usul al-Fiqh* (New York: Cambridge UP, 1997); also W. Hallaq, *Authority, Continuity and Change in Islamic Law* (New York: Cambridge UP, 2001).

[55] Abū Naṣr Qūrṣāwī, *al-Irshād li-l-ʿibād* [*Guidance for Believers*] (Kazan: lito-tipografiia I.N. Kharitonova, 1903). Reprinted with introduction and Russian translation as Abu-n-Nasr ʿAbd an-Nasir al-Kursavi, *Nastavlenie liudei na put' istiny*, intro. and trans. G. Idiiatullina (Kazan: Tatarskoe knizhnoe izd-vo, 2005).

[56] Cf. *Ṭabaqāt al-ḥanafiyya* [*Generations of Hanafis*], Kazanskii gosudarstvennyi universitet (KGU) A-1010, fols. 21b–45a. For an overview of the scholarly debates on the question of the permissibility of *ijtihād* in later periods — the so-called "gate of *ijtihād* question" — see R.A. Codd, "A Critical Analysis of the Role of Ijtihad in Legal Reforms in the Muslim World," *Arab Law Quarterly*, 14/2 (1999), 112–131.

[57] A.N. Qūrṣāwī, *Irshād*, 29.

[58] Bernard Weiss considers the salient division in Islamic society to be between *mujtahid*s and *muqallid*s; B. Weiss, "The Madhhab in Islamic Legal Theory," in *The Islamic School of Law: Evolution, Devolution, and Progress*, eds. P. Bearman *et al.* (Cambridge: Harvard UP, 2005), 1–9: 4.

[59] A.N. Qūrṣāwī, *Irshād*, 29.

potentially flawed interpretation of scripture, Muslims who have the requisite religious knowledge should carry out this interpretation for themselves, relying directly — and primarily — upon the scriptural sources of the religion. Therefore, Muslims must be able to interpret scripture in order to determine action that is based on *sharīʿa* evidence (*ʿamal bi-dalīl sharʿī*).[60] The best way for Muslims to do this is through the hermeneutical process of legal reasoning, *ijtihād*. This Qūrṣāwī makes explicit, writing that "it is obligatory (*wājib*) for everyone (*li-kull aḥad*) to engage in *ijtihād* in the search for what is correct to the extent of one's ability. So absolute *ijtihād* (*al-ijtihād al-muṭlaq*) is obligatory for whomever is capable of absolute *ijtihād*, and *ijtihād* within the *madhhab* is obligatory for whomever is capable of that."[61]

Such legal reasoning is thus intended for everyone in the community, to the degree that they are capable. Qūrṣāwī writes that everyone should be able to distinguish (*tamyīz*) between sound and weak hadith and between reliable and unreliable transmitters (*nāqilīn*), so that they act only according to what they know to be scripturally sound (*lā yaʿmal illā bi-mā yaʿrif ṣiḥḥata-hā*).[62] Thus, those who are not capable of what Qūrṣāwī calls "legal *ijtihād*" (*al-ijtihād al-sharʿī*) are nevertheless obligated to know scripture and how to evaluate (*tarjīḥ*) the scriptural sources to determine proper action.[63]

Even those who lack the requisite knowledge to carry out this kind of interpretation are obligated to take an active role in determining for themselves which scholars are reliable and whose rulings are authoritative:

> For whomever is not capable of legal *ijtihād* and is compelled towards *taqlīd*, inquiry (*taḥarrī*) into the *ʿulamāʾ* is obligatory, [to determine who is] most learned and pious in order to be confident in his *fatwā*s and rely upon his opinion [. . .] So whoever is capable of evaluation by evidence (*al-tarjīḥ bi-l-dalīl*) should do so, and whoever is not capable of it should evaluate the opinion of whomever is most just, reliable and knowledgeable (*al-aʿdal wa-l-awraʿ wa-l-afqah*) . . .[64]

By rejecting *taqlīd* in this way, Qūrṣāwī emphasizes an individual Muslim's responsibility for his or her own adherence to the *sharīʿa*, whether through their own legal reasoning or through the evaluation of the *ʿulamāʾ*.

Qūrṣāwī's stance can be seen as a response to the changes in the nature of the *ʿulamāʾ*'s authority that were taking place under Russian rule. The determination of correct action through the interpretation of the *sharīʿa* was traditionally one of the *ʿulamāʾ*'s primary social functions — Hallaq writes that this exercise of legal reasoning

[60] Cf. A.N. Qūrṣāwī, *Irshād*, 31–32.
[61] A.N. Qūrṣāwī, *Irshād*, 29.
[62] A.N. Qūrṣāwī, *Irshād*, 5–6.
[63] A.N. Qūrṣāwī, *Irshād*, 4–5.
[64] A.N. Qūrṣāwī, *Irshād*, 29.

on the community's behalf gave *fiqh* its existential purpose[65] — but the marginalization of legal experts within the religious hierarchy presented a distinct obstacle to the fulfillment of this responsibility. By holding *ijtihād* to be incumbent upon everyone, Qūrṣāwī took the task of elucidating the *sharīʿa* out of the hands of scholars and made it the duty of the community as a whole. Thus, the necessary exercise of legal reasoning could continue despite the transformation of *ʿulamāʾ* into bureaucrats.

Although putting forward an altered understanding of *who* can do *ijtihād*, Qūrṣāwī made no changes to *what ijtihād* is. For him, it remained as traditionally conceived, i.e., as the interpretive process by which scriptural norms are derived by way of the four *uṣūl* (Qurʾan, sunna, consensus, *qiyās*),[66] and his discussion of the methodology of *ijtihād* is taken entirely from traditional Hanafi hermeneutics.[67] In addition, Qūrṣāwī had considerable regard for the *madhhab* as the proper vehicle for legal reasoning. Indeed, it is apparent that for him it is the application of an established doctrine of *uṣūl al-fiqh* — the essence of the *madhhab*[68] — that bestows legitimacy upon the result of an act of *ijtihād* (the *mujtahad*).

This principle forms the basis of legal formalism, which was characteristic to the Hanafi school.[69] In formalism, it is the very process of *ijtihād* that determines correctness; any norm duly derived from scripture through *ijtihād* is considered *ipso facto* correct, while the content of the result is incidental.[70] The goal of an act of *ijtihād* is a preponderance of belief (*ghalabat al-ẓann*) within the *mujtahid* that the answer reached is the most correct one, and, since the *mujtahid* must believe that the result is the most correct, he or she is required to act upon it.[71]

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[65] W. Hallaq, "Ifta' and Ijtihad in Sunni Legal Theory: A Developmental Account," in *Islamic Legal Interpretation: Muftis and Their Fatwas*, eds. M.Kh. Masud *et al.* (Cambridge, MA: Harvard UP, 1996), 33–44: 33.

[66] A.N. Qūrṣāwī, *Irshād*, 24; Abū Naṣr Qūrṣāwī, *Sharḥ jadīd li-l-ʿAqāʾid al-nasafiyya* [*A New Commentary on Nasafī's Creed*], ms. St. Petersburg Institut vostochnykh rukopisei (SPbIVR) A1241, fols. 92b–147a: fol. 102b.

[67] Cf. Abū Naṣr Qūrṣāwī, *Sharḥ ʿalā Mukhtaṣar al-Manār* [*Commentary on the Summary of ʿal-Manār*], ms. KGU A-1658, fols. 5b–134b.

[68] B. Weiss, "Madhhab," 2.

[69] The opposing view is materialism, wherein the object of legal interpretation is the source of legitimacy, rather than the process; see A. Zysow, *The Economy of Certainty: an Introduction to the Typology of Islamic Legal Theory* (Ph.D Diss., Harvard University, 1984).

[70] This is evinced in the notion of juristic infallibility, the view that no matter what the outcome of an individual act of *ijtihād*, its result (*mujtahad*) is, by virtue of having been derived from the *uṣūl*, correct. This is based on the principle that "every *mujtahid* is correct" (*kull mujtahid muṣīb*), stemming from a prophetic hadith that states: "If a judge (*ḥākim*) exercises *ijtihād* and is correct [in his judgment] then he receives two rewards [in the hereafter], and if he is wrong, he receives one;" cf. A.N. Qūrṣāwī, *Irshād*, 24; also A.N. Qūrṣāwī, *Sharḥ jadīd*, fol. 146b; see also W. Hallaq, *History*, 120. Aron Zysow notes that this principle "recognizes an inherent value in ijtihād," rendering it morally praiseworthy; A. Zysow, Economy, 475; also A. Zysow, "Muʿtazilism and Maturidism in Hanafi Legal Theory," in *Studies in Islamic Legal Theory*, ed. B. Weiss. (Leiden: Brill, 2002), 235–266.

[71] A.N. Qūrṣāwī, *Irshād*, 2, 6; M.H. Kamali, *Principles*, 472.

Thus, with this understanding of formalism we can see Qūrṣāwī's aim. Each act of *ijtihād* produces a determination of a scriptural norm that is both correct and must be acted upon. Therefore, by holding that *ijtihād* is obligatory upon all members of the community, Qūrṣāwī put forward a way to ensure every individual Muslim's adherence to the *sharīʿa*: not only is he or she obliged to determine proper moral action, but also to follow that action.

Given the context, this was not an insignificant concern. The fact that these Muslim communities lived under the rule of a powerful non-Muslim state meant that there was a substantial social and political space from which Islamic law and Islamic legal institutions had been excluded. Therefore, by insisting upon the obligation of both applying the process of *fiqh* and acting upon the results, Qūrṣāwī's stance represented a way for every Muslim to conduct themselves and their lives in accordance with the *sharīʿa*. The discursive paradigm of the *sharīʿa* could thus continue, despite the marginalization of legal scholars within the religious hierarchy and the changing relationship between the Muslim community and the *ʿulamāʾ*.

Ūtiz-Īmānī and Puritanicalism

In response to the shifting nature of the *ʿulamāʾ*'s authority, Qūrṣāwī relied upon Hanafi notions of legal formalism for the community's continued adherence to the *sharīʿa*. He thus sought to use one constituent element of the Islamic legal tradition (the process of *ijtihād*) to address changes to another (the *ʿulamāʾ*). Yet not all Volga-Ural Muslims shared Qūrṣāwī's approach towards legal reasoning nor his reformist inclinations. Indeed, Qūrṣāwī's contemporary, ʿAbd al-Raḥīm Ūtiz-Īmānī, rejected Qūrṣāwī's reliance on *ijtihād*, and instead put forward a specific understanding of *taqlīd* for the Muslim community.

For Ūtiz-Īmānī, Muslims were obliged to follow the positions of past scholars in order to ensure adherence to the *sharīʿa*. In contrast to Qūrṣāwī's formalism, where the exercise of legal theory served to maintain the *sharīʿa* among Muslims, Ūtiz-Īmānī believed that abiding by the guidance of established legal authorities prevented religious and moral deviation. He writes that, because the era of the *mujtahid*s (i.e. scholars capable of *ijtihād*) had passed, all Muslims were *muqallid*s who were required to adopt the legal *positions* (and not the hermeneutical methodology, as for Qūrṣāwī) of a *madhhab*'s master scholars.[72] Anything not from a *mujtahid* must be rejected, and indeed the position (*qawl*) of a *mujtahid* is equivalent to scriptural evidence (*dalīl*).[73]

[72] R. Fakhr al-Dīn, *Āthār*, vi. 308–309.

[73] ʿAbd al-Raḥīm b. ʿUthmān al-Bulghārī [Ūtiz-Īmānī], *Risālah-i Dibāghāt* [*Treatise on Tanning*], ms. Institut iazyka literatury i istorii Akademii nauka Respublika Tatarstan (IIaLI RT), fond 39, no. 46, 19 pag. Facsimile printed in G. Utyz-Imiani al-Bulgari, *Izbrannoe*, ed. R. Adygamov (Kazan: Tatarstan knizhnoe izd-vo, 2007), n.pag., (11–12).

In practice, Muslims were to rely on established works of *furūʿ* (points of positive law) to ensure correct action. For him, these texts represented the locus of legal authority. *Ijtihād* led to results that were uncertain and prone to error and deviation, and *ʿulamāʾ* frequently put forward views on legal matters that were — at best — of unknown veracity.[74] Particularly in later eras, Ūtiz-Īmānī writes, those claiming to be *mujtahid*s were responsible for serious errors and misleading the people.[75] By contrast, the content of established works of *furūʿ* had been accepted over centuries by the community, and Muslims could reasonably depend on them for guidance.[76] Ūtiz-Īmānī himself appeals to a number of Hanafi *furūʿ* texts in his writings in support of his positions, often more frequently than he appeals to hadith (and — it should be noted — far more frequently than he appeals to Qurʾan).[77]

But Ūtiz-Īmānī went even further than insisting upon strict *taqlīd* in determining people's acting in accordance with the *sharīʿa*. He held an essentially puritanical stance, where the avoidance of error was made certain by the rejection of anything not explicitly permitted. Even actions falling under the legal category of *mubāḥ* (morally neutral) were to be avoided, as they could potentially lead to transgression.[78] While some Sufi orders, including the Mujaddidiyya, called for a similar form of asceticism for their followers, Ūtiz-Īmānī believed that it was necessary for all Muslims.[79] Ūtiz-Īmānī labeled this approach "prudence" (*iḥtiyāṭ*) and considered it an obligation (*wājib*).[80]

The underlying logic was that, in order to be certain of avoiding any wrongdoing, one must err on the side of restraint. Ūtiz-Īmānī writes that "the forbidden supersedes the permitted (*al-ḥarām yaghlib ʿalā l-ḥalāl*) and the unclean (*najis*) supersedes the pure (*ṭāhir*)." In essence, it is better to avoid something permissible than engage in something

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[74] ʿA. al-R. Ūtiz-Īmānī, *Dibāghāt*, (12, 14).
[75] ʿA. al-R. Ūtiz-Īmānī, *Dibāghāt*, (4).
[76] R. Fakhr al-Dīn, *Āthār*, vi. 303.
[77] Quhistānī's *Jāmiʿ al-rumūz* is often singled out for its authoritativeness; e.g. R. Fakhr al-Dīn, *Āthār*, vi. 303; ʿA. al-R. Ūtiz-Īmānī, *Dibāghat*, (4). Other works frequently appealed to include the *Fatāwā Qāḍīkhān*, Qudūrī's *Khulāṣat*, ibn Abī Bakr al-Ḥanafī's *Khizānat al-fatāwā* and (occasionally) the *Fatāwā hindiyya*.
[78] M. Kemper, *Sufis*, 190–191; cf. ʿAbd al-Raḥīm b. ʿUthmān al-Bulghārī [Ūtiz-Īmānī], *Jawāhir al-bayān* [*Jewels of Eloquence*], ms. IIaLI RT, fond 39, no. 2982, fols. 23–87. Facsimile printed in G. Utyz-Imiani al-Bulgari, *Izbrannoe*, ed. R. Adygamov. (Kazan: Tatarstan knizhnoe izd-vo, 2007), n.pag., (4).
[79] Cf. ʿA. al-R. Ūtiz-Īmānī, *Jawāhir*, (76–98). Ūtiz-Īmānī here explicitly links this understanding of the *sharīʿa* with the Mujaddidiyya, relying on the writings of Aḥmad Sirhindī, the order's founder, who held a roughly similar view on morality and the prophetic example; see J.G.J. ter Haar, *Follower and Heir of the Prophet: Shaykh Ahmad Sirhindi (1564–1624) as Mystic* (Leiden: Het Oosters Instituut, 1992); H. Algar, "A Brief History of the Naqshbandi Order," in *Cheminements et situation actuelle d'un ordre mystique musulman: Actes de la Table Ronde de Sèvres, 2–4 mai 1985*, eds. M. Gaborieau *et al.* (Istanbul: editions ISIS, 1990), 3–44.
[80] ʿA. al-R. Ūtiz-Īmānī, *Dibāghāt*, (8, 13).

forbidden; when there is doubt or contradictory evidence as to what is permissible, a Muslim should consider the matter in question illicit.[81] Definitive proof that is beyond mere probability (*dalīl ṣarīḥ ghayr muḥtamil*) must be found before something can be declared licit.[82] He states repeatedly that "the *sharīʿa* does not definitively decide a thing [based on] probability" (*al-sharʿ lā yajzim maʿ al-iḥtimāl bi-shayʾ*).[83]

This approach was inspired by the 16th-century Ottoman scholar Pīr Muḥammad Birgevī (1522–1573), whose notion of the *Ṭarīqa muḥammadiyya* was based on strict conformity to the prophetic model of behavior.[84] However, Ūtiz-Īmānī, by rejecting anything not expressly permitted, went even further with this puritanical outlook than Birgevī. To Ūtiz-Īmānī, Volga-Ural Muslims in this era were faced with a dire moral situation. He criticized the elites of society — the *ʿulamāʾ*, the wealthy (*baylār*) and political leaders (*amīrlār*) — who did not, or could not, properly serve the Muslim community.[85] The wealthy were concerned only with money, which in turn corrupted the *ʿulamāʾ*, who sought their financial support.[86] The rulers were of course Russians, and Ūtiz-Īmānī, in addition to criticizing contacts between Muslims and Christians as morally dangerous,[87] was continually at odds with the tsarist state.[88] He rejected the authority of the Spiritual Assembly, speaking out against the muftiate, yet he was also arrested and imprisoned for anti-government activity even before the muftiate's founding, in 1785.[89] The contemporary *ʿulamāʾ* were a particular target for Ūtiz-Īmānī's ire; he denounced them as poor scholars incapable of correct legal reasoning,[90] as well as preoccupied with religiously dubious forms of knowledge (anything other than *tafsīr* and hadith) and unconcerned with upholding the *sharīʿa*.[91]

All of this, according to Ūtiz-Īmānī, contributed to the Muslim community's moral decay. He writes of widespread malfeasance, referring almost matter-of-factly to

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[81] ʿA. al-R. Ūtiz-Īmānī, *Dibāghāt*, (9).
[82] ʿA. al-R. Ūtiz-Īmānī, *Dibāghāt*, (7–8).
[83] E.g. ʿA. al-R. Ūtiz-Īmānī, *Dibāghāt*, (6, 9).
[84] M. Kemper, *Sufis*, esp. 185–196, 208–212; cf. Muḥammad b. Pīr ʿAlī Birkawī, *al-Ṭarīqa al-muḥammadiyya wa-l-sīra al-aḥmadiyya* [*The Muhammadan Path and Most Praiseworthy Example*] (Darsaʿādat [Istanbul]: Shirkat ṣaḥāfiyyah-i ʿuthmāniyyah, 1324 [1907]).
[85] ʿAbd al-Raḥīm b. ʿUthmān al-Bulghārī [Ūtiz-Īmānī], *Risālah-i Irshādiyyah* [*Treatise of Guidance*] (Kazan: Èlektro-tipografiia Ürnäk, 1910). Reprinted in G. Utyz-Imiani al-Bulgari, *Izbrannoe*, ed. R. Adygamov (Kazan: Tatarstan knizhnoe izd-vo, 2007).
[86] M. Kemper, *Sufis*, 194–196. Given the lack of the *waqf* in the Volga-Ural region, support for mosques and *madrasa*s by the wealthier members of the community was necessary for their continued operation; A. Frank, *Institutions*, 179–180, 195–203, 232–235.
[87] E.g. ʿA. al-R. Ūtiz-Īmānī, *Dibāghāt*, (1); cf. M. Kemper, *Sufis*, 196–199.
[88] M. Kemper, *Sufis*, 175–176; A. Frank, *Historiography*, 37.
[89] D. Azamatov, "Russian Administration," 101.
[90] ʿA. al-R. Ūtiz-Īmānī, *Dibāghāt*, (14–15).
[91] ʿA. al-R. Ūtiz-Īmānī, *Irshādiyyah*; ʿA. al-R. Ūtiz-Īmānī, *Inqādh al-hālikīn min al-mutakallimīn* [*Saving Mortals from the Theologians*]. This work is unfortunately available to me only in Russian translation: G. Utyz-Imiani al-Bulgari, "Spasenie pogibaiuschikh," in *Izbrannoe*, ed. and trans. R. Adygamov (Kazan: Tatarstan knizhnoe izd-vo, 2007), 132–165.

Volga-Ural Muslims' unbelief.[92] In speaking out against what he saw as their pervasive misdeeds, he condemned not only alcohol, smoking and homosexuality,[93] but also tea,[94] leather tanned by non-Muslims[95] and the use of silk bedsheets.[96]

In order to rectify the situation, individual Muslims must strictly follow the Prophet's example. This they can do by following the guidance of earlier, established scholars[97] and practicing the utmost prudence in their behavior so that they avoid even the possibility of unwitting moral transgression.

Ūtiz-Īmānī's understanding of how to maintain the *sharīʿa* thus focuses on individual Muslims, who are responsible for their own adherence to the law, rather than relying on the *ʿulamā'* for legal guidance. In this respect, his view shares an important similarity with that of Qūrṣāwī, which also focuses on individuals' role to the exclusion of the scholarly elite. Indeed, both Ūtiz-Īmānī and Qūrṣāwī take a negative stance toward the contemporary *ʿulamā'* (the former more so than the latter) and look to the work of earlier scholars as more authoritative.[98] Although the ways they each do so are diametrically opposed — Qūrṣāwī relies on the methodology of *uṣūl al-fiqh* to the exclusion of established points of law, while Ūtiz-Īmānī considers the content of *furūʿ* to be of utmost reliability, against the exercise of legal reasoning — both positions represent responses to the institutional transformations to Islamic law that took place in the Russian Empire.

That the relationship between the *ʿulamā'* and lay Muslims was at the center of each scholar's legal stance is not a coincidence. With the bureaucratization of the *ʿulamā'*, as noted, the nature of their authority had changed. With this shift from socio-moral authority grounded in the *sharīʿa* to institutionalized, state-centric power, the *ʿulamā'*'s authoritativeness for the Muslim community was undermined. (This was particularly the case for Ūtiz-Īmānī, who of course rejected the religious hierarchy as well cooperation with the Russian government.) As such, Muslims had to look elsewhere to maintain the *sharīʿa*. For Qūrṣāwī, the situation called for the renewed application of *uṣūl al-fiqh*, for Ūtiz-Īmānī, strict reliance on *furūʿ* (both of which, it should be noted, were important

[92] E.g. ʿA. al-R. Ūtiz-Īmānī, *Dibāghāt*, (9), where he speaks of "*al-kuffār al-bulghārī* [*sic*]" who he believes ignore prescripts of ritual purity. ("Bulghārī" was the ethnonym widely used by Volga-Ural Muslims in the 18th and early 19th centuries, rather than "Tatar" or "Bashkir" which only became common towards the 20th century; see A. Frank, *Historiography*.)

[93] ʿA. al-R. Ūtiz-Īmānī, *Irshādiyyah*; cf. M. Kemper, *Sufis*, 199–208.

[94] ʿAbd al-Raḥīm b. ʿUthmān Ūtiz-Īmānī, *Dhamm shurbat al-shāy* [*Censure for Drinking Tea*]. Available in Russian translation: G. Utyz-Imiani al-Bulgari, "Poritsanie chaepitiia," in *Izbrannoe*, ed. and trans. R. Adygamov (Kazan: Tatarstan knizhnoe izd-vo, 2007), 249–253.

[95] ʿA. al-R. Ūtiz-Īmānī, *Dibāghāt*.

[96] M. Kemper, *Sufis*, 200.

[97] Ūtiz-Īmānī's emphasis on the importance of chronological proximity to the Prophet was such that he wrote that Muslims, when dealing with conflicting reports, even by established scholars, should prefer the earliest one, in case later reports have been altered or misconstrued; R. Fakhr al-Dīn, *Āthār*, vi. 309.

[98] Cf. ʿA. al-R. Ūtiz-Īmānī, *Dibāghāt*, (15); A.N. Qūrṣāwī, *Irshād*, 2–3.

elements of the discursive tradition of Islamic law); yet for each, the transformations to the *ʿulamāʾ* meant that individual Muslims would now have to manage this for themselves.

Ūriwī's Traditionalism

These two approaches were not the only avenues for adapting Islamic law to the historical circumstances, however. Other, perhaps most, scholars instead focused on the *ʿulamāʾ* themselves, seeing no obstacle in continuing the Islamic legal tradition as part of a government body. One such scholar was Fatḥ Allāh b. Ḥusayn Ūriwī, who, as a prominent member of the religious hierarchy, sought to employ conventional forms of Islamic legal reasoning in his official duties as *ākhūnd* under the Spiritual Assembly.

His official writings show him engaging in *fiqh* interpretation in order to decide difficult cases according to the established norms and methodologies of Islamic law, but doing so within tsarist bureaucratic structures. For instance, in 1842 the vice-governor of Kazan province[99] and the local police requested a ruling from Ūriwī on behalf of a Muslim woman who was seeking payment from her husband. According to the woman, the husband had agreed to pay *mahr* (bride-price) totaling 200 rubles, but when the time came he only paid 70. In addition, he gave her no *nafaqa* (spousal maintenance), even though it was required of him. Two imams in Kazan had already decided on the case, ruling that the husband indeed had to give this money to his wife (who had since returned to her parents' home, taking the couple's child with her). The police were involved when the husband refused to pay, and a ruling from Ūriwī was requested at the woman's behest in order to confirm the imams' prior decision and determine the exact amount owed to her by the husband. In response, Ūriwī ruled that the husband owed *nafaqa* and *maskin* (financial support for housing) in the amount of 76 kopecks per day. In addition, Ūriwī legally dissolved the marriage, on the grounds that *mahr* had not been properly paid and that the wife had already left her husband, so sexual relations between the two had ceased.[100]

His report to the Spiritual Assembly regarding the matter shows the degree to which his decision fell within the bounds of the Islamic legal tradition. In describing his reasoning, Ūriwī makes a number of explicit references to Hanafi *fiqh* works, and also quotes directly from them, as well as from the Qurʾan (though to a lesser extent). He does so not only to show the rationale for his ruling, but to legitimate it as well; by appealing to the authority of these textual sources of the *sharīʿa*, Ūriwī is demonstrating that this judgment, derived by way of these very sources, represents a valid expression of legal

[99] Mikhail Nikolaevich Val'kevich (r. 1838–1842).

[100] Ūriwī's ruling is R. Fakhr al-Dīn, *Āthār*, ix. 39–41, the letter from the woman describing the situation and seeking his involvement is R. Fakhr al-Dīn, *Āthār*, ix. 37–39.

reasoning. (This ruling can therefore be considered authentically *legal*, as described by Sherman Jackson, in the sense of falling within the bounds of the discursive paradigm of *fiqh*.[101])

This way of employing the methods of *fiqh* to make a determination in a specific, practical context is very much in line with the traditional role of the *qāḍī*, as well as the duties of pre-Spiritual Assembly *ākhūnd*s.[102] Indeed, it can be considered the essence of the discursive legal tradition: "The *fiqh* as a *sharʿī* manifestation, as a fully realised and realisable "law", would not be revealed until the jural principles meshed with social reality and until the dialectic of all human, social, moral, material, and other types of relations involved in a particular case was to come full circle."[103] By taking into account the actions of the woman and her husband, their social and — importantly — economic circumstances, to say nothing of principles of Hanafi *fiqh*, this is precisely what Ūriwī's decision does.

Indeed, Ūriwī himself considers his role as *ʿālim* or *faqīh*[104] in traditional terms: he refers to the request for a ruling in that case as "*istiftā*" (a request for a *fatwā*), and he writes that "within our religious court (*maḥkama-i dīniyyamizda*) [i.e., the Spiritual Assembly] there are arbiters (*ḥukkām*) who protect the people of Islam and judges (*quḍāt*) who are worthy of respect, and they will receive a great reward and an abundant bounty from God."[105]

In order to preserve and continue the tradition, such legal reasoning for Ūriwī must be carried out within a framework of *taqlīd*. As with Ūtiz-Īmānī, Ūriwī believed that it was no longer permissible for scholars to engage in *ijtihād*. This position was predominant among the Volga-Ural *ʿulamāʾ* in this era, but, unlike Ūtiz-Īmānī, Ūriwī believed in the continued permissibility of legal reasoning, but only if carried out within a paradigm of *taqlīd*.[106] This type of paradigm, which Jackson calls "legal scaffolding", involved reliance upon the work of earlier scholars, in particular as an object of interpretation (in contrast to *ijtihād*, which utilizes only scripture for interpretation).[107] Thus, as was the case with Ūriwī's decision noted above, specific points of law found in *furūʿ* works are used in the formulation of new legal rulings.[108]

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[101] Sh. Jackson, "Fiction," 178–179 (quoted above).
[102] E.g. R. Fakhr al-Dīn, *Āthār*, ii. 53.
[103] W. Hallaq, *Sharīʿa*, 546.
[104] He uses both terms.
[105] R. Fakhr al-Dīn, *Āthār*, ix. 41.
[106] A biographical notice for Ūriwī states that "if the gate of *ijtihād* had not been closed, of course he would have been a *mujtahid*" (*Agar bāb-i ijtihād masdūd dīmasik albatta mujtahidlardān ūlmaqī*); Ḥ. Amīrkhān, *Tawārīkh*, 42.
[107] Sh. Jackson, "Taqlid, Legal Scaffolding and the Scope of Legal Injunctions in Post-Formative Theory: Mutlaq and ʿAmm in the Jurisprudence of Shihab al-Din al-Qarafi," *Islamic Law and Society*, 3/2 (1996), 165–192.
[108] Hallaq refers to this as "secondary" legal reasoning, as the object of interpretation is pre-established legal doctrine, rather than the primary sources of revelation; cf. W. Hallaq, *Authority*, esp. 140. This was

Ūriwī, who repeatedly denounced Qūrṣāwī for considering *ijtihād* permissible,[109] held that this type of "scaffolding" had the beneficial effect of limiting the number of potential responses to any given legal question, which *ijtihād* does not, and this is precisely one of the reasons Ūriwī gives for rejecting *ijtihād*.[110] More importantly for Ūriwī, to carry out *ijtihād* is to disregard the established scholars of earlier eras, who possess the highest levels of authoritativeness within the tradition of Islamic law. To consciously not utilize their work is to go against the legal tradition. Furthermore, by not relying upon them, *ijtihād* becomes prone to error.[111]

It is this point which is at the heart of Ūriwī's position. For him, the discursive tradition of Islamic law is the essence of the *sharīʿa*. The notion that the latter could be applied without the former would be unthinkable to him. Although this is also true for Qūrṣāwī and Ūtiz-Īmānī as well, the transformation of Islamic law under Russian rule, as far as the latter two were concerned, necessitated the alteration of that tradition in order to preserve the *sharīʿa*. But for Ūriwī, no such alteration was needed, and he sought to continue the legal tradition unchanged within the institutional structures of the Spiritual Assembly. As he saw it, the *ʿulamāʾ* could perform their socio-religious function as interpreters of the *sharīʿa* on behalf of the Muslim community as part of the official hierarchy, a fact which is evinced in his own career: he is described as engaging in "*fiqh* reports (*riwāyāt-i fiqhiyya*) and *furūʿ* questions (*masāʾil-i furūʿiyya*)" as part of his duties as *ākhūnd*,[112] and, as the records of his rulings show, he carried out this form of legal reasoning within the bureaucratic structures of the tsarist state.

The Impact of These Approaches

The nature of the relationship between the government and the *ʿulamāʾ* on one hand and between the *ʿulamāʾ* and lay Muslims on the other was one of the central issues for Volga-Ural Muslims at the beginning of the 19th century. They sought to make sense of the drastic changes to their institutional status within the tsarist state that had taken place over the previous decades while addressing the impact of these changes on the community's adherence to the *sharīʿa*.

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an established method of legal reasoning among post-classical Hanafis; see the late-17th-century *fatwā* by the *ākhūnd* Yūnus b. Īwānāy; Sh. Marjānī, *Mustafād*, ii. 188.

[109] In 1810, Ūriwī sent an official letter to Mufti Muḥammadjān seeking Qūrṣāwī's removal from his post as imam for religious errors. First among them was "claiming to be a *mujtahid*" (*mujtahidlik daʿwāsinī qīlūb*); R. Fakhr al-Dīn, *Āthār*, iii. 108–109; also Fatḥ Allāh b. Mullā Ḥusayn [Ūriwī], [Untitled work], ms. KGU no. T-3571, fols. 1a–3a.

[110] F. Ūriwī, [Untitled], fol. 1a.

[111] R. Fakhr al-Dīn, *Āthār*, iii. 108.

[112] Sh. Marjānī, *Mustafād*, ii. 193.

These questions are central in the *Tawārīkh-i bulghāriyya*, a work of religious historiography composed — at least in part — in the very early 19th century.[113] The *khātima* (Conclusion), which makes up a substantial portion of the work, features a number of apocryphal anecdotes about Tīmūr (Tamerlane) and his conquests that, according to Kemper, would have been seen by Volga-Ural Muslims as analogous to their contemporary historical context.[114] These allegories touch upon not only the relationship between the *'ulamā'* and political rulers, but also the ways in which that relationship can affect the community's proper religious observance, as well as the *'ulamā'*'s role in upholding public morality. Of particular importance is the nature of religious authority and the issue of the *'ulamā'*'s accommodation of, or resistance to, political elites; similarly, acceptance and coexistence with Russian Christianity is a major topic.[115]

The *Tawārīkh-i bulghāriyya* was one of most important religious works among Volga-Ural Muslims, and its popularity was tied to its representation of the socio-moral circumstances of this community at the turn of the 19th century.[116] All of these issues addressed in the *khātima* formed a significant part of the community's socio-religious discourse at the time, and they were at the crux of the controversy between Qūrṣāwī, Ūtiz-Īmānī and Ūriwī.[117]

The discrepancies between them were reflected in their own actions, particularly toward the Russian government. Ūtiz-Īmānī, as noted, rejected cooperation with the Russians and actively resisted both the Spiritual Assembly and the burgeoning Muslim merchant class on the grounds that they were compromised by contacts with Russian society. He also rejected the notion that the Russian Empire could be considered part of the *dār al-Islām*.[118] By contrast, Ūriwī, as we have seen, worked closely with Russian authorities (he sought to succeed Muḥammadjān as mufti in 1824[119]), and he took a relatively lax stance on issues like the consumption of alcohol, in ways that accommodated the predominant societal environment of the Russian Empire.[120] Qūrṣāwī, for his part, paid little attention to the Russians at all; his works make virtually no mention of

[113] The work is extant today in multiple manuscript copies, and was published in its entirety in the late 19th century; cf. A. Frank, *Historiography*, 50–52. The *khātima* itself was also published in I. Berezin, *Turetskaia khrestomatiia*, Vol. 2, (Kazan: Tipografiia universiteta, 1862), 128–144.

[114] See Kemper's in-depth analysis of the *khātima*; M. Kemper, *Sufis*, 334–352.

[115] In the text, Tīmūr is inclined to continue his conquests into Muscovy, so that the Russians can be brought to Islam, but he receives a vision from the prophet Khiḍr in a dream stating that God forbids it, adding that the Russians should remain Christian. This shows a distinct evolution from an earlier, 16th-century version of the tale, where Khiḍr merely tells Tīmūr in the dream that invading Muscovy is not recommended; A. Frank, *Historiography*, 77–78.

[116] On the *Tawārīkh-i bulghāriyya* as a whole and its importance, see A. Frank, *Historiography*.

[117] M. Kemper, *Sufis*, 347.

[118] M. Kemper, *Sufis*, 296.

[119] D. Azamatov, "Muftis," 365.

[120] M. Kemper, *Sufis*, 205–206.

Russians or the tsarist government, even when addressing Volga-Ural Muslims' specific circumstances, and hardly mention Christianity. He held the position of imam within the religious hierarchy and had significant connections to the Muslim merchant class,[121] but there is no indication he had any substantive contact with Russian society. What we know of him historically and his writings show someone whose life and work fell within an overwhelmingly Muslim environment.[122]

Although Kemper disagrees with labeling Ūtiz-Īmānī a "reformer", the major similarity between his stance and Qūrṣāwī's is a relatively radical adaptation of the legal tradition in order to help ensure the community's continued adherence to the *sharīʿa* (in this regard, "revivalist" might be a more appropriate term).[123] He in many ways fits in with R.S. O'Fahey's understanding of 18th-century Muslim reformers who took a rejectionist stance towards Europe, while Qūrṣāwī is an "ignorer" of the West, in that his reform project is entirely inward-looking.[124]

Ūriwī, on the other hand, does not seek to alter the tradition at all, but merely to continue it within the Spiritual Assembly's bureaucratic framework. As his ruling on the case of marital support noted above shows, he used conventional *fiqh* reasoning in carrying out his official legal duties as *ākhūnd*. He thus cannot be considered a reformer in any sense, as he seeks to preserve the tradition unchanged.

Yet it is remarkable the degree to which Ūriwī's writings reflect the transformations undergone by the *ʿulamā'*. Most notably, none of the cases recorded show Ūriwī giving a primary decision on the matter; rather, in every one he is reviewing (*taftīsh*) the decision of another scholar, often as requested by one of the claimants or by tsarist officials. This was part of the nature of the *ākhūnds'* appellate role under the Spiritual Assembly. Furthermore, virtually all of the cases deal with marriage disputes, generally regarding marriage contracts and divorces. These matters of course formed the bulk of the cases remaining under the *ʿulamā'*'s jurisdiction as subject to Islamic law.

Most striking, however, is the conspicuous presence of Russian state institutions and their involvement in the (legal) lives of the tsar's Muslim subjects.[125] Ūriwī's writings make frequent reference to his official interactions as senior ("*astarshī*" <Russ. *starshii*; older) *ākhūnd* with — for instance — Russian administrative documents ("*aspirāfqa*",

[121] Sh. Marjānī, *Mustafād*, ii. 168, 336–337.

[122] Accordingly, that his environment was part of the *dār al-Islām* is implied; cf. A.N. Qūrṣāwī, *Irshād*, 28–29.

[123] Kemper does in fact describe Ūtiz-Īmānī's understanding of prudence (*iḥtiyāṭ*) as a radical stance; M. Kemper, 190.

[124] Cf. R.S. O'Fahey, "Pietism, Fundamentalism and Mysticism: an Alternative View of the 18th and 19th Century Islamic World," in *Festskrift til Historik institutts 40-ars jubileum 1997*, eds. G.A. Ersland *et al.* (Bergen: Historik institutt, Universitetet i Bergen, 1997), 151–166.

[125] This involvement should not be seen as necessarily, or even mostly, oppressive in nature. As Crews notes, "The regime did not have to resort to force to penetrate Muslim communities. In villages and towns throughout the territory under the jurisdiction of the [Spiritual] Assembly, lay people drew the state into the mosque;" R. Crews, *Prophet*, 93–94.

<Russ. *spravka*),[126] local courts ("*zīmiskī ṣūd*", <Russ. *zemskii sud*'),[127] government ministers ("*mīnistirlār*")[128] and military governors ("*vāyāninūyi ghūbirnāṭūr*", <Russ. *voionnoi gubernator*) and their official requests ("*pirūshīna*", <Russ. *proshenie*).[129] In one case, he has to order an imam under his supervision to record marriages in the parish register ("*mītrīqa daftarī*").[130] In another, he is asked to determine whether a woman could receive a divorce for lack of *nafaqa* from her husband, a soldier in the Russian army who had been convicted of assault and exiled to Siberia as punishment.[131]

These examples belie the bureaucratic foundation for the *ʿulamāʾ* in the 19th century. The conflation of imperial and Islamic law — engendered by the shift in scholars' authority — that occurred under the Spiritual Assembly was in actuality a subsuming of the latter within the former. Despite Ūriwī's best efforts to incorporate *fiqh* reasoning into these structures, the monopolistic and exclusive nature of the state made this ultimately impossible.[132] There was no feasible way for *fiqh* to continue in any sense as part of the tsarist government, and, as the century wore on, Muslims' conception of the *sharīʿa* moved away from the traditional discursive paradigm toward state-centric, legalistic power, abandoning the use of traditional *fiqh* reasoning.

In many ways, it was unavoidable that such traditionalism would prove unfeasible. The discursive paradigm of *fiqh* was inextricably linked to its institutions,[133] and, with the considerable transformation of these institutions — not least of all to the *ʿulamāʾ* — the practice of *fiqh*, if it were to continue at all, had to change *necessarily*. By adapting legal theory, both Qūrṣāwī and Ūtiz-Īmānī's respective approaches fit in with the shifting circumstances. By focusing on individual lay Muslims' religious knowledge and practice, as well as their personal adherence to the *sharīʿa*, Qūrṣāwī and Ūtiz-Īmānī put forward stances regarding Islamic law that were far less affected by the changes to the *ʿulamāʾ* and other constituent institutions of the legal tradition. Their respective approaches thus proved more attuned to the Muslim community's changing circumstances.

This point is backed up by the subsequent historiography. Qūrṣāwī and Ūtiz-Īmānī would come to be remembered as important figures in the community's social and cultural development. Even today, despite the religious and social dislocations of the Soviet era, the two are celebrated, both in scholarship, as well as popularly.[134] Ūriwī,

[126] E.g. R. Fakhr al-Dīn, *Āthār*, ix. 27.
[127] E.g. R. Fakhr al-Dīn, *Āthār*, ix. 31.
[128] E.g. R. Fakhr al-Dīn, *Āthār*, ix. 26.
[129] E.g. R. Fakhr al-Dīn, *Āthār*, ix. 25.
[130] R. Fakhr al-Dīn, *Āthār*, ix. 33.
[131] R. Fakhr al-Dīn, *Āthār*, ix. 26–27.
[132] W. Hallaq, *Sharīʿa*, 367; for a further discussion on the incompatibility of Islamic legal structures and the modern state, see Wael Hallaq, *The Impossible State: Islam, Politics, and Modernity's Moral Predicament* (New York: Columbia UP, 2013).
[133] Cf. W. Hallaq, *Sharīʿa*, 75.
[134] See, for instance, the article from March, 2012 on the Republic of Tatarstan's official news website, entitled "We Are from Ūtiz-Īmānī's People"; L. Kartashova, *Gazeta Respublika Tatarstan*, "My iz roda

however, is virtually forgotten.[135] Although he was one of the most prominent members of the *ʿulamāʾ* in the first half of the 19th century, his traditionalist views were of little currency in the latter half. While modernists were publishing and disseminating some of Qūrṣāwī and Ūtiz-Īmānī's writings, seemingly none of Ūriwī's works were published.

This is not surprising. By focusing on the individual, their approaches presaged greater changes in Muslims' understanding of the *sharīʿa* to come. Indeed, Ūtiz-Īmānī's approach, by essentially doing away with active forms of legal reasoning, mirrors the shift in the conception of the *sharīʿa* from one of process to one of content.[136] For him, acts are in essence either permissible or forbidden, while removing the hermeneutical activity that traditionally determined an action's moral and legal value. In this respect, we may consider his approach more "modern" than Qūrṣāwī's, which relied on traditional methods of legal reasoning that would be seen as obsolete by the turn of the 20th century.[137]

Nevertheless, both Ūtiz-Īmānī and Qūrṣāwī's respective positions are firmly grounded within the pre-modern legal tradition.[138] While the transformation of Islamic legal institutions under the Russian state would eventually lead to the appearance of explicitly modernist movements (namely Jadidism) among Russia's Muslim communities, this process was gradual. Qūrṣāwī and Ūtiz-Īmānī represent a very early stage of that process.

The history of Islamic law in Russia is marked by the interaction between the Russian state and the Muslim community, and the tension between the goals and aspirations of each side. While this history is very often told from an imperial perspective, the efforts of Muslims like the three scholars studied here are an equally important part of this interaction. Whatever the merits of their respective efforts, they can tell us much about the Russian Empire's approach to ruling its Muslim subjects, and these Muslims' attempts at preserving their own pre-existing tradition.

Utyz-Imiani," (Mar. 15, 2012). Accessed Sept. 15, 2012: http://www.rt-online.ru/aticles/rubric-72/my_iz_roda_utyzimyani/. Likewise, in 2003 Rafael Khakimov, a high-ranking official in the government of Tatarstan, published an article espousing his concept of "Euro-Islam", a modernized form of Muslim religiosity adapted to European cultural norms, that (mistakenly) connects this notion with Qūrṣāwī's call for individual *ijtihād*; R. Khakimov, "Islam's Modernization: How Plausible Is It?," *Russia in Global Affairs*, 2/3 (Dec. 2003), 126–139.

[135] Even Kemper, in his study of 15 important *ʿulamāʾ* between 1789–1889, excludes Ūriwī from the main part of his analysis.

[136] Cf. N. Brown, "Sharia," 359.

[137] Cf. R. Fakhr al-Dīn, *Āthār*, iii. 106; ʿA. Saʿdī, *Tātār adabīyātī tārīkhī* (Kazan: Tatarstan dawlat nashrīyātī bāsmāsī, 1926), 67.

[138] A fact that is often lost in the scholarship on these and other reformist scholars of their era; e.g. A. Iuzeev, *Filosofskaia mysl' tatarskogo naroda* (Kazan: Tatarskoe knizhnoe izd-vo, 2007); cf. A. Khalid, *Politics*, 100–102; A. Khalid, "What Jadidism Was, and What It Wasn't: The Historiographical Adventures of a Term," *Central Eurasian Studies Review*, 5/2 (2006), 3–6.