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The Russian Empire's policy of codifying Kazakh customary law (a review of the monograph by Paolo Sartori and Pavel Shabley. Experiments of Empire: Adat, Sharia, and Knowledge Production in the Kazakh Steppe. Moscow: New Literary Review, 2024)

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Ресей империясының қазақ әдет-ғұрып құқығын кодификациялау саясаты (Паоло Сартори мен Павел Шаблейдің монографиясына сын-пікір. Империяның эксперименттері: қазақ даласындағы адат, шариғат және отарлық білімді өндіру. Мәскеу: Новое литературное обозрение, 2024)

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Политика Российской империи по кодификации казахского обычного права (рецензия на монографию Паоло Сартори и Павла Шаблея. Эксперименты империи: адат, шариат и производство знаний в казахской степи. Москва: Новое литературное обозрение, 2024)

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Сілтеме жасау үшін: Жұматай, Ғ., Ысқақ, А. Ресей империясының қазақ әдет-ғұрып құқығын кодификациялау саясаты (Паоло Сартори мен Павел Шаблейдің монографиясына сын-пікір. Империяның эксперименттері: қазақ даласындағы адат, шариғат және отарлық білімді өндіру. Мәскеу: Новое литературное обозрение, 2024). *Gumilyov Journal of History*. 2025. Т.151, no.2, б.171-177. <https://doi.org/10.32523/3080-129X-2025-151-2-171-177>

The book “Experiments of Empire: Adat, Sharia, and Knowledge Production in the Kazakh Steppe” by Paolo Sartori and Pavel Shabley is dedicated to the knowledge production about

Kazakhs customary law and sharia by bureaucrats, officials, and orientalists of the Russian Empire from the end of the 18th century up to the mid-1860s. The study consists of an introduction, four chapters, a conclusion, appendices, an extensive list of archival data, historical accounts, and relevant studies on the research problem. At the core of the study lies the issue of the subjectivity of knowledge and the knowledge production process, which implies that the Russian Empire constructed new forms of knowledge and even borrowed the experiences of other colonial empires. The study encompasses a variety of overlapping themes, with the concept of construction of imperial knowledge being at the center of the authors' attention, focusing on knowledge production in the backdrop of the massive, profound cultural, political, and social changes in the Kazakh steppe. The study focuses on Orenburg and its adjacent neighborhoods, where debates on adat and sharia were more dramatic. The study then shifts its attention to another "imperial situation", namely the Syr-Darya region, where discussions around adat and sharia were less severe. Along with Russian colonial officials and orientalists at various levels, local Kazakhs were engaged in the knowledge production process. The authors consider the codification of adat in the Kazakh steppe as one of the manifestations of imperial knowledge production. The understanding of local informants about customary law and sharia stood apart from the views of colonial officials. Russian authorities constructed the biys as the chief judge and custodian of customary law and legal knowledge. Yet Sartori and Shabley call attention to the oversimplification of the reality by Russian officials, emphasizing that the biys also acted as mullahs and qadis (a Muslim judge), which hinted at the syncretism of legal culture and intricacy of indigenous Kazakh judicial practices (Sartori and Shabley 2024: 7).

The book starts with the outright objection by Vasily Grigoriev, a prominent Russian orientalist and the chairman of the Orenburg Border Commission in 1854-1859, to the "Compendium of Kazakh customary law" penned by Iosif Osmolovsky, another well-known Russian orientalist and an official of the Asian Department of the Ministry of Foreign Affairs. Grigoriev spoke out against the compendium on Kazakh customary law because Osmolovsky had failed to draw the line and a strict distinction between Kazakh customary law and sharia (Sartori and Shabley 2024: 5). Quite the contrary, in Grigoriev's view, Osmolovsky had regarded Kazakh customary law as an integral part of the extensive Islamic legal system. In this regard, Grigoriev became increasingly convinced that the compendium and its conclusions about adat being an essential part of the Islamic law directly threatened the policy of the Russian Empire in the steppe (Sartori and Shabley 2024: 5). Grigoriev's hostility to the Osmolovsky's compendium was the manifestation of the wider shift in the Russian empire's policy from the state-patronage of Islam and Islamization of the Kazakhs, initiated by Catherine II, to the reversal of this policy and instead focusing on Russification and Christianization of the nomads.

Vasily Grigoriev's antagonism towards Islam, as well as the Tatar cultural presence in the Kazakh steppe, was not an accident; rather, it was the reflection of a deep paradigm shift from Islamization of the Kazakhs to their Christianization and cultural assimilation. A widespread conviction among Russian officials and orientalists was that Islam had not only failed to bring the Kazakhs under Russian rule, but the unchecked spread of Islam by Tatar mullahs alienated the nomads from Russia and made the Russian civilizing mission fruitless. Hence, the removal of Islam and the Tatar cultural influence in the steppe became essential for Russian authorities. Attempts to divorce adat from sharia by Russian officials and orientalists were part and parcel of these anti-Islam and anti-Tatar discourses and a broader shift to the direct governance of

the Kazakhs through the policy of Christianization and Russification. Yet the authors draw attention to the lack of a unified attitude to adat and the contradictions in the perception of Kazakh customary law among Russian officials (Sartori and Shabley 2024: 5).

The first chapter, *"The Russian Empire and the Kazakh Steppe in the 18th–19th Centuries: History, Colonialism and Law,"* discusses the policy of the Russian Empire against the backdrop of history, colonialism, and law. The Russian Empire increasingly encountered a variety of challenges in the control of newly integrated territories. In the authors' view, a pivotal role in addressing such challenges played the process of construction of colonial knowledge about the new colonial subjects (Sartori and Shabley 2024: 35). Ethnographic descriptions of the local ethnic groups, examining their political and legal institutions and practices, the systems of economic and social relations, religious beliefs, norms, customs and rules are regarded as essential attributes of colonial knowledge, which were useful for the empire to devise pertinent approaches for implementing reforms. The authors mention that widespread Islamophobia and Russian bureaucrats' unwillingness to distance themselves from certain political and ideological stereotypes eventually undermined the knowledge production process and the efficient implementation of political and legal reforms. A perceptible illustration of this pattern was an endeavor to codify Kazakh customary law, which ultimately remained a project, despite the compilation of various compendiums with active engagement of prominent orientalist experts (Sartori and Shabley 2024: 43). Yet it was evident that the efficiency of top-down reforms in the Kazakh steppe hinged upon knowledge production and resources, which could be utilized by Russian authorities.

"Local knowledge" or "indigenous knowledge" was essential in imperial knowledge production, yet Russian authorities invested little in training indigenous officials who would benefit from privileges provided by the empire and, at the same time, would serve the Russians in the steppe. Since the share of Kazakhs in colonial administration was meager and could not meet the demands for colonial governance, this gap was filled by the Tatar translators and interpreters, who were essential intermediaries between the Russian colonial administration and the nomadic Kazakh society. Despite a dramatic growth of Islamophobia and anti-Tatar sentiment, as intermediaries and cultural rivals of Russians, even Grigoriev had to acknowledge the strategic role these Tatar intermediaries and interpreters played, who conducted all contacts with the Kazakhs (Sartori and Shabley 2024: 46). In terms of legal history of the Kazakhs, which included the process of codification of Kazakh customary law, activities of certain imperial officials, discussions around adat and sharia and other details cannot be reduced to only imperial policy or some kind of rivalry between the ideology of imperial elites and local traditions. An overview of so-called colonial and "indigenous knowledge" as well as a description of the activities of imperial bodies has pointed to the absence of an all-embracing and comprehensive approach and view about codification of adat (Sartori and Shabley 2024: 50).

The second chapter, *"Poor Codification: Adat and Sharia in the Kazakh Steppe,"* highlights how diverse constructions of imperial knowledge could be mutually inclusive under certain circumstances, and in other cases, they could contradict one another, being mutually exclusive. Certain divergences came to light due to the attempts to pit adat against sharia, which directly affected imperial reforms. Moreover, the discord and a lack of unity among imperial officials undermined and obstructed the process of codification of Kazakh customary law, which, because of employing a variety of approaches and language of descriptions, turned into a

complex bureaucratic procedure. The authors highlight that, as the Kazakhs lacked a writing system at that time and customary law was traditionally conveyed orally, Russian officials and orientalist had to engage in the codification of adat. Yet the authors draw attention to the ways of how Russian authorities undertook the codification process, specifically in the process of codification of Kazakh customary law, Russian orientalist officials ‘cleansed’ adat of those elements that were deemed ‘wild customs’ and ‘eliminate’ those aspects closely interwoven with sharia, which were regarded as a threat to the interests of the empire (Sartori and Shabley 2024: 51). A lack of meticulously developed programs and experts with deep oriental expertise, bureaucratic collisions and other underlying factors hindered the codification process. The compilers of legal codes lacked knowledge of the peculiarities of adat and sharia, rendering them incapable of separating modern legal norms from those that had already become obsolete. As such, blunders and miscalculations were recurrent, and the empire was unable to address them effectively. Thus, every step towards the codification of adat was doomed to failure.

The third chapter *“Conflict of Interpretations: I.Y. Osmolovsky, Empire and Kazakh Legal Culture”* draws attention to the compendium of Kazakh customary law compiled by Osmolovsky in 1849-1853 and how it became the victim of the Orenburg officials (Sartori and Shabley 2024: 87). Prioritizing the fight against Islam and the Tatar cultural influence, officials in Orenburg colonial administration demanded that adat ought to be divorced from sharia. Iosif Osmolovsky, a prominent Russian orientalist with deep knowledge of the indigenous legal system, argued that Kazakh customary law was an integral part of the Islamic legal system and, thereby they could not be detached from one another. An extensive reference to the texts of the Hanafi school of Islamic jurisprudence and reliance on the testimonies of the biys and mullahs with profound knowledge of sharia allowed Osmolovsky to reconsider the extent of entrenchment of Islamic legal norms in the Kazakh society and overcome the limitations of previous records of Kazakh customary law. Osmolovsky’s compendium was relevant and timely. Yet its appearance coincided with the politicization of Islam and the rise of powerful Islamophobic and anti-Tatar discourses. Russian authorities engaged in discussions about reducing the influence of the Orenburg Muslim Spiritual Assembly and Tatar mullahs in the Kazakh steppe, which eventually impeded the publication of Osmolovsky’s compendium. The authors touch upon the genesis and the stages of development of Orientalism in the Russian Empire. Osmolovsky is depicted as an orientalist with deep knowledge of Eastern languages and a profound understanding of oriental cultures. At the same time, the authors indicate that when Osmolovsky felt that his knowledge was not enough to understand the contextual factors, he resorted to imperial and Orientalist binary constructs such as “civilized vs barbarism”, “enlightenment vs ignorance” (Sartori and Shabley 2024: 156). In 1849, the Orenburg Border Commission tasked Osmolovsky with supplementing, revising, editing, and systematizing materials about Kazakh customary law (Sartori and Shabley 2024: 104). After conducting meticulous and ethnographic research among the Kazakhs in different areas of the steppe, Osmolovsky established that the local Kazakh legal culture was predicated upon the extensive use of norms of both adat and sharia (Sartori and Shabley 2024: 112).

Although the publication of Osmolovsky’s compendium seems to have been approved by the Orenburg Border Commission and the Asian Department of the Ministry of Foreign Affairs, the appointment of Vasily Grigoriev as the new head of the Orenburg Border Commission in 1854 determined the fate of the compendium. Subscribed to Slavophile nationalism and

Islamophobia, Grigoriev's views on Kazakh legal culture were incompatible with Osmolovsky's position. Grigoriev argued that Islam and Russia were mutually exclusive and believed that the dualistic foundation of Kazakh customary law (which involved both adat and sharia) was overly politicized. In the spirit of the Grigoriev posited that the Russian civilizing mission would result in the dissolution of Kazakhs' "brutish and wild" customs, which he theorized would occur as a result of their exposure to advanced values and civilization under Russian patronage. Considering the nomadic society through the lens of a Eurocentric model of human progress, Grigoriev maintained that these "kind savages" may climb to a higher evolutionary level and in the process of the social evolution, the Kazakhs would certainly embrace Russian culture, language, religion and legal norms, leaving behind their archaic legacy of adat and their cultural peculiarities (Sartori and Shabley 2024: 128). From this standpoint, Islam was constructed by Grigoriev as the major barrier, disrupting the connection of the Kazakhs to their genuine customs and hindering the civilizing mission of Russia in the steppe. Grigoriev, therefore, called for safeguarding the nomads from Tatar and Central Asian mullahs. In his view, these mullahs purportedly corrupted the minds of the nomads, who embraced Islam only superficially. In this regard, Sartori and Shabley argue that Grigoriev's views determined the fate of the compendium compiled by Osmolovsky (Sartori and Shabley 2024: 129). This was because while Osmolovsky put forth the view that adat and sharia were syncretism and part of Kazakh customary law, Grigoriev claimed that sharia was alien to the Kazakhs and thereby demanded the strict division of adat from sharia. Therefore, Grigoriev strongly opposed the publication of Osmolovsky's compendium because it posed a grave threat to the government's policy. For that reason, Grigoriev warned the government that the publication of Osmolovsky's compendium would pave the way for the establishment of absolute domination of Islam in the Kazakh steppe (Sartori and Shabley 2024: 130).

The fourth chapter, *"The Syr Darya Frontier: Empire, Kazakhs and Central Asian Khanates,"* sheds light on the fate of the main protagonists of the book, Osmolovsky and Grigoriev, yet now in a different imperial situation, notably the Syr-Darya region. The conquest of the lower and middle reaches of the Syr Darya in the mid-19th century led to the establishment of complex contact zones defined by the authors as 'frontiers', where the interactions of diverse ethnic and social groups occurred (Sartori and Shabley 2024: 158). The authors illustrate how in this new setting, Osmolovsky gained an opportunity to put his ideas into practice, specifically, he was able to apply both adat and sharia in addressing everyday legal issues. They emphasize that even a hardliner like Grigoriev was forced to reconsider his Islamophobic stance for pragmatic reasons, bearing in mind that the imperial situation in the Syr-Darya region considerably differed from that of Orenburg. In the new frontier areas of the Syr-Darya, Osmolovsky tried to carry out the state patronage of Islam initiated by Catherine II. In 1853, he appealed to Vasily Perovsky, the governor-general of Orenburg and Samara, to build a mosque in Fort-Perovsky and appoint a mullah approved by the Orenburg Muslim Spiritual Assembly. The logic behind Osmolovsky's plan was that erecting mosques would attract the nomads to Russian forts, which would allow planting seeds of Russian civilization in the steppe (Sartori and Shabley 2024: 206). Yet the authors draw attention to another discrepancy between the positions of Osmolovsky and Grigoriev. Regarding Osmolovsky's request to build a mosque in Fort-Perovsky, the general-governor Perovsky forwarded this matter to Grigoriev as the head of the Orenburg Border Commission. Stressing Islam as the most fanatical religion in the Russian Empire, Grigoriev

responded to Osmolovsky that a proposal to erect a mosque in the Syr-Darya frontier area was detrimental to the government's interests. In this case, the authors argue that although both Osmolovsky and Grigoriev well understood the significance of the colonial policy of the empire in Central Asia, their views diverged regarding the approaches of this policy. While the former advocated implementing the conventional policy of using Islam as a civilizing force to bring the Kazakhs closer to Russian influence, being unable to overcome his anti-Islam and anti-Tatar prejudices, Grigoriev judged and acted based on this Islamophobic trend.

It is essential to stress the enormous significance and relevance of the monograph by Paolo Sartori and Pavel Shabley. To expand knowledge about the topic and fill research gaps, the authors draw upon extensive archival data and relevant studies as well as employ mixed methodology and theoretical concepts such as legal hybridity, the concept of Orientalism, the doctrine of frontier, and other theories. The study helps the readers gain a proper understanding and in-depth knowledge about tsarist Russia's attempts to strengthen its rule in the Kazakh steppe through the codification of adat. Yet all attempts to codify Kazakh customary law were fraught with contradictions due to the different levels of understanding of adat by Russian officials. The authors highlight that as those Russian colonial bureaucrats frequently struggled to tell adat and sharia apart, they tended to artificially detach them from one another (Sartori and Shabley 2024: 6). This confusion over time became more complicated that artificially contrasting adat with sharia occurred not only due to the ignorance of certain officials, but also for politically motivated purposes. Specifically, Islam was seen as a threat to the empire and a serious impediment to the efficient implementation of reforms in the Kazakh steppe. Eventually, the Russian Empire could materialize none of the projects designed for the codification of customary law in the Kazakh steppe. In this regard, the authors call for expanding research on this problem by conducting a comparative analysis of the colonial policy of tsarist Russia with the experiences of other European colonial powers in codifying adat in their respective colonial possessions and in instrumentalizing local customary law for entrenching and solidifying their colonial domination.

Sartori and Shabley make a great contribution to the understanding of the colonial rule of the Russian Empire of the Kazakh steppe, gathering rich biographies of prominent Russian officials and orientalists in the Russian frontiers. They describe the Kazakh steppe as a contested colonial setting where the worldviews and perceptions of leading Russian bureaucrats clashed over the issues of the codification of adat and how best to manage and govern recently conquered Oriental territories inhabited by the nomadic Muslim population. Sartori and Shabley lucidly demonstrate that although imperial knowledge production was central to expanding and strengthening Russian rule in the steppe, the constructed knowledge was not always consistent with the interests of the empire and certain leading Russian orientalist bureaucrats, which led to the failure of all attempts to codify Kazakh customary law. This impressively researched study merits wide readership and ought to be a must-read for specialists interested in the colonial policy of the Russian Empire in the Kazakh steppe and the process of imperial knowledge production.

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