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Between Kazan and Kashghar: On the Vernacularization of Islamic Jurisprudence in Central Eurasia

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Abstract

In this article, I want to suggest that what today is known as "entexting" in the Western historiography of Islamic law did not just originate from colonialism. Emphasis on a self-contained number of jurisprudential texts was in fact one of the outcomes of a profound process of transformation in the Islamic legal episteme among the Muslim communities of Central Eurasia. One of the forces behind such a transformation can be identified in what Sheldon Pollock has termed "vernacularization" – that is, a shift toward the popularization of a cosmopolitan body of scholarship through the medium of translation into local languages. The act of translation itself reflected the effort to select, domesticate, and naturalize, specific juristic texts, the contents of which were perceived as important, though equally inaccessible. Translation led to distinction and preferment. It also brought about a process of "debasement", i.e., a movement toward the decontextualization of Islamic jurisprudential writing traditions and their reworking into original works written in the vernacular Turkic, which blended the genre of creeds with jurisprudence.

Keywords

Islamic jurisprudence – dogmatics – Chaghatay – vernacular – Middle Volga – Khorezm – Tarim Basin

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Introduction

When examining situations of colonialism in Muslim-majority areas, specialists of Islamic law have often paused to reflect on how Western imperial officials selected a few, specific texts of jurisprudence (*furūʿ al-fiqh*) for translation in an effort to codify Islamic law.[1] Wael Hallaq has poignantly termed this process "entexting",[2] and explained it as follows:

> It was in British India that the "entexting" of Islamic law first occurred – where, that is, it was fixed into texts as a conceptual act of codification. British India, subjected to direct forms of colonialism, displayed the processes and effects of crude and naked power more clearly than, say, the Ottoman Empire, although the latter was no less affected by the domination of modernity, in all its aspects, than any other directly colonized subject. The Indian experiment (and no less the Ottoman) served an immediate function in the colonialist articulation of Islam, in knowing and managing it. What amounted to a large-scale operation by which complex Islamic legal and social practices were reduced to fixed texts created a new way of understanding India and the rest of the Muslim world. Integral to this understanding was the pervasive idea that to study Islam and its history was to study texts, and not its societies, social practices or social orders. Entexting the Shariʿa therefore had the effect of severing nearly all its ties with the anthropological and sociological legal past, much like the consignment of events to the "dark ages" or medieval period in the European historical imagination.[3]

One can observe the outcome of the process of "entexting" in almost all Muslim-majority areas under colonial rule, where a narrow selection of Islamic legal texts was edited, printed, and widely disseminated, thereby constraining and indeed reducing dramatically what Muslim jurists often referred to as "the sea without a shore" of Islamic jurisprudence. al-Marghīnānī's *Hidāya* (12th century) and Khalīl b. Isḥāq al-Jundī's *Mukhtaṣar* (14th century), translated into English and French in British India and French Algeria respectively, are

1 Arif A. Jamal, *Islam, Law and the Modern State: (Re)imagining Liberal Theory in Muslim Contexts* (London: Routledge, 2018), 90-91.

2 Wael B. Hallaq, *Sharīʿa: Theory, Practice, Transformations* (Cambridge: Cambridge University Press, 2009), 547.

3 Wael B. Hallaq, *An Introduction to Islamic Law* (Cambridge: Cambridge University Press, 2009), 168.

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usually referred to as the most eloquent examples of the process of entexting of Islamic law in the colonies.[4]

The Russian empire, which at the height of its expansion ruled over more than twenty million Muslims, was no exception in this respect. Such a phenomenon of reducing dramatically the sources of law did not escape the attention of historians of Tsarist Russia, who have interpreted it as a movement reflecting a "vision of a standardized and uniform Hanafi orthodoxy".[5] In Central Asia, too, one of the single most populous regions of the empire, we observe a process whereby imperial officials with Orientalist credentials carved a privileged space for a few, select jurisprudential texts of the Ḥanafī *madhhab*, which was the dominant school of law in the region. Being one such text, the *al-Hidāya* was printed twice – in 1893 and 1905 – in Tashkent, under the supervision of Nikolai Grodekov, the then governor of Syr-Darya Province and the future governor-general of Russian Turkestan (1906-08). Translated into Russian not from its Arabic original but from English, for it had served as the foundational text of the Anglo-Muhammadan Law since its first appearance in 1791, the *al-Hidāya* became so popular among Russian officials that, "owing to a very

4 Elisa Giunchi, "The Reinvention of "Sharī'a" under the British Raj: In Search of Authenticity and Certainty", *The Journal of Asian Studies* 69:4 (2010), 1119-42; David S. Powers, "Orientalism, Colonialism, and Legal History: The Attack on Muslim Family Endowments in Algeria and India", *Comparative Studies in Society and History* 31:3 (1989), 535-71; Scott Alan Kugle, "Framed, Blamed and Renamed: The Recasting of Islamic Jurisprudence in Colonial South Asia", *Modern Asian Studies* 35:2 (2001), 257-313; Allan Christelow, "The Muslim Judge and Municipal Politics in Colonial Algeria and Senegal", *Comparative Studies in Society and History* 24:1 (1982), 3-24. The South Asian and Algerian cases should not be regarded, of course, as paradigmatic of the broader trend of "entexting", which is observable across colonial situations. Indeed, colonial officials pursued almost everywhere the adoption of texts that would fit their specific needs. When they did not find them, they even made them up. One such case can be found in South East Asia, where Dutch colonial officials pretended to have translated into Dutch a new text of Islamic jurisprudence mainly devoted to penal law, which actually never existed. See Mahmood Kooria, "The Dutch Mogharaer, Arabic Muḥarrar, and Javanese Law Books: A VOC Experiment with Muslim Law in Java, 1747-1767", *Itinerario* 42:2 (2018), 202-19.

5 Robert Crews, *For Prophet and Tsar: Islam and Empire in Russian Central Asia* (Cambridge, MA: Harvard University Press, 2006), 182. Reliance on a smaller body of jurisprudential texts had consequences in the ways in which *sharī'a* was applied in the Kazakh steppe, says Crews: ibid., 178-89. This claim has been so far empirically unsubstantiated. In his *Preserving Islamic Tradition: Abū Naṣr Qūrṣāwī and the Beginnings of Modern Reformism* (Oxford: Oxford University Press, 2019), Nathan Spannaus offers a different explanation for the phenomenon of Muslim jurists' increased reliance on a select number of legal texts as observed in the Volga-Ural region between the 18th and the 19th centuries. At p. 231, he notes that "viewing texts as containing the "correct" or "authentic" content of the *sharī'a* represents a means of preserving it in the face of its diminution or displacement within society".

short print-run even the second edition rapidly [became] unavailable".[6] And when in 1908, during an "official inspection" (*senatorskaia reviziia*) designed to make recommendations to reform the colonial administration, Senator Count Pahlen convened an assembly of Muslim jurists in Tashkent to produce a colonial code of Islamic law, he established that the *al-Hidāya* should serve as a basis for codification.[7]

What were the historical forces that pushed colonial officials to endow only a few texts of *furūʿ al-fiqh* with privileged authority and to avoid engagement with the broader Islamic jurisprudential corpus, which informed Muslim jurists when issuing their fatwas? It was not ignorance in Islamic legal affairs, to be sure. Time and again we find in the archives of colonial knowledge in Inner Russia, the Caucasus, and Central Asia that imperial bureaucracy provided a space for Western officials and local scholars to engage in a meaningful conversation over the method of Islamic jurisprudence and its layered system of signification. Therefore, it is fair to say that many officials in the Russian colonies were intimately familiar with legal hermeneutics.[8] To note that knowledge of select aspects of Islamic jurisprudence circulated in the empire does not mean that the empire deployed such knowledge, however. In fact, more often than not, those who had privileged access to indigenous sources (either written or oral) of expert knowledge often found that their proposals to improve the administration of the colonies were rejected in the metropole. In fact, one can often encounter cases of what Cornel Zwierlein has termed "willed ignorance".[9]

Rather than ignorance of the law, it was the ethos of codification that informed and sustained the process of entexting, as suggested by Hallaq. To presume that the practice of Islamic law could be improved by bringing order to the ostensibly messy and unpredictable proceedings of Islamic jurisprudence was common among imperial officials deployed in the colonies.[10] Furthermore, the philological penchant for authenticity, which was current among Oriental-

6 Alexander Morrison, "Creating a Colonial *Shari'a* for Russian Turkestan: Count Pahlen, the *Hidaya* and Anglo-Muhammadan Law" in *Imperial Co-operation and Transfer, 1870-1930: Empires and Encounters*, ed. V. Barth and R. Cvetkovski (London: Bloomsbury, 2015), 137.

7 Ibid.

8 Paolo Sartori, *Visions of Justice:* Sharīʿa *and Cultural Change in Russian Central Asia* (Leiden: Brill, 2016), chap. 2 and 5.

9 Cornel Zwierlein, *Imperial Unknowns: The French and British in the Mediterranean, 1660-1750* (Cambridge: Cambridge University Press, 2016), 16.

10 In Zanzibar, preference of a text over the multitude of works reflecting the discourse of Islamic jurisprudence led to the production of a code that was in fact a patchwork of rules originating from different schools of law. This was the case of Seymour Vesey-Fitzgerald, *Muhammadan Law: An Abridgement according to its Various Schools* (Oxford: Oxford University Press, 1931). See the discussion in Elke Stockreiter, ""British kadhis" and "Muslim

ists, must have informed the colonial masters' quest for a reliable source of law. Should we then interpret the process of entexting as the outcome of colonial will alone and the product of the modern state?

In this article I want to suggest that what today is known as "entexting" in the Western historiography of Islamic law was not just an epiphenomenon of colonialism. Emphasis on a self-contained number of jurisprudential texts was in fact one of the outcomes of a profound process of transformation in the Islamic legal episteme among the Muslim communities of Central Eurasia. One of the forces behind such transformation can be identified in what Sheldon Pollock has termed "vernacularization" – that is, a shift toward the popularization of a cosmopolitan body of scholarship through the medium of translation into local languages.[11] The act of translation itself reflected the effort to select, domesticate, and naturalize specific juristic texts, the contents of which were perceived as important, though equally inaccessible. Translation led to distinction and preferment. Suffice to mention that prior to Sir Hamilton's request that the *al-Hidāya* be translated into Persian and therefrom into English in 1788, Persian translations of various famous abridgments of and commentaries on the *al-Hidāya* were produced for the Mughal ruler Awrangzib ʿĀlamgīr (r. 1659-1707).[12]

This essay consists of three parts. In the first part, I propose to review an example of entexting of Islamic law in Tsarist Russia, which will focus on the critical edition of the *Mukhtaṣar al-Wiqāya* by the famous Orientalist Alexander Kasimovich Kazembek (1802-70). In the second part, I proceed to show that, prior to Russian colonialism and the development of a school of Oriental Studies in the 19th century, the *Mukhtaṣar al-Wiqāya* (as well as other works of jurisprudence) underwent a complex process of translation first into Persian and later into Eastern Turkic (Chaghatay). Examining such a process indicates that certain works, such as the *Mukhtaṣar al-Wiqāya*, acquired preferential status to teach *furūʿ al-fiqh* in Central Eurasian *madrasa*s. In the third part, I examine how the vernacularization of Islamic jurisprudence did more than just elevate specific texts over other works, which eventually became the object of Orientalist interest and were therefore chosen for the practice of entexting. I set out to show that, in parallel to a movement of selection and distinction, vernacularization facilitated the process of debasement of jurisprudential

judges": Modernisation, Inconsistencies and Accommodation in Zanzibar's Colonial Judiciary", *Journal of Eastern African Studies* 4:3 (2010), 560-76.

11 Sheldon Pollock, *The Language of the Gods in the World of the Men: Sanskrit Culture, and Power in Premodern India* (Berkeley: University of California Press, 2009), *passim*.

12 Sajjadil Sirhind, *Masāʾil-i sharḥ-i wiqāya*, British Library, 2590; *Sharḥ-i hidāya*, British Library, 2593 and 2594.

traditions from their generic contexts. Such a debasement, I argue, allowed in turn for the merging of two genres: "collections of legal opinions" (*masā'il*), on the one hand, and that of the "creeds" (*ʿaqā'id*), on the other.[13] To support my argument, I offer an analysis of a legal text titled *Zubdat al-masā'il wa-l-ʿaqā'id*. Originally written in Kashghar in Central Asian Turki in the second half of the 18th century, it acquired great popularity at the end of the 19th century after the publication of various lithographic editions in Tashkent, Bombay, and Istanbul, which ensured its global circulation.[14] It is important to pause to reflect on texts such as the *Zubdat al-masā'il wa-l-ʿaqā'id*, which were premised upon the vernacularization of *furūʿ al-fiqh*. So far, historians of law and colonialism in the Islamic world have paid greater attention to changes imposed from above (i.e., by colonial officials and Orientalists), while they have tended to gloss over grass-root dynamics of transformation, which were equally significant to Muslim communities and the practitioners of Islamic law.

Before I proceed to expound my argument, a caveat is in order. By exploring the indigenous historical forces of cultural change of vernacularization and debasement of Islamic law, I do not want to postulate that the process of entexting had only a local genealogy. It is undeniable that the practices of administration of Islamic law that we observe in the colonies reflected a presumption of civilizational superiority. This in turn prompted many imperial officials to conceive of Islamic jurisprudence as inferior, unadorned, and imprecise, and therefore to advocate amelioration by selecting one text as representative of the entire corpus of *furūʿ al-fiqh*. In this regard, it is fairly easy to assemble stories of cultural incommensurability – that is examples of colonial officials who, regardless of their limited linguistic skills and their inability to access texts crafted in the local idioms, blindly forged ahead in producing studies on topics as complex as indigenous forms of land tenure. The perceived need to cut corners among colonial officials was a phenomenon of global legal regimes in the 19th century, as Lauren Benton would have it, as much as the practice of knowledge transfer.[15]

13 In speaking of the merging of these two genres, I do not want to put in place an artificial separation between creedal and jurisprudential literature. In fact, the two genres were not so separate if one looks at the early phase in the formation of the Ḥanafī school of law. Moreover, authors who contributed to both genres shared a prime concern for the notion of "right conduct" (*adab*). I want to thank Jürgen Paul for drawing my attention to this point.

14 On the *Zubdat al-masā'il wa-l-ʿaqā'id* and its author, Muḥammad Ṣādiq Kāshghārī, see Henry F. Hofman, *Turkish Literature: A Bio-bibliographical Survey*, section III, part 1 (Utrecht: The Library of the University of Utrecht, 1969), vol.4, 20-25.

15 Lauren Benton, *Law and Colonial Cultures: Legal Regimes in World History: 1400-1900* (Cambridge: Cambridge University Press, 2002), 3.

However, my excavating the archives of vernacularization of Islamic legal culture in Central Eurasia capitalizes on recent efforts to complicate the dominant historical narrative of Islamic law, which renders codification solely as the outcome of colonialism and the capitulation of Islam to modernization. In fact, historians tend to regard colonialism as a stronger force of epistemic change than the various waves of cultural transformation that occurred in the early modern period, and which we still have to appreciate in full. Indeed, the assumption that the ruptures that one can observe in the field of Islamic law under colonialism are more historically significant than earlier cultural realignments merely reflects an imbalance in scholarship. As recently shown by Samy Ayoub's work on the Ottoman *Mecelle*,[16] there were multiple layers of meaning at play in the assemblage of modern Islamic legal codes, even when such practices of codification in the Muslim world were clearly informed by Western (mostly European) models.[17] To understand why codes like the *Mecelle* often encountered "muted opposition", as argued by Fekry Ibrahim,[18] and were later fully embraced by modern Muslim states, requires a sustained interpretive effort to disentangle the systems of signification that informed their composition. When seen from this perspective, my approach is integrative: it brings into conversation the history of colonialism and imperial history with recent scholarship on Islamic jurisprudence, which has paid particular attention to the processes of incorporation of elements of sultanic authority and state regulation in the process of law-making after the Mongol conquest and throughout the early modern period.[19] After all, most of the translations of works of *furūʿ al-fiqh* examined in this article were commissioned by Muslim

16 Samy Ayoub, "The *Mecelle*: *Sharīʿa*, and Ottoman State: Fashioning and Refashioning of Islamic Law in the 19th – 20th Century CE", *The Journal of the Ottoman and Turkish Studies Association* 2:1 (2015), 121-46.

17 Avi Rubin, "Modernity as a Code: The Ottoman Empire and the Global Movement of Codification", *Journal of the Economic and Social History of the Orient* 59:5 (2016), 828-56.

18 Ahmed Fekry Ibrahim, "The Codification Episteme in Islamic Juristic Discourse between Inertia and Change", *ILS* 22:3 (2015), 220. Whether indeed the reception of codes and statutory laws amounted to 'muted opposition' alone, it is at present difficult to say given the state of the art of studies on Islamic law in colonial situations.

19 Guy Burak, *The Second Formation of Islamic Law: The Hanafi School in the Early Modern Ottoman Empire* (Cambridge: Cambridge University Press, 2015); Samy Ayoub, *Law, Empire, and the Sultan: Ottoman Imperial Authority and Late Ḥanafī Jurisprudence* (Oxford University Press, 2020); James Baldwin, *Islamic Law and Empire in Ottoman Cairo* (Edinburgh: Edinburgh University Press, 2016); Natalia Królikowska-Jedlińska, *Law and Division of Power in the Crimean Khanate (1532-1774): With Special Reference to the Reign of Murad Giray (1768-1883)* (Leiden and Boston: Brill, 2019).

rulers.[20] Furthermore, this study builds on the efforts of specialists in Middle Eastern history to explain the broad circulation of texts in Ottoman Turkish referred to as *ʿilm-i ḥāl*, which were designed for the popularization of the Islamic creeds. As we shall see, in Central Eurasia starting from the early modern period, the popularization of the Islamic creeds was a phenomenon entangled with the vernacularization of Islamic jurisprudence. In this respect, the works of Derin Terzioğlu[21] and Tijana Krstić[22] invite us to cast our gaze beyond the confines of what we think the curriculum of Islamic legal studies was, take stock of the significance of normative texts written in the vernacular, and look at the circulation of legal knowledge as part of imperial projects of confessionalization.

1 The Renegade Orientalist and the *Mukhtaṣar al-Wiqāya*

The career and academic output of the Orientalist Muḥammad ʿAlī Kazembek has often been regarded as one exemplifying the movement toward the codification of Islamic law by means of what Hallaq has termed "entexting". Born in 1802 in Rasht in northern Iran into a prominent family of Daghestani scholars, Muḥammad ʿAlī received most of his education from mullahs in the Caucasian port of Derbent, then under Russian rule, where his father, Ḥājjī Qāsim, operated as *Shaykh al-Islām*. Ḥājjī Qāsim made sure that his son Muḥammad ʿAlī could receive a thorough education and invited for such a purpose a number of scholars from abroad, most notably a shaykh from Bahrein who taught Muḥammad ʿAlī the intricacies of Islamic jurisprudence. Life changed abruptly in 1820 for the Kazembeks when, in the wake of a conflict with another group of Muslim notables from Derbent, a Russian military court sentenced Ḥājjī Qāsim to exile to Astrakhan, a commercial entrepôt on the delta of the river Volga, on the northern shores of the Caspian Sea. When Muḥammad ʿAlī followed his father a year later, he was offered the chance to teach "Oriental languages" to Scottish Presbyterian missionaries stationed in the Russian port

20 One of the earliest efforts by Muslim rulers to translate jurisprudential texts from Arabic has been studied by Sara Nur Yıldız, "A Hanafi Law Manual in the Vernacular: Devletoğlu Yūsuf Balıḳesrī's Turkish Verse Adaptation of the *Hidāya-Wiqāya* textual tradition for the Ottoman Sultan Murad II (824/1424)", *BSOAS* 80:2 (2017), 283-304.

21 Derin Terzinoğlu, "Where *ʿİlm-i Ḥāl* Meets Catechism: Islamic Manuals of Religious Instruction in the Ottoman Empire in the Age of Confessionalization", *Past and Present* 220:1 (2013), 79-114.

22 Tijana Krstić, *Contested Conversion to Islam: Narratives of Religious Change in the Early Modern Ottoman Empire* (Stanford, CA: Stanford University Press, 2011).

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city. This new acquaintance clearly had quite an impact on Muḥammad ʻAlī, for, having embraced the Christian faith, he was baptized in 1823 with the name Alexander Kasimovich Kazembek. The young apostate quickly attracted the attention of the imperial authorities. In 1824 he published a pamphlet on the superiority of Christianity over Islam that gained the ire of a scholar from Tabriz, a certain Ḥājjī Mullā Rizā. The latter complained about the insolence of Kazembek to no other than the commander of the Russian forces in the Caucasus, General Ermolov, who eventually took measures to distance Kazembek from the Scots and have him appointed as a lecturer at the Oriental College in faraway Omsk. On his way to Siberia, Kazembek was forced to stop in Kazan because of illness. It was most probably his unmatched erudition that helped him to gain the favour of the physician and botanist Karl Fuchs (1776-1846), then rector of Kazan University.[23] Kazembek quickly made a name for himself as an exceptional polymath, thereby soon entering the ranks of Russian Orientalists.[24]

In 1845, Kazembek, then Professor of Turco-Tatar Letters at the Imperial University of Kazan, published a book entitled *Mukhtaṣar al-Wiqāya or, A Course in Islamic Jurisprudence according to the Hanafi School of Law*.[25] Crafted in Bukhara in the 14th century, the *Mukhtaṣar al-Wiqāya* had been a reference work for jurists and a fundamental reading in *madrasa*s among followers of the Ḥanafī school of law (*madhhab*) for centuries and a ubiquitous text especially in the Muslim-majority regions of the Russian Empire.[26] The publication of the critical edition[27] of the *Mukhtaṣar* represented a breakthrough for

23 I am drawing here on A. K. Rzaev, *Mukhammad Ali Kazem-Bek* (Moscow: Nauka, 1989) and David Schimmelpennick van der Oye, "Mirza Kazem-Bek and the Kazan School of Russian Orientology", *Comparative Studies of South Asia Africa and the Middle East* 28:3 (2008), 457.

24 Kazem-Bek's first biography actually appeared in French in *Le jeune voyageur dans la Syrie, l'Arabie et la Perse* (Toulouse: Société des livres religieux, 1854), 429-38. Gustave Dugat, *Histoire des Orientalistes de l'Europe du XIIe au XIXe siècle* (Paris: Maisonneuve, 1868), vol. 1, XLIII, 169-85.

25 Mirza Aleksandr Kazem-Bek, *Miukhteseriul-Vegkaet ili Sokrashennyi Vegkaet: Kurs miusiul'manskago zakonovedeniia po shkole Khanifidov* (Kazan: Imperial University Press, 1845). It will be reprinted again in 1876 and 1885.

26 Maria Eva Subtelny and Anas B. Khalidov, "The Curriculum of Islamic Higher Learning in Timurid Iran in the Light of the Sunni Revival under Shāh-Rukh", *JAOS* 115:2 (1995), 210-36; Ken'ichi Isogay, "*Waqf* as a Device for Sustaining and Promoting Education: A Case from Pre-modern Central Asia", in *Comparative Study of the* Waqf *from the East: Dynamism of Norm and Practices in Religious and Familial Donations*, ed. Miura Toru (Tokyo: Toyo Bunko Research Library, 2018), 41-61.

27 Readers are here reminded that the publication in question did not contain a Russian translation of the *Mukhtaṣar al-Wiqāya*.

Russian Orientalism, not only because it was the first work of Islamic jurisprudence to go to print under the Tsars[28] but also because it was noted and praised by the most prominent specialists of Islamic law in France and Germany.[29] Now the Kazan school of Orientology could boast recognition by its peers abroad.

The *Mukhtaṣar al-Wiqāya or, A Course in Islamic jurisprudence according to the Hanafi school of Law* was intended to draw the attention of Russian officials to what Kazembek saw as a key work on Islamic law. Simultaneously, Kazembek intended to provide Russia's Muslim jurists with a polished version of the *Mukhtaṣar al-Wiqāya*, a text that so far had been circulating in manuscript form and thus, according to Kazembek, was almost unfailingly tainted by scribal errors and omissions. But if we zoom out of this text, we are better positioned to appreciate that the publication in question was entangled with an imperial form of governance and its attendant discourse, which were designed to embrace indigenous legal systems (such as Islamic law) and include them into an institutional edifice favoring legal pluralism. The latter allowed the imperial state to assign discrete jurisdictions to different communities, distinguished by estate, confession, and racial traits.[30]

When and if observed in this light, Kazembek seems indeed to be endorsing a Western project of promoting a minimal approach to Islamic law leading necessarily to codification. To this date it is still difficult to establish whether the increased availability (through print) of a few, selected works of jurisprudence ever affected substantially the ways in which *qāḍī*s adjudicated disputes.[31] However, it is plain that Western imperial officials regarded

28 Danielle Ross, "Islamic Education for All: Technological Change, Popular Literacy and the Transformation of the Volga-Ural Madrasa, 1650s–1910s", in Sharī'a *in the Russian Empire: The Reach and Limits of Islamic law in Central Eurasia, 1550-1917*, ed. Paolo Sartori and Danielle Ross (Edinburgh: Edinburgh University Press, 2020), 43-47. At p. 45 Ross explains that, prior to Kazembek's edition of the *Mukhtaṣar al-Wiqāya*, we know only of two texts of Islamic law printed in Russia, Ṣufī Allahyar's *Thabat al-'Ājizin* and the *Fawz al-Najāt*. The first was a rhymed poem written in Chaghatay at the end of the 18th century that popularized the Islamic creeds and jurisprudence. The second was a Tatar adaptation of a Persian rendering of a text originally crafted in Arabic in the 11th century, and which blended Islamic law with ethics and the creeds.

29 Nicola de Tornauw, "Le droit musulman exposé d'aprés les sources" *Revue critique de Législation et de Jurisprudence*, XV 9me année (1859), 509-32 at 513-14, reprinted as a standalone publication by the publisher Cotillon in 1860.

30 Jane Burbank, "An Imperial Rights Regime: Law and Citizenship in the Russian Empire", *Kritika* 7:13 (2006), 397-431; Paolo Sartori and Ido Shahar, "Legal Pluralism in Muslim-Majority Colonies: Mapping the Terrain", *Journal of the Economic and Social History of the Orient* 55:5 (2012), 637-63.

31 Paolo Sartori, "Constructing Colonial Legality in Russian Central Asia: On Guardianship", *Comparative Studies on Society and History* 56:2 (2014), 419-47.

translations as necessarily conducive to codification. As Allen Christelow noted long ago while examining French policy with regard to Islamic law in the Maghreb: "Captain Nicolas Seignette's virtually incomprehensible translation of Sidi Khalil's treatise on the Maliki rite of Islamic law, the *Mukhtaṣar*, was significantly titled *Code Musulman*."[32] Once translated, a jurisprudential text could be refashioned as a code, one would say.

There is little doubt that Kazembek was aware of authoritative examples of entexting, which had manifested themselves in other colonial situations. And like the biographies of other Orientalists, his intellectual trajectory too is clearly imbricated with global legal regimes.[33] Indeed, Kazembek informed his readers that the *Mukhtaṣar al-Wiqāya* was a work very much worthy of Russian officials' attention because Europeans had begun to study "Muhammedan jurisprudence", while the British in "Hindustan" had published similar works "without translation or commentary" to comprehend and uphold Islamic law in their colonies.[34] While Kazembek was trying to make a case for the importance of the *Mukhtaṣar al-Wiqāya* as a central text for Ḥanafī jurisprudence, he was equally giving special consideration to the tastes of imperial officials in the metropole who were keen on observing, and possibly emulating, the courses of action taken by other imperial formations in their colonies.

In anatomizing the process of elevation of the *Mukhtaṣar al-Wiqāya* from a text circulating in manuscript form to one distributed in printed editions, we encounter, however, other historical material suggesting that such a process must have been only *laterally* informed by patterns of Orientalist discernment, and that it actually originated earlier, from other, lesser known, though no less significant genealogies of change.

In fact, Kazembek's first edition of the *Mukhtaṣar al-Wiqāya* owed little to state-sponsored legal pluralism and top-down policies of codification. Instead, it was a certain Jahāngīr Khān (r. 1824-45), the ruler of the Kazakh Inner Horde and a Muslim of Chinggisid descent, who commissioned to Kazembek the publication of that legal compendium.[35] Correspondence between various Russian institutions provides damning evidence that without Jahāngīr Khān's

32 Christelow, "The Muslim Judge and Municipal Politics in Colonial Algeria and Senegal", 7 fn. 9.

33 Benton, *Law and Colonial Cultures: Legal Regimes in World History: 1400-1900*, 3.

34 Mirza Aleksandr Kazem-Bek, *Miukhteseriul-Vegkaet ili Sokrashchennyi Vegkaet: Kurs miusiul'manskago zakonovedeniia po shkole Khanifitov* (Kazan: "Iman", 2002 [Kazan: Imperial University Press, 1845]), 9.

35 Report of A.K. Kazembek to M.N. Musin-Pushkin, 28.02.1844, B.T. Zhanaev, V.A. Inochkin, S.Kh. Sagnaeva, *Istoriia Bukeevskogo khanstva, 1801-1852 gg.: Sbornik dokumentov i materialov* (Almaty: Daik-Press, 2002), doc. no. 308.

substantial financial investment, the first printed edition of the *Mukhtaṣar al-Wiqāya* would not have seen the light of day.[36]

One may well question whether Jahāngīr Khān had perhaps internalized the sensibilities derived from the Russian discourse on codification and thus emulated the approach of imperial agents of the likes of Kazembek. This would be a legitimate question, since we know in fact of influential imperial agents of Muslim origins from Central Asia or the Caucasus, or the Middle Volga, for that matter, who sustained and indeed reinforced the cultural predicaments of the empire.[37] In the case of Jahāngīr Khān, however, the answer should be in the negative, not only because the ruler of the Inner Horde is known for his ostentatious piety and attachment to Islamic institutions (attributes that were at odds with the Russian policies in the steppe), but also because Jahāngīr Khān cultivated an interest in jurisprudential texts, an interest most eloquently exemplified by an original collection of *fatāwā* written in a mix of Tatar and Chaghatay, which he acquired for his own edification.[38] Therefore, rather than reifying a process of "entexting" from below, so to speak, Jahāngīr Khān was clearly invested in a project of Islamic revival among the Kazakhs, a revival premised upon the dissemination of Islamic normative literature deemed *canonical*.[39]

So what do we make of an edition of a fundamental text of Ḥanafī jurisprudence prepared by a Caucasian renegade-turned-tsarist-orientalist at the request of the leader of the Kazakh Inner Horde? The protean nature of the publication of the *Mukhtaṣar al-Wiqāya* opens a window into a complex world of encounters between the Islamic juristic discourse with Orientalist technologies, namely philology and printing. But more importantly it invites us to reflect on the changes in the Islamic juridical field, which occurred in Central Eurasia in the early modern period.

36 Report of F.I. Erdman to the Council of the University of Kazan', 27.05.1844, ibid., doc. 311.

37 Chokan Valikhanov (1835-65) is one such figure: scion of a family of Chinggisid descent that entered imperial service in the 1830s, Valikhanov was trained as a Russian military cadet. He served as an ethnographer for the Asiatic Department of the Ministry of Foreign Affairs and commanded authority over imperial officials stationed in the Kazakh steppe. He seems to have completely internalized the idea, which had currency among Russian officials, that the Kazakhs were only superficially Islamized and therefore unfit to the rule of *sharī'a*. On Valikhanov, see Crews, *For Prophet and Tsar*, 210-12.

38 Uncatalogued and undated collection of legal questions and answers (*mas'ala – al-jawāb*), MS Kazan', KFPU Library ORRK, inv. no. 1422. Fols. 4a and 475a are stamped with the seal of Jahāngīr Khān b. Bukāy Khān.

39 Allen J. Frank, *Muslim Religious Institutions in Imperial Russia. The Islamic World of Novouzensk and the Kazakh Inner Horde*, 1780-1910 (Leiden: Brill, 2001), 282-83.

It is Kazembek himself who alerts us to one such major change. Together with the printed edition of the *Mukhtaṣar al-Wiqāya*, his *Course in Islamic jurisprudence according to the Hanafi school of Law* includes a hefty introduction on the history of *furūʿ al-fiqh*, which explains that, centuries prior to colonization, the office of the mufti underwent mutation as *sharīʿa* shifted from a system based mainly on hermeneutical engagement (*ijtihād*) to one in which jurists had to report only the accepted view within a given school of law. The shift occurred from a situation of fluidity, says Kazembek, in which jurists could still contribute to the growing diversity of opinions, to one of adherence to a school of law (i.e., *taqlīd fī l-madhhab*). One can trace such shift to a change of meaning in the idea of preponderant view (*tarjīḥ*). Until the 13th century, *tarjīḥ* signified the exercise of preponderance by evaluating and reporting the "indicant" (*dalīl*) attached to an opinion.[40] Starting from the 14th century, argues Kazembek, we observe that the meaning of *tarjīḥ* is reduced to reporting the preponderant view; hence the rise of the genre of the juristic compendium (*mukhtaṣar*) and the *fatāwā* collections (*masāʾil*).[41]

In his *Course in Islamic jurisprudence according to the Hanafi school of law*, Kazembek provided an historical overview of Islamic jurisprudence, which was not of Orientalist derivation.[42] Indeed, as we shall see later, his vision of the Islamic jurisprudential method, centered around the notion of *tarjīḥ*, was integral to conversations among jurists of the time across various Muslim-majority regions of the Russian empire notwithstanding their legal schools of affiliation.[43] As the task of *muftī*s was limited to the reiteration of the preponderant view on a given point of law, it seems perfectly consequential that

40 "For God did not reveal a law but only texts containing what the jurists characterize as indications (or indicants: *dalīl*s). These indicants guide the jurist and allow him to infer what he thinks to be a particular rule for a particular case at hand", Hallaq, *Sharīʿa: Theory, Practice, Transformations*, 82.

41 This change identified by Kazembek in the methodology of Islamic jurisprudence has been recently the subject of two important studies: Ibrahim, "The Codification Episteme in Islamic Juristic Discourse between Inertia and Change"; Talal Al-Azem, *Rule-Formulation and Binding Precedent in the Madhhab-Law Tradition: Ibn Quṭlūbughā's Commentary on* The Compendium *of Qudūrī* (Boston and Leiden: Brill, 2016).

42 Though Kazembek did not state it clearly, his *Course in Islamic jurisprudence according to the Hanafi school of law* draws heavily on a legal treatise penned by the 16th-century Ottoman scholar Kemâlpaşazâde, which was entitled *Risāla fī ṭabaqāt al-mujtahidīn*. I owe this information to Jürgen Paul. On the significance of this text, see Burak, *The Second Formation of Islamic Law: The Ḥanafī in the Early Modern Ottoman Empire*, 225-28.

43 Shamil Shikhaliev, "*Taqlīd* and *Ijtihād* over the Centuries: The Debates on Islamic Legal Theory in Daghestan, 1700s-1920s", in Sharīʿa *in the Russian Empire: The Reach and Limits of Islamic Law in Central Eurasia, 1550-1917*, 239-80: Paolo Sartori, "What We Talk about When We Talk about *Taqlīd* in Russian Central Asia", ibid. 299-327.

jurisprudential abridgments such as the *Mukhtaṣar al-Wiqāya*[44] came to be regarded canonical texts of *furūʿ al-fiqh*.

Now that we have established the privileged status of the *Mukhtaṣar al-Wiqāya* within the Islamic jurisprudential corpus in use among 19th-century Muslim jurists operating in Central Eurasia, we can make a further step and examine the forces of cultural change that make this specific text worth of elevation over other equally authoritative texts. I shall address this issue in the next section.

2 The Vernacularization of the *Mukhtaṣar al-Wiqāya*

Written by a Bukharan scholar named ʿUbaydallāh b. Masʿūd al-Maḥbūbī known as Ṣadr al-Sharīʿa al-Thānī (d. 1346), the *Mukhtaṣar al-Wiqāya* was a well-known work of Islamic casuistry, which was copied and made subject to extended commentary in Islamic institutes of higher learning from the Ottoman Empire to western China for centuries before Russia expanded into Crimea, the Caucasus, and Central Asia.[45]

The Arabic original of the *Mukhtaṣar al-Wiqāya* began to be regarded as a fundamental source of Islamic jurisprudence within the Ḥanafī school already a few decades after its first crafting in the 14th century. This work's reputation owed to its intrinsic generic features: it was a relatively short text offering an abridged version of an important commentary (Burḥān al-Sharīʿa Maḥmūd b. Ṣadr al-Sharīʿa al-Akbar Aḥmad b. Jamāl al-Dīn ʿUbaydullāh al-Maḥbūbī's *Wiqāyat al-riwāya fī masāʾil al-Hidāya*)[46] on a key (though already fairly concise) text of Ḥanafī jurisprudence (ʿAlī Abū Bakr al-Marghīnānī's *al-Hidāya*).

44 As we shall see, the list of juristic abridgments (either in the original Arabic or in the vernacular) includes a substantial number of texts such as the *Mukhtaṣar al-Qudūrī* or *Fiqh al-Kaydānī*.

45 Allen J. Frank, "A Month among the Qazaqs in the Emirate of Bukhara: Observations on Islamic Knowledge in a Nomadic Environment", in *Explorations in the Social History of Modern Central Asia (19th-Early 20th Century)*, ed. Paolo Sartori (Leiden: Brill, 2013), 262; Roberta Tontini, *Muslim Sanzijing: Shifts and Continuities in the Definition of Islam in China* (Leiden & Boston: Brill, 2016), 18; Vladimir Nalivkin and Maria Nalivkin, *Muslim Women of the Fergana Valley: A 19th-Century Ethnography from Central Asia*, ed. Marianne Kamp, trans. Mariana Markova and Marianne Kamp (Bloomington & Indianapolis: Indiana University Press, 2016), 71.

46 For a meticulous reconstruction of this work's authorial attribution, see Yıldız, "A Hanafi Law Manual in the Vernacular: Devletoğlu Yūsuf Balıḳesrī's Turkish Verse Adaptation of the *Hidāya-Wiqāya* textual tradition for the Ottoman Sultan Murad II (824/1424)", 291 fn. 9.

Starting from the early modern period, the recognition of this text increased even more as translations of the *Mukhtaṣar al-Wiqāya* served as a gateway to a complex process of vernacularization of Islamic law across Central Asia and the Middle Volga. Indeed, there exist several copies of a Persian translation of the *Mukhtaṣar al-Wiqāya* executed by Muḥammad Ṣalāḥ b. Badr al-Dīn b. Muḥammad al-Jurjānī in 1530/31[47] under ʿUbaydullāh Khān, the Shibanid ruler of Bukhara.[48] Later, starting from the 17th century, Persian translations began to be used as a basis to render the *Mukhtaṣar al-Wiqāya* into Chaghatai Turkic. We observe this phenomenon first under the rule of Abū l-Ghāzī Bahādurkhān (r. 1644-63), the author of the *Shajara-yi Turk*, for example, when Muḥammad Ṣalāḥ's translation was put into Chaghatay.[49] But this translation process

47 O.F. Akimushkin et al., *Persidskie i tadzhikskie rukopisi instituta narodov azii akademii nauk SSSR* (*Kratkii alfavitnyi katalog*), *chast' 1* (Moscow: Nauka, 1964), no. 3980-3983; G.I. Kostygova, *Persidskie i tadzhikskie rukopisi "novoi serii" FPB. Alfavitnyi katalog* (Leningrad, 1973), no. 154; A. Idrisov, A. Muminov, and M. Szuppe, *Manuscrits en écriture arabe du Musée regional de Nukus* (*République autonome du Karakalpakstan Ouzbékistan*). *Fonds arabe, persan, turkī et karakalpak* (Rome: Istituto per l'Oriente C.A. Nallino, 2007), 82; *Tarjuma-yi Mukhtaṣar al-Wiqāya* , MS St. Petersburg, Russian National Library, T.N.S. 105, uncatalogued. Besides Muḥammad Ṣalāḥ's 16th-century rendering, various interlinear translations into Persian can also be found. One such example is a text presently held at the Manuscript Library of the International Islamic Academy of Uzbekistan, inv. no. 46/1 (1333/1913-14). The translation is incomplete for it covers only fols. 1a-41b of the 'first book' (*daftar-i awwal*). Another composite codex among the holdings of the Manuscript Library of the International Islamic Academy of Uzbekistan (inv. no. 32) includes one translation of the *Mukhtaṣar*, and two commentaries, one of which is entitled *Manāfiʿ al-Muslimīn*. The manuscript was copied in inv. no. 32/V (1287/1867-68).

48 In a mid 18th-century history of Mughal and Chinggisid rulers written in India, we find that ʿUbaydullāh Khān is credited with having studied the *Hidāya* and one of his commentaries, the *Nihāya* (most probably authored by Husām al-Dīn Ḥusayn b. ʿAlī, a pupil of Marghīnānī himself), with one of the most eminent jurists of the time, Mawlānā Maḥmūd ʿAzīzān. As the story goes, having found that ʿUbaydullāh Khān was talented, the jurist encouraged the ruler to write an exegesis (*tafsīr*) in Chaghatay of such texts and found it praiseworthy (*pasandīda*). Furthermore, the history accords ʿUbaydullāh Khān the crafting of a Chaghatay translation in rhymed form of a work entitled *Risāla-yi Ḥaqq*, which appears to have enjoyed currency among the scholars contemporary to the author. Cf. Ḥajjī Mīr Muḥammad Salīm, *Silsilat al-salāṭīn*, MS Oxford, Bodleian Ouseley 269, fols. 117v-118r.

49 An early 18th-century Chaghatay rendering of Muḥammad Ṣalāḥ's translation of the *Mukhtaṣar al-Wiqāya* into Persian is MS Tashkent, IVANRUZ, inv. no. 8442. The translation is anonymous, and there are no specifications regarding its purposes. Furthermore, the manuscript is defective, for it lacks a colophon. The description in the *Sobranie Vostochnykh Rukopisei Akademii Nauk Uzbekskoi SSR* [henceforth *SVR*], tom VII, ed. A.A. Semenov (Tashkent: Izdatel'stvo Akademii Nauk Uzbekskoi SSR, 1957), says that it is very close to the Tashkent and Kazan lithographic editions (see infra fn. 53). Another rendering of the *Mukhtaṣar al-Wiqāya* into a Turkic language, which was based on Muḥammad Ṣalāḥ's

manifested itself even more clearly during the 19th- and the early-20th century: we know of at least four Chaghatay versions of the *Mukhtaṣar* commissioned by the Qonghrats, the Uzbek dynasty that ruled over Khorezm from the second half of the 18th century until 1920.[50]

Translations of the *Mukhtaṣar al-Wiqāya* were not just an interest of Uzbek dynasts, however. We encounter several Central Asian Chaghatay-language renderings of this text produced beyond the narrow confines of the royal courts.[51] These works no doubt belonged to mullahs in Khorezm, who employed the Turkic version of the *Mukhtaṣar al-Wiqāya* as a primer for teaching purposes. Locating such texts within the holding of local manuscript libraries should not come as a surprise: endowment deeds indicate that, starting from the end of the 18th century, the curricula of *madrasa*s in Khorezm put particular emphasis on the mastery of a very narrow selection of texts, among which we find precisely the *Mukhtaṣar al-Wiqāya*.[52]

Persian translation, is MS Tashkent, IVANRUZ, inv. no. 9505/I. The language used for this translation is very close to modern Tatar, and the text itself offers an abridged version of the *Mukhtaṣar*.

50 *Mukhtaṣar al-Wiqāya tarjumasī*, MS St. Petersburg, Russian National Library, T.N.S. 78 (1861-62); T.N.S. 79 (second half of the 19th century). These manuscripts are both uncatalogued, and they most probably belonged to what once was the Qonghrat royal library, which the Russians confiscated in 1873 during the siege of Khiva. A Samarqandi scholar by the name of Mirzā ʿAbd al-Raḥmān, who assisted the Russian Orientalist Alexander Kuhn during the first examination of the codices at the Qonghrat royal palace, produced a draft inventory, which grouped works according to very broad generic distinctions. One such rubric was devoted to legal texts (*kitābhā-yi mas'ala* [*va*] *masā'il* [*va*] *mushkilāt*), and it included three references to Chaghatay translations of the *Mukhtaṣar al-Wiqāya* . See Institute of Oriental Manuscripts of the Russian Academy of Sciences (St. Petersburg), Orientalists' Archive, Kuhn's Collection, f. 33, op. 1, d. 134, l. 52v. On 15 December 1905 a Chaghatay translation, which was based on Muḥammad Ṣalāḥ's Persian version of the *Mukhtaṣar al-Wiqāya*, was executed by Mullā Muḥammad Sharīf Ākhūnd b. Dāmullā ʿAbdallāh Ākhūnd Muftī in Khiva. See MS Tashkent, IVANRUZ, inv. no. 7282. The work was commissioned by a Qunghrat dynast (*bū kitabnī yāzmāq ma'mūr būldūm*), ibid., fol. 308b. The first book (*daftar-i awwal*) of the Arabic-language commentary (*sharḥ*) of the *Mukhtaṣar al-Wiqāya* , which was executed by ʿAbd al-ʿAlī b. Muḥammad b. al-Ḥusayn al-Birjandī, was translated into Chaghatay at the request of Muḥammad Raḥīm Khān II, "so that the Turkic people would profit from it" (*ahl-i turknīng nafˣ ālmāqī ūchūn*). See *Sharḥ-i Mukhtaṣar al-Wiqāya* , MS Tashkent, IVANRUZ, inv. no. 7314, fol. 497a. For a description, see *SVR* VII, 363-64.

51 In 1906 we find in Khiva yet another Chaghatay translation of the *Mukhtaṣar* based on a previous Persian rendering, see *Mukhtaṣar al-Wiqāya tarjumasī*, MS Tashkent, IVANRUZ, inv. no. 1752/III, described in *SVR* tom IV, no. 3129. For other Chaghatay translations, see IVANRUZ, inv. nos. 8376, 1717 (includes only a selection of chapters).

52 See Maria Szuppe, "Dispositions pédagogiques et cursus scolaire a Khiva: Un *waqf-nāma* de foundation de *madrasa*, 1214/1799-1800", in *Écrit et culture en Asie centrale et dans le*

The Chaghatay version of this juristic work, however, acquired exceptional prominent status in Central Asia well beyond the oasis of Khorezm when the printing press increased its circulation. One Raḥīm Khwāja b. ʿAlī Khwāja Īshān Shāshī published a rhymed version of this work in the year 1900 in Tashkent, then the major administrative and political centre of the Governorship General of Russian Turkestan.[53] Furthermore, the Chaghatay translation was lithographed in Tashkent once again under the title of *Majmaʿ al-Maqṣūd* in 1912.

It is true of course that translations of texts like the *Mukhtaṣar al-Wiqāya* did not lead to a decrease in consumption of texts written in Arabic.[54] Instead, translations developed in parallel with the growing accessibility of original versions now available in print. Islamic legal texts both in Arabic and in Chaghatay belonged to a wide circulation of Ḥanafī law manuals, *fatwa* collections, and texts on the Islamic creeds, which testifies to indigenous Muslim movements toward a second wave of canonization[55] of a specific reading of Islamic jurisprudence in the early modern period, movements that, it has been argued, pre-dated Europe's colonial conquests and Western sensibilities of codification.[56] A few decades after the publication of Kazembek's edition of the *Mukhtaṣar*, private Muslim presses in the Volga-Ural region began to publish the text in Tatar translation[57] and, by doing so, pushed for the inclusion of the

monde turco-iranien, Xe-XIXe siècles, ed. Francis Richard and Maria Szuppe (Paris: Peeters, 2009), 251-84; Paolo Sartori "On Madrasas, Legitimation, and Islamic Revival in 19th-Century Khorezm: Some Preliminary Observations", *Eurasian Studies* 14 (2016), 98-134

53 *Naẓm al-Mukhtaṣar al-Turkī* (Tashkent: Tipo-Litografiia V.M. Il'ina, 1900). There exist also a rhymed translation into Persian known as *Tarjuma-yi manẓūm az Mukhtaṣar-i Wiqāya*, British Library 2184, undated. Fol. 1v bears a "Fort William 1825" *ex libris*.

54 According to statistics gathered by the Ministry of Internal Affairs, in 1910, the presses of the Middle Volga published a total of 2,397,710 copies of 380 books. Of those books, 49 were in the Arabic language and 38 more were Arabic-Chaghatay bilingual texts; see Natsional'nyi Arkhiv Respubliki Tatarstan f. 199, op. 1, del. 722, l. 79-790b. These statistics include only domestically published books. In addition, by the late 1800s, Muslim booksellers imported Arabic-language books from publishers in Istanbul, Cairo, Beirut, and Lahore. I owe this reference to Danielle Ross.

55 I speak here of a "second wave of canonization" with some latitude because many jurisprudential texts were in fact first canonized in the Arabic original in the pre-Mongol period. See Ahmed el Shamsy, *The Canonization of Islamic Law: A Social and Intellectual History* (Cambridge: Cambridge University Press, 2013).

56 Ibrahim, "The Codification Episteme in Islamic Juristic Discourse between Inertia and Change"; León Buskens, "Sharia and the Colonial State", in *The Ashgate Research Companion to Islamic Law*, ed. R. Peters and P. Bearman (Farnham: Ashgate, 2014), 216-17.

57 *Mukhtaṣar al-Wiqāya tarjumasī tūrkīcha*, trans. Shihābaddīn bin Mullā ʿAbdalʿaziz Imānlībāshī (Kazan: Tipografiia T. D. Brat. Karimovykh v Kazani, 1901). A year later, the press of the Kazan University published a Tatar adaptation of the *Mukhtaṣar al-Wiqāya*, which was based on the Chaghatay rendering of Muḥammad Ṣalāḥ's 17th-century Persian

vernacular rendering of this text in the curricula of provincial *madrasa*s.[58] An indigenous and eloquent endorsement of the movement of entexting comes from the Muslim Spiritual Assembly in Orenburg, the single most important institution overseeing the affairs of Muslims in Inner Russia. In 1890, its secretary, Muḥammad Salim Umetbaev, published a Russian-Tatar dual-language *History of the Mukhtaṣar al-Wiqāya or a Short Course on Islamic law*,[59] which was based upon Kazembek's 1845 edition. The circulation of the *Mukhtaṣar al-Wiqāya* in Turkic translation was not confined to a direct pattern of transmission between Khorezm and the Middle Volga. We know that Turkmen used it in primary schools to popularize the basics of Islamic orthopraxis.[60] The Turkmen of the Transcaspian region embraced this text and made it their own to such an extent that in the 19th century it became known under a new title: *Rawnāq al-Islām*.[61]

The *Mukhtaṣar al-Wiqāya* is only one text amid a richer corpus of jurisprudential works that underwent a process of translation, first into Persian and later into Central Asian Turki, which we have yet to explore in full. Another such case is represented by the 14th-century jurisprudential work titled *Maṭālib al-muṣallī*, otherwise known as *Fiqh al-Kaydānī*, crafted by Luṭfallāh al-Nasafī

translation from the Arabic. This publication is noteworthy because it offers in an appendix a Tatar glossary of difficult Chaghatay and Persian terms. See Muḥammad Ṣalāḥ, *Tarjuma-yi Mukhtaṣar al-Wiqāya* (Kazan: Tipo-litografiia Imperatorskogo Universiteta, 1902), 384-89. Interestingly, this glossary was based on the famous *Ḥall al-Lughāt*, a dictionary of difficult words encountered in the *Jāmiʿ al-Rumūz*, a 16th-century commentary of the *al-Hidāya*, which was first printed in Kazan in 1882. The *Ḥall al-Lughāt* was a print adaptation of the *Kashf lughāt Jāmiʿ al-Rumūz* crafted by ʿAbdarraḥīm b. ʿUthmān al-Bulghārī at the beginning of the 19th century. See Michael Kemper, *Sufis und Gelehrte in Tatarien und Baschkirien, 1789-1889: Der islamische Diskurs unter russischer Herrschaft* (Berlin: Klaus Schwarz Verlag, 1998), 178, fn. 328.

58 Ross, "Islamic Education for All: Technological Change, Popular Literacy and the Transformation of the Volga-Ural Madrasa, 1650s–1910s", *passim*.

59 Muhammadsalim bin Ishmuhammad Umetbaev, *Istoriia Miukhtesarl'-vikaeta ili sokrashchennago kursa musul'manskago zakonoveneniia/Mukhtasar al-wiqaya muqaddamasy* (Ufa: Tipografiia I. S. Perova, 1890).

60 I. A. Beliaev, *Mekteby Zakaspiiskoi Oblasti* appendix to *Obzor Zakaspiiskoi Oblasti za 1912-1914* (Askhabad, 1916), 48.

61 *Türkmen edebiyatïnïng tarïhï* I (Ashkhabad: Ylym, 1975), 332; G. Nazarov, *Türki dilli golyazmalar katalogï* (Ashkhabad: Izdatel'stvo "Ylym", 1980), 23. The text was also published in Kazan in 1858, see Bernhard Dorn, "Chronologisches Verzeichniss der seit dem Jahre 1801 bis 1866 in Kasan gedruckten arabischen, türkischen, tatarischen und persischen Werke, als Katalog der in dem Asiatischen Museum befindlichen Schriften der Art", *Mélanges Asiatiques* 5 (1867), 567. See, further, Allen J. Frank, "Turkmen Literacy and Turkmen Identity before the Soviets. The *Ravnaq al-Islām* and Its Literary and Social Context", *Journal of the Economic and Social History of the Orient* 63:3 (2020), 286-315.

al-Fāḍil al-Kaydānī. Originally written in Arabic, this work was repeatedly translated into Persian, especially in the 19th century.[62] Also, as the Turkologist Henry Hofman once noted, "It was only to be expected that it [the *Fiqh al-Kaydānī*] would be translated into Chaghatai. In fact it has been duly done and not in one version only."[63]

3 From Vernacularization to Debasement

We can explain the emphasis on a single juristic text such as the *Mukhtaṣar al-Wiqāya* in several ways. One way would be to read it as a reflection of a perceived necessity to bring order to the accumulation of Islamic legal literature and establish a *new* hierarchy of jurisprudential authority, as explained by

62 IVANRUz, inv. nos. 11746/I (*Fiqh-i Kaydānī tarjumasī*); 11755/III (*Fiqh-i Kaydānī bā tarjuma-yi fārsī*); 11674/I (*Fiqh-i Kaydānī*); 12870/VI (*Fiqh-i Kaydānī*); 10415/V (*Fiqh-i Kaydānī-i manẓūm wa dīgar*); 12459/I (*Fiqh-i Kaydānī*); 12643/I (*Fiqh-i Kaydānī tarjumasī*); 12746/IV (*Fiqh-i Kaydānī*); 10815/III (*Fiqh-i Kaydānī*); 12288/IV (*Fiqh-i Kaydānī*); 12351 (*Fiqh-i Kaydānī*); 12393/III (*Fiqh-i Kaydānī*); 12104 (*Fiqh-i Kaydānī*); 12247 (*Fiqh-i Kaydānī bā tarjuma-yi fārsī*); 13261/I (*Fiqh-i Kaydānī*); 3930 (*Fiqh-i Kaydānī tarjumasī*); 3975/VI (*Fiqh-i Kaydānī tarjumasī*); 4339/III (*Fiqh-i Kaydānī bā tarjuma-yi fārsī*); 3519/I (*Fiqh-i Kaydānī maʿ tarjuma-yi fārsī*). There existed also a Persian-language commentary by Muḥammad Amīn b. Muḥammad Imām. See Idrisov, Muminov, and Szuppe, *Manuscrits en écriture arabe du Musée regional de Nukus* (*République autonome du Karakalpakstan Ouzbékistan*). *Fonds arabe, persan, turkī et karakalpak*, 134; Akimushkin et al., *Persidskie i tadzhikskie rukopisi instituta narodov azii akademii nauk SSSR* (*Kratkii alfavitnyi katalog*), *chast' 1*, no. 2557-2570. Another copy of the Persian commentary is presently held at the Manuscript Library of the International Islamic Academy of Uzbekistan, inv. no. 88/II, fols. 124b-173b, and it is dated 1247/1826-27. Both the Persian translation of and commentary on *Fiqh al-Kaydānī* can be found also in a jurisprudential miscellany in manuscript form now in Nukus, at the Fundamental Library of the Karakalpak Branch of the Uzbek Academy of Sciences, inv. no. VR-343. The translation was executed in 1270/1853-54, while the commentary was completed in 1274/1857-58.

63 Hofman, *Turkish Literature: A Bio-bibliographical Survey*, section III, part 1, vol. 4-6, 279. The reader is here invited to consider the manuscripts of Chaghatay translation of the *Fiqh al-Kaydānī* listed by Hofman. The *Targhīb al-Muṣallīn*, MS Tashkent, IVANRUz, inv. no. 3967 (described in *SVR* VII, 365-66 and listed by Hofman) is particularly interesting. The work was first crafted by Muḥammad Rasūl Ākhūnd Muftī b. Shīr Muḥammad at the request of the Khivan ruler Muḥammad Raḥīm Khān II. Muḥammad Rasūl Ākhūnd Muftī's first redaction of the *Targhīb al-Muṣallīn* did not come down to us. However, the original translation and commentary were subsequently expanded by Pahlawān Niyāz Mīrzābāshī b. 'Abdallāh Ākhūnd Muftī, a savant at the Qonghrat royal court known by the nom de plume 'Kāmil'. The expanded version was compiled in preparation of a lithograph edition that appeared in Khiva in 1891; see IVANRUz, inv. no. 10600. Furthermore, an anonymous Chaghatay commentary on the *Fiqh al-Kaydānī* was compiled in 1855 under the title *Bustān al-Ṣalāt*; see MS Tashkent, IVANRUz, inv. no. 3967, fols. 43a-56a.

Kazembek. We learn, for example, from a Persian-language tract titled *Risāla-yi raḥmāniyya* that such a necessity was felt strongly among jurists in Bukhara in the second half of the 19th century. By arguing that a mufti can be only an absolute imitator (*muqallid*) and thus operate only according to the method of *tarjīḥ*, the author of the *Risāla-yi raḥmāniyya* was adamant in considering the *Mukhtaṣar al-Wiqāya* the most authoritative jurisprudential text for Ḥanafī jurists operating at that time.[64] Shifting from a scholarly discussion recognizing in the *Mukhtaṣar* a preferential value to the translation of such text is a consequential move, one would say.

Another way to explain practices of entexting requires that one reflects on changes in patterns of consumption of jurisprudential literature. For such purposes, one has to consider that the vernacularization of a small number of *furūʿ al-fiqh* works is in fact entangled with a broader process of debasement of Islamic legal literature. In speaking of "debasement", I draw in fact on scholarship showing how, in the early modern period in the region of Khorezm, shrine communities appropriated for themselves the hagiographic narratives that had belonged to an earlier doctrinal corpus of a Sufi brotherhood. Appropriation was made possible by translation, for texts written in the original Persian were then rendered into Chaghatay in order to facilitate their aural reception. By doing so, 18th-century shrine communities effectively began to adopt hagiographies outside of their original discursive context and adapt them to new social circumstances.[65] The Chaghatay rendering of a pre-existing Persian-language hagiographic corpus did not reflect an appropriation of Sufi traditions regarded necessarily as "alien" to a given shrine community, explains DeWeese. Translation, however, was conducive to refashioning.

The same process, I submit, involved also jurisprudential texts such as the *Mukhtaṣar al-Wiqāya*. The most salient feature of such a process is an effort to single out select opinions from a text of *furūʿ al-fiqh*. Translated into Chaghatay without quotations from the original in Arabic, legal opinions were decontextualized from the hermeneutics of Islamic jurisprudence and the method of *taqlīd*. There is little doubt that such method still underwrote the mechanics of choosing the most authoritative opinion on a given point of law. However, the crafting of such texts puts emphasis less on aspects of legal method than on the simplicity of style and intelligibility by an audience conversant only with

64 Mīr Rabīʿ b. Mīr Niyāz Khwāja al-Ḥusaynī. *Risāla-yi raḥmānīya*. MS Tashkent, IVANRUz, no. 9060/XII, fol. 406b. For more information on this text, see Sartori, "What We Talk about When We Talk about *Taqlīd* in Russian Central Asia", 305-15.

65 Devin DeWeese, "Mapping Khwārazmian Connections in the History of Sufi Traditions. Local Embeddedness, Regional Networks, and Global Ties of the Sufi Communities of Khwārazm", *Eurasian Studies* 14 (2016), 37-97.

Chaghatay-language texts. It may be perhaps useful to clarify at this point that such legal texts written in the vernacular were not used as references to issue fatwas, which could be deployed at court for adversarial purposes. In fact, we know that in Central Asia *muftī*s issued fatwas by including quotations in Arabic from jurisprudential references and that such practice was followed until the 1920s.[66]

Designed as instruments to supply basic knowledge on Islamic rightful conduct, new works written in vernacular Chaghatay blended in fact different compositional genres. Such tracts usually centered on the elucidation of the notion of "obligation" (*farḍ*) and mixed excerpts of the Islamic creeds (*ʿaqāyid*) with jurisprudential cases (*masāʾil*). Once blended, these two genres supplied substantive material on Muslim rightful conduct, which was then rearranged into two rubrics, matters of "ritual law" (*ʿibādāt*) and issues originating from "human transactions" (*muʿāmalāt*).[67] An eloquent application of this method is represented by the *Talkhīṣ al-Zubdat* penned in the Tarim Basin by a certain ʿAbd al-Khāliq b. Khwāja ʿAbd al-Laṭīf al-Āqsūʾī most probably in the first half of the 19th century. In the introduction, the author claims to have "translated the commandments (*aḥkām*) of *sharīʿa* and the teachings of the ritual law (*ʿibādat aʿlāmī*) from Arabic into Chaghatay and refashioned them into Turkic idiomatic expressions in use among scholars as a comprehensive abridgment [of Islamic law]". ʿAbd al-Khāliq b. Khwāja ʿAbd al-Laṭīf al-Āqsūʾī, too, selected his material not only from jurisprudential works but also from texts of the creeds such as the *ʿAqāyid-i Nasafī* and *ʿAqāyid-i Jalālī*. In a revealing passage at the beginning of a section devoted to the treatment of the notion of "faith" (*kitāb al-iʿtiqād*), our author clarifies that the work "offers legal opinions and beliefs regarding the examination of [matters] of the creeds and the doctrines".[68] Emphasis on the jurisprudential perspective from which he examined aspects

66 Sartori, *Visions of Justice: Sharīʿa and Cultural Change in Russian Central Asia*, chap. 5; Bakhtiyar Babajanov and Sharifjon Islamov, "*Sharīʿa* for the Bolsheviks? *Fatvā*s on Land Reform in Soviet Central Asia", in *Islam, Society, and State in the Qazaq Steppe (18th – Early 20th Centuries)*, ed. Niccolò Pianciola and Paolo Sartori (Vienna: Verlag der Österreichischen Akademie der Wissenschaften, 2013), 233-65.

67 This is clearly explained in the introduction to an original work of *furūʿ al-fiqh* crafted in Chaghatay in Eastern Turkestan in 1288/1871-72. See Leiden University Library, Or. 26.684, fol. 5r. Eric Schluessel, who examined this manuscript and compared it to one presently held at the Kashghar Museum, concluded that the work in question is titled *Majmūʿat al-masāʾil* and "appears to be translated from Persian". See his "Water, Justice, and Local Government in Turn-of-the-Century Xinjiang", *Journal of the Economic and Social History of the Orient* 62:4 (2019), 603 fn. 4.

68 *Mukhtaṣar-i Wiqāya* [sic!] [ʿAbd al-Khāliq b. Khwāja ʿAbd al-Laṭīf al-Āqsūʾī, *Talkhīṣ al-Zubda*], Staatsbibliothek zu Berlin: Preußischer Kulturbesitz, Ms. or. quart. 1312, fol. 12.

of dogmatics should suggest that he must have regarded his work as consistent with the method of legal hermeneutics. This is further confirmed by his pausing to explain that, in assembling the materials into his work, he followed the "arrangement" (*ṭarz*) of the *Mukhtaṣar al-Wiqāya*, thereby "producing a text which is an extension of that excellent book [the *Mukhtaṣar*]".[69] Equally, the *Talkhīṣ al-Zubda* shows the degree to which the vernacularization of Islamic jurisprudence in Central Eurasia was also a process of decontextualization of *furūʿ al-fiqh* texts and the latter's entanglement with works of catechism.

Perhaps one of the most influential works crafted in Chaghatay, which shows the multilayered process of debasement in the Ḥanafī jurisprudential context of Central Eurasia, comes from Kashghar. Titled *Zubdat al-masāʾil wa-l-ʿaqāʾid*, it was written at the end of the 18th century by a certain Muḥammad Ṣādiq Kāshgharī.[70] It survives in several manuscript copies in Leiden and Tashkent.[71] An abridged version of this text was lithographed in Tashkent in 1889 and 1901,[72] Bombay in 1891,[73] and Constantinople in 1891, 1892, and 1896,[74] thereby achieving wide dissemination.[75] Muḥammad Ṣādiq Kāshgharī is best

69 *ūl kitāb-i mustatābdīn taṭwīl wa aṭnāb chiqārīb*, ibid., fol. 11.

70 David Brophy, *Uyghur Nation: Reform and Revolution on the Russia-China Frontier* (Cambridge, MA: Harvard University Press, 2015), 82.

71 The presence of three manuscripts of the same work at the Leiden University Library (Or. 26.667, 26.670 and 26.671) has been noted by Karin Scheper and Arnoud Vrolijk in "Made in China: Physical Aspects of Islamic Manuscripts from Xinjiang in Leiden University Library", *Journal of Islamic Studies* 2 (2011), 51. The texts, however, have not been yet the subject of thorough description. I examined several other copies of the same work in Tashkent. One is housed at the Institute of Oriental Studies, IVANRUZ inv. no. 9632/1 and resembles closely Leiden Or. 26671. Another one is at the manuscript library of the International Islamic Academy of Uzbekistan, inv. no. 64. The catalogue indicates that the manuscript was copied in 1281/1861-62; however, there is no colophon, and it is unclear how the authors of the catalogue reached such a conclusion. See *Toshkent Islom Universiteti manbalar khazinasida saklanayotgan qulyozmalarining ilmiy-tavsifiy katalogi*, ed. N. Nasrullaev and L. Asrorova (Samarkand: Imom al-Bukhoriy khalqaro markaziy, 2017), 128. I examined two further copies of the *Zubdat al-masāʾil wa-l-ʿaqāʾid* in private collections. They were compiled in the 1834 and 1892 respectively.

72 IVANRUZ, inv. no. 219, 4637, 4713, 10538.

73 IVANRUZ, inv. no. 218.

74 IVANRUZ, inv. no. 216, 7869, 13808, 20415.

75 Muḥammad Ṣādiq Kāshgharī, *Zubdat al-masāʾil wa-l-ʿaqāʾid* (Tashkent: Ḥājjī ʿAbbās Āqā, 1314/1897), Leiden University Library inv. no. D-17; IVANRUZ, inv. no. 13808. The lithographic edition shows a great number of differences with the original text: it begins with an introduction that attributes to two individuals, not to the author's companions, the commissioning of the book: Mīrzā ʿUthmān Bek and Mīrzā Hadī Bek, governors of Kāshghar and Yarkand respectively. Also, the lithographic edition contains fewer chapters than what we find in the original design of the work. Furthermore, it is accompanied by another work, entitled *Ādāb al-ṣāliḥīn*. I located two manuscripts of the *Zubdat al-masāʾil*

known as the author of the *Taẕkira-yi ʿAzīzān*. Popularized in English first on the basis of the posthumous work of the English tea-planter and traveler Robert Shaw,[76] the *Taẕkira-yi ʿAzīzān* is a hagiographical work that sheds light on the rise to prominence of two Khwājas in the Tarim Basin after the Qing takeover in the mid-18th century.[77] As eloquently phrased by David Brophy, the *Taẕkira-yi ʿAzīzān* "details the history of a […] society defined by its devotion to local saintly dynasties, and threatened as much as by its Kirghiz or Kazakh neighbors as by pagan Junghar Mongols".[78]

Differently from the *Taẕkira-yi ʿAzīzān*, the compilation of the *Zubdat al-masāʾil wa-l-ʿaqāʾid*, instead, was commissioned to Muḥammad Ṣādiq Kāshgharī by his "companions" (*yārānlar*), by which he probably meant the local men of letters within the devotional environment of the Āfāqī Khwājas of Kashgharia. In the introduction, Muḥammad Ṣādiq indicates that they exhorted him to write a tract offering a "commentary" (*sharḥ*) on the forty obligations (*qirq farż*), and attach an "appendix" (*ẕayl*) consisting of "a selection of the creeds" (*bir necha ʿaqīdalar*) and "legal questions of devotional and practical character" (*diyānāt wa muʿāmalāt masāyillari*). He explains further that his acolytes advocated that this juristic tract be written in Chaghatay (*Turkī*):

> for at the time the majority of the Turkic people living in the region (*Turkī iqlīmi ahllari*) had only defective knowledge of and were thus unable to make sense of sentences in Arabic and idiomatic expressions in Persian. Having such shortcoming weakened the [knowledge of] the creeds and

wa-l-ʿaqāʾid that show the same contents of the lithographic edition, including the *Ādāb al-ṣāliḥīn*. One is IVANRUZ, inv. no. 7478. Clearly, this manuscript redaction served to produce the lithograph mentioned above: it features the same *ʿunwān*-style incipit on fol. 1b, the same number of folios, and two indexes for the *Zubdat al-masāʾil wa-l-ʿaqāʾid* and the *Ādāb al-ṣāliḥīn* at the end of the codex. Interestingly, this version of the *Zubdat al-masāʾil wa-l-ʿaqāʾid* (i.e., with the addition of *Ādāb al-ṣāliḥīn*) was copied again in Tashkent during the Soviet period at the Muy-i Mubarak *madrasa* in 1343/1923-24. This would suggest that Hofman's description of the *Zubdat al-masāʾil wa-l-ʿaqāʾid* is mainly based on the lithographic edition of Tashkent. If so, he assumed erroneously that the inclusion of the *Ādāb al-ṣāliḥīn* reflected the original design of Muḥammad Ṣādiq. On a final note, the dedication in IVANRUZ 7478 is lifted verbatim from the dedication to the *Taẕkira-yi ʿAzīzān*. I owe this observation to David Brophy.

76 Robert Shaw, *The History of the Khwājas of Eastern Turkestan summarized from the Tazkira-i Khwājagān of Muḥammad Ṣādiq Kāshgharī*, edited with introduction and notes by N. Elias (Calcutta: Asiatic Society, 1897).

77 Muḥammad Ṣadiq Kashghari, *In Remembrance of the Saints: The Rise and Fall of an Inner Asian Sufi Dynasty*. Translated by David Brophy (New York: Columbia University Press, 2020).

78 Brophy, *Uyghur Nation*, 33.

> damaged religious observance, shameful behavior seems to have found its way among the people. Therefore, we hope that, if this work will be written in a language comprehensible to all the Muslims, all the people will take advantage of the secrets of all these works of jurisprudence.[79]

This brief excerpt is revealing for two reasons. First, it shows that scholars in Eastern Turkestan regarded the treatment of creeds compatible with the genre of the legal opinions. Taken together, the author explains, they offered a key to Islamic orthopraxy. Second, Central Asian Turki was seen as a medium to popularize knowledge of Islamic dogmatics and jurisprudence, which otherwise would have been inaccessible to local constituencies through Arabic and Persian. It is unclear which groups Muḥammad Ṣādiq Kāshgharī had in mind when he referred to "peoples" (*khalāyiq*) in his introduction. One would assume that laymen were not his main concern, for they were not consumers of jurisprudential texts. Laymen's exposure to Islamic law was confined to their encroaching upon the practice (and ensuing discussions) of the law in their daily life, perhaps even at court. Most probably, Muḥammad Ṣādiq Kāshgharī referred to *madrasa* students for whom Islamic law had become accessible through the medium of translations in vernacular languages.

In reflecting on other instances of translation from cosmopolitan to vernacular languages, historians of Central Asia have warned us of the risks of taking the reasons for translation at face value, which we find, for example, in the introduction of the *Zubdat al-masāʾil wa-l-ʿaqāʾid*.[80] Indeed, authors who adopted Chaghatay to translate either from Arabic or Persian usually claimed that, in doing so, they were catering to the linguistic needs of the Turkic people living in a given area and crafted texts conveying specific knowledge from which all the local Muslims could take the full benefit. We observe this phenomenon in Khorezm and in Eastern Turkestan happening almost at the same time (i.e., in the second half of the 18th century). It is of course true that such explanations are formulaic and clichéd, for most of the time authors adopted a fixed vocabulary derived from earlier writing traditions. To dismiss them, however, as tropes of genre risks our underestimating the fact that select books were no more intelligible in Arabic or in Persian, and that Chaghatay was preferred over other media of learned communication. And this was a phenomenon that

79 Muḥammad Ṣādiq Kāshgharī, *Zubdat al-masāʾil wa-l-ʿaqāʾid*, Leiden University Library, MS Or. 26671, fols. 3-4 (Western pagination).

80 Marc Toutant, "De-Persifying Court Culture: The Khanate of Khiva's Translation Program", in *The Persianate World: The Frontiers of a Eurasian Lingua Franca*, ed. Nile Green (Berkeley: California University Press, 2019), 250; David Brophy, "A Lingua Franca in Decline? The Place of Persian in Qing China", ibid., 184-85.

expanded beyond the royal courts into the landscape of *madrasa*s.[81] To illustrate what I mean, let us briefly consider the case of Sirāj al-Dīn Abū Ṭāhir Muḥammad b. Muḥammad b. ʿAbd al-Rashīd al-Sijāwandī's (d. 600/1204) *Farāʾiḍ al-Sirājiyya*, a famous treatise on the law of inheritance. Originally written in Arabic in the 12th century, this text became the subject of a commentary in Persian (the *Sharḥ-i Yūnus*) penned by the 17th-century scholar Yūnus b. Īwānāy al-Qazānī, from the Bulghar region, who had studied in Bukhara. The wide circulation of this commentary suggests that its intended audience "would have had to know enough Persian to understand the legal details translated from the Arabic original and Yunus's comments".[82] Indeed, if Arabic was still the language of *fiqh*, it would be difficult to explain why local readers (probably, *madrasa* students) preferred to access a text like the *Farāʾiḍ al-Sirājiyya* mainly through its Persian commentary. Shifting from texts of jurisprudence to those of dogmatics, there is little doubt that already by the second half of the 18th century in the Tarim Basin, like in other regions of Central Asia, and the Middle Volga, Turkic translations were becoming essential to access original Arabic-language sources. In Aqsu, for example, texts on *ʿaqīda* in Chaghatay were clearly in demand at the time. At the request of the city governor, Mīrzā Aḥmad b. Isḥāq, a Bukharan scholar by the name of Muḥammad Karīm translated from the Arabic into Central Asian Turki a text originally entitled *ʿAqāyid-i Islāmiyya* and re-titled it *Tarjuma-yi Shāhiyya*: "Not a better occupation there could be than this one in such times, i.e., to educate Muslims who do not know Arabic by putting the creeds into Chaghatay", argued the translator.[83]

Proceeding from reflections on the language adopted in the *Zubdat al-masāʾil wa-l-ʿaqāʾid* to an exposition of his source base, Muḥammad Ṣādiq Kāshgharī listed a number of texts from which he extracted opinions, assembled them, and translated them (*masāʾillarni jamʿ qilib ba-ṭarīq-i tarjuma imlā aylāb*) to craft his work.[84] Three were texts of dogmatics (*ʿAqāyid-i Jalāliyya*,

81 Sartori, "On Madrasas, Legitimation, and Islamic Revival in 19th-Century Khorezm: Some Preliminary Observations". On several folios of MS Leiden, University Library, Or. 26670 were glued paper tags with notes on the content of the *Zubdat al-masāʾil wa-l-ʿaqāʾid*. It is unlikely that the work was employed by legists during court proceedings, for muftis (or their scribes) were expected to supply quotations (*riwāyat*s) in the original Arabic. Most probably, instead, these noted were written by individuals who studied the *Zubdat al-masāʾil wa-l-ʿaqāʾid* in a *madrasa*.

82 Alfrid Bustanov, "Speaking "Bukharan": The Circulation of Persian Texts in Imperial Russia", in *The Persianate World: The Frontiers of a Eurasian Lingua Franca*, 196.

83 *bū ʿaqāyidnī turkī qīldūrūb uzūm ʿarabīdin bī-khabar musulmānlārgha yād qūyāy zamāna ākhirīda mundīn faẕīlatlīkrāq īsh yuqdūr*, cf. MS Tashkent, IVANRUZ, inv. no. 1389, fol. 3a.

84 Muḥammad Ṣādiq Kāshgharī, *Zubdat al-masāʾil wa-l-ʿaqāʾid*, Leiden University Library, MS Or. 26671, fol. 6.

ʿAqāyid-i Nasafī, and *ʿAqāyid-i Sunnī*). He then claimed to have used al-Marghīnānī's *al-Hidāya* with three commentaries on its abridgment (*Sharḥ-i Wiqāya*, *Sharḥ-i Mawlānā Abū al-Makārim*, and *Sharḥ-i Mawlānā al-Fakhriddīn*). Muḥammad Ṣādiq Kāshgharī proceeds to list two *fatāwā* collections (*Mukhtaṣar-i Khizāna* and *Fātāwā-yi ʿĀlamgīr*), one work of the mirror-for-princes genre written in Persian by the Sufi master Sayyid ʿAlī Hamadānī (*Dhakhīrat al-Mulūk*), one manual on judicial ethics (*Dastūr al-Quḍāt*), and one tract on ritual obligations in Persian (*Targhīb al-Ṣalāt*).[85] Muḥammad Ṣādiq Kāshgharī claimed to have turned just to these references to craft his work. In fact, while leafing through the *Zubdat al-masāʾil wa-l-ʿaqāʾid*, one finds that his source base was much richer. It included texts of the Sufi Naqshbandi-Mujaddidi traditions like the *Maktūbāt* of Aḥmad Sirhindī, as well as other classics of Persianate erudition such as Ḥāfiẓ and al-Ghazālī. It also made use of many more jurisprudential works that circulated widely in Ḥanafī-majority regions: there were texts compiled in Central Asia like the *Mukhtaṣar al-Wiqāya* and the *Fuṣūl-i ʿImādī*.[86] But Muḥammad Ṣādiq Kāshgharī offers translated excerpts of *fatāwā* collections written in South Asia as well, such as the *al-Fatāwā al-Tātārkhānīya*, a work by ʿĀlim b. ʿAlāʾ al-Dīn al-Ḥanafī, dedicated to Tātār Khān, a regent of Fīrūz Shāh Tughlūq (d. 1388), and the *Fatāwā al-ʿĀlamgīrīyya* mentioned above, whose production was overseen by the Mughal ruler Awrangzib ʿĀlamgīr.

Rian Thum has posited that reference to the *Fatāwā al-ʿĀlamgīrīyya* in the *Zubdat al-masāʾil wa-l-ʿaqāʾid* could be read as indication of a direct "textual connection between the Tarim Basin and Mughal India", which itself would attest to the import of foreign texts.[87] It is true, of course, that the *Fatāwā al-ʿĀlamgīrīyya* was a latecomer into the jurisprudential arsenal of Central Asian jurists; and tracts on the method of legal hermeneutics crafted in Bukhara, for

85 Ibid. The list given in Hofman, *Turkish Literature: A Bio-bibliographical Survey*, section III, part 1, 25 is incomplete.

86 This is a work also known as *Fuṣūl al-iḥkām fī uṣūl al-aḥkām*, compiled in Samarkand by ʿImād al-Dīn Abu al-Fatḥ ʿAbd al-Raḥīm Zayn al-Dīn b. Abū Bakr al-Samarqandī (d. ca. 1271).

87 Rian Thum, "Moghul Relations with the Mughals: Economic, Political and Cultural", in *Xinjiang in the Context of Central Eurasian Transformations*, ed. Takahiro Onuma, David Brophy, and Shinmen Yasushi (Tokyo: The Toyo Bunko, 2018), 9-25. In addition, Thum claims that the *Ādāb al-Ṣāliḥīn* was the Chaghatay rendering of another text written in Mughal India by the 16th-century polymath ʿAbd al-Ḥaqq Dihlawī, which would reinforce the hypothesis of a "textual connection" between the Tarim Basin and South Asia. Upon examination of the manuscripts and comparison with the above-mentioned lithograph edition, it appears that the claim is erroneous. As already noted by Nil Lykoshin, who had translated it into Russian and published in Tashkent in 1895, the *Ādāb al-Ṣāliḥīn* is an original work authored by Muḥammad Ṣādiq Kāshgharī.

example, do not mention it among the authoritative sources of Ḥanafī jurisprudence. Equally, it remains difficult to establish whether Central Asian scholars in the second half of the 18th century considered the *Fatāwā al-ʿĀlamgīriyya* a foreign text. As Robert McChesney once astutely noted, "Although [the *Fatāwā al-ʿĀlamgīriyya*] was compiled in India, the bulk of its sources are [in fact] Central Asian." [88] Furthermore, it is unclear which vector of transmission brought the *Fatāwā al-ʿĀlamgīriyya* to Kashghar. Given the strong ties between constituencies of Khwājas settled in the Tarim Basin and those inhabiting the Ferghana Valley, one should also contemplate the possibility that the *ʿĀlamgīriyya* was transmitted to elite circles in Kashghar by graduates of *madrasa*s within the territory of the Khanate of Kokand. Whatever the pattern of textual circulation at work here, the use of this material also points to the existence of a corpus of jurisprudential works of established, indeed recognized, authority whose consumption was becoming more laborious, unless such works were translated into the vernacular (either in full or in part).

Conclusions

To decouple a text from a larger body of jurisprudential works can reflect a philological concern. Indeed, in his introduction to the 1845 edition of the *Mukhtaṣar al-Wiqāya*, Kazembek mentions that he had been struggling with a plethora of different recensions of the text; hence, his urge to produce an edition close to the version which he considered to be untarnished by scribal mistakes.[89] The origin of such a philological sensibility is unclear, though it may well be that his exposure to German Orientalist circles in Kazan might have played a role here. However, it is clear that in promoting such a philological approach to the text, Kazembek was hoping to attract the attention of European Orientalists.[90] Seen from this perspective, Kazembek's isolating the *Mukhtaṣar al-Wiqāya* from a broader and varied context of writing and reading practices can be regarded also as a double capture: a move toward codification,

88 Robert McChesney, Waqf *in Central Asia: Four Hundred Years in in the History of a Muslim Shrine, 1480-1889* (Princeton, NJ: Princeton University Press, 1991), 5, fn. 9. For more on the topic of the formation of a distinct Central Asian "regional identity" in Islamic jurisprudence, see Dale J. Correa, "Taking a Theological Turn in Legal Theory: Regional Priority and Theology in Transoxianan Ḥanafī Thought", in *Locating the* Sharīʿa: *Legal Fluidity in Theory, History and Practice*, ed. Sohaira Z.M. Siddiqui (Leiden – Boston: Brill, 2019), 111-26.

89 Kazem-Bek, *Miukhteseriul-Vegkaet ili Sokrashchennyi Vegkaet: Kurs miusiul'manskago zakonovedeniia po shkole Khanifitov*, 9.

90 *Ia by shchital sebia shchastlivym esli by predstoiashchee izdanie* [...] *obratilo na sebia vnimanie evropeiskikh orientalistov.* Ibid.

on the one hand, and a way to colonize the past of a living tradition in order to simplify it and misrepresent it, on the other hand. This has been the default interpretation of the practice of entexting that historians have observed in many colonial situations.

In this essay I have suggested there is another way of interpreting this phenomenon. To single out a text from the deep reaches of *furūʿ al-fiqh* can be more usefully regarded as a way to preserve and indeed perpetuate specific writing traditions that have acquired a status of privileged significance within a community. When one excavates the archives of Turkic vernacular knowledge in Central Eurasia, one finds that, prior to colonial entexting, local jurists had already preferred select jurisprudential works over other equally important texts by means of translation. When observed from this perspective, entexting ceases to be just the outcome of a colonial will and acquires instead a composite, indeed multilayered, dimension. While it is undeniable that the colonial penchant for codes informed Orientalists' interest in the edition, publication, and translation of a few texts of Islamic jurisprudence, it is equally important to acknowledge that there were other indigenous, no less historically significant, forces that made the vernacularization of Islamic law possible.

It remains unclear, however, who in Central Eurasia had specific interests in the Chaghatay translation of works such as the *Mukhtaṣar al-Wiqāya*, especially if one considers that such texts continued to circulate in Arabic as well. For one thing, historians of multilingualism have convincingly noted that vernacularization is never just a process of linguistic substitution and that rarely does it lead to the effacement of other languages.[91] This is especially the case when in a multilingual society an idiom is identified with the transmission and preservation of a specific body of knowledge. This was the case of Persian, for example, in the 19th century, which retained the status of preferred medium of learned exchange in many literary environments at times when vernacularization processes were under way in South Asia.[92]

91 F. Orsini, Sara Marzagora, and Karima Laachir, "Multilingual Locals and Textual Circulation before Colonialism", *Comparative Studies of South Asia, Africa and the Middle East* 39:1 (2019), 63-67.

92 F. Orsini, "Between Qasbas and Cities: Language Shifts and Literary Continuities in North India in the Long Nineteenth Century", *Comparative Studies of South Asia, Africa and the Middle East* 39:1 (2019), 68-81; M. Kia, "Indian Friends, Iranian Selves, Persianate Modern", *Comparative Studies of South Asia, Africa and the Middle East* 36:3 (2017), 398-417; A. Dudney, "Urdu as Persian: Some Eighteenth-Century Evidence on Vernacular Poetry as Language Planning", in *Texts and Traditions in Early Modern North India,* ed. Jack Hawley, Anshu Malhotra, and Tyler Williams (Delhi: Oxford University Press, 2017); B. Raman, *Document Raj: Writing and Scribes in Early Colonial South India* (Chicago: University of Chicago Press, 2012).

Furthermore, to note that a vernacularization process encroached upon important works of Islamic jurisprudence does not amount to postulating that Islamic jurisprudence in Central Eurasia existed only in the vernacular. As I mentioned above, recent scholarship on the history of Islamic law in Russian Central Asia has shown that the practice of *fatwa*-giving continued to embody references to jurisprudential works in Arabic. The same applies, of course, to the Middle Volga, Siberia, and the Qazaq steppe. This means that it is not the courtroom of *qāḍī*s (or *ākhūnd*s' offices) where we have to look at, if we are to clarify who employed the Turkic-rendering of texts such as the *Mukhtaṣar al-Wiqāya*. It is, instead, in the dedicated space of Islamic learning where we come across the perceived need to turn to the Chaghatay translation of certain jurisprudential texts. There are just enough sources, ranging from endowment deeds to scholars' memoirs and colonial reports, indicating that texts such the *Mukhtaṣar al-Wiqāya,* or the *al-Hidāya* for that matter, were used as teaching tools to introduce pupils to the basics of *furūʿ al-fiqh*.[93] Furthermore, it is plain that students were taught how to read and discuss such texts through a clarification (*tawḍīḥ*), which was delivered in either Persian or Chaghatay.[94] If we add that in the 19th century the expansion of the infrastructure of Islamic education in the Uzbek Khanates[95] reached its height and that the Russian conquest of the Kazakh steppe and Transoxiana brought about a process of

93 *sharīʿat tughrīsīgha kīrīb tā īkkī yilghācha Mukhtaṣar-i Wiqāya va Matn-i Farāʾiḍ ūqūr va āndīn kiyin īkkī yilghācha Sharḥ-i Wiqāya ūqūr va āndīn kiyin tā īkkī yilghācha Hidāya-i sharīf ūqūr*, cf. "The curriculum of a maktab" (*rasm-i qāʿida-yi maktabkhāna-yi bachchagān*), 1873 [?], Institute of Oriental Manuscripts of the Russian Academy of Sciences, Orientalists' Archive, Kuhn's Collection, f. 33, op. 1, d. 213, fol. 1. More generally, on *mukhtaṣar*s as teaching tools, i.e., the "primary method for, not applying, but studying the law", see Khaled Abou El Fadl, "The Roots of Persuasion and the Future of Sharīʿa", in *Locating the* Sharīʿa: *Legal Fluidity in Theory, History and Practice*, ed. Sohaira Z.M. Siddiqui (Leiden: Brill, 2019), 20.

94 *taḥṣīl-i masʾala bar īn ravish: avval Fiqh-i Kaydānī mīkhwānand baʿd az ān Mukhtaṣar-i Wiqāya bar bālā-yi īn Mawlavī-yi Fakhr al-Dīn va Mawlavī-yi Shams al-Dīn Muḥammad-rā istiʿmāl mīkunand baʿd az ān Sharḥ-i Wiqāya bar bālā-yi īn Mawlavī Chalabī-rā istiʿmāl mīkunand baʿd az ān Hidāya-yi Sharīf bar bālā-yi īn Kifāya va Nihāya-rā istiʿmāl mīkunand khatm-i masʾala va mushkilāt ba-tawżīḥ tamām mīshavad*, n.d., Russian National Library, St. Petersburg, Kaufman Collection, f. 940, op. 1, d. 144 [*programma obucheniia v medrese s perecheniem nazvanii izuchaemykh knig*], l. 1. See also Bustanov, "Speaking "Bukharan": The Circulation of Persian Texts in Imperial Russia"; Frank, "A Month among the Qazaqs in the Emirate of Bukhara: Observations on Islamic Knowledge in a Nomadic Environment"; Beliaev, *Mekteby Zakaspiiskoi Oblasti* appendix to *Obzor Zakaspiiskoi Oblasti za 1912-1914*.

95 James Pickett, *Polymaths of Islam: Power and Networks of Knowledge in Central Asia* (Ithaca, NY: Cornelly University Press, 2020).

sharʿī-fication[96] and the mushrooming of new *madrasa*s,[97] it becomes clearer that the number of potential consumers of digests of Islamic jurisprudence such as the *Mukhtaṣar al-Wiqāya* must have increased considerably.

To translate a text, Rian Thum reminds us, is a way of appropriating a specific form of knowledge and make it one's own. Translation, that is, activates processes of naturalization whereby certain traditions, narratives, and values are molded to fit local cultural environments.[98] In other words, translation is conducive to what we may term indigenization of knowledge. But this also means that in the sociocultural environments (such as a *maktab* or a mosque community) in which they undergo translation, texts such as the *Mukhtaṣar al-Wiqāya* become unintelligible in their original linguistic design. Translations, that is, should alert us to a perceived distance between the original version of a text and the constituency of its consumers in translation. It is most probably for this reason that the vernacularization of *furūʿ al-fiqh* works led to a debasement of certain jurisprudential traditions. Note well: Debasement does not mean decay; it reflects a movement of decontextualization. And the appropriation and indigenization of jurisprudential traditions through the medium of translation facilitated the creation of new, indeed original, works of synthesis such as the *Zubdat al-masāʾil wa-l-ʿaqāʾid*.

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96 Paolo Sartori, "Exploring the Islamic Juridical Field in the Russian Empire: an Introduction", *ILS* 24:1-2 (2017), 14-16.

97 Pavel Shabley, "Sem'ia Iaushevykh i ee okruzhenie: Islam i dilemmy vlastnykh otnoshenii v Rossiiskoi Imperii vo vtoroi polovine XIX – nachale XX vv.", *Acta Slavica Iaponica* 38 (2017), 23-50; Allen J. Frank and Mirkasym A. Usmanov, *Materials for the Islamic History of Semipalatinsk: Two Manuscripts by Aḥmad-Walī al-Qazānī and Qurbān ʿAlī Khālidī* (Berlin: Klaus Schwarz Verlag, 2001).

98 Rian Thum, *The Sacred Routes of Uyghur History* (Cambridge, MA: Harvard University Press, 2014), 26.

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