Complex Legal Lives: Separated Muslim Women’s Financial Rights in Russia (1750s–1820s)

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Abstract: This article seeks to recover the financial rights of separated women living in the Muslim communities of Russia’s Volga-Ural region in the eighteenth and early nineteenth centuries. It argues that by the 1780s–1820s, separated Muslim women were guaranteed certain rights and powers over their marital finances and personal property. These rights emerged out of a complex plural legal landscape created by the Volga-Ural region’s complicated religious and political history in the late medieval and early modern periods. By the end of the eighteenth century, separated Muslim women could claim certain financial rights under both Islamic law and Russian civil law, but had to pursue different kinds of claims through different legal systems. The legal landscape and practices that evolved in relation to separated women’s rights during the early modern period became formalized and institutionalized in the nineteenth century and persisted until the collapse of the Russian empire.

Keywords: Volga-Ural Muslim; Islam in Russia; Tatars; Tatar women; Islamic divorce; mahr

1. Introduction

This paper offers a preliminary examination of the financial rights of early modern Muslim women in Russia’s Volga-Ural region following the dissolution of their marriages through the death of their husbands, the various forms of Muslim divorce (talaq, khul’, faskh) and spousal abandonment. It poses three questions in relation to this topic. First, what rights did separated Muslim women enjoy in relation to their various finances (the wealth and property they brought with them into marriage as well as the wealth and property they gained through their marriage and/or its dissolution)? Second, what legal codes and systems governed separated Volga-Ural Muslim women’s financial lives and how did these systems interact with one another? Third, how did the treatment of separated women’s finances and financial rights before the 1830s compare with women’s rights in the much better-documented 1830s–1910s? In other words, is it useful to consider a contrast between early modern and modern Islamic legal life for separated Muslim women living in the Volga-Ural region?

The pre-Soviet legal history of the Muslim communities of the Volga-Ural region is punctuated by two events: the conquest of the Kazan Khanate by Muscovy in 1552 and the establishment of the Orenburg Muslim Spiritual Assembly (OMSA) in 1788. The first of these events is generally regarded as bringing the end of Muslim rule in the region and causing the destruction or severe disruption of the political and religious institutions that facilitated the application of Islamic law (Rorlich 1986; Azamatov 1996; Frank 1998; Khabutdinov 2008). The second event is seen by historians to have introduced the Russian government directly into the process of interpreting and enforcing Islamic law, to have narrowed the legal fields over which Islamic jurists could exercise authority, and, ultimately, to have subordinated Islamic jurists to Russian government through processes of mandatory licensure, and shaped Muslim jurists (‘ulama’) into a sort of bureaucracy (Azamatov 1998; Crews 2006; Spannaus 2013). According to Robert Crews, the involvement of the Russian government in Islamic legal affairs through the OMSA eventually had the effect of disempowering and delegitimizing Muslim jurists in the eyes of average Muslims, who, in
turn, came to rely increasingly on the imperial state to adjudicate their cases and even take their side against the Muslim jurists (Crews 2006).

Research by Matthew Romaniello and Nathan Spannaus has suggested that the 1552 transition of Kazan from a Muslim-ruled state to a province of a Christian-ruled empire was, in fact, much slower and messier than earlier historians had posited, with Russian officials relying upon local Muslim elites to assist with frontier defenses and the collection of Muslim land tax continuing in some parts of the region as much as a century after the conquest (Romaniello 2012; Spannaus 2020). A legal opinion penned in the second half of the seventeenth century regarding whether or not Muslims should conduct commerce in Kazan, Kasimov, and Astrakhan, once Muslim cities that, by the 1650s–1670s had been under Russian rule for a hundred years (Bustanov 2016), suggests that the transformation of the Muslim Volga into a Christian space was a gradual, uneven process and that the retreat of Islamic law from the Volga-Ural region was likewise gradual, to the extent that it occurred at all. Even the effects of the Russian government’s efforts to convert Muslims to Christianity in the 1680s–1740s on Islamic law and practice must be approached with caution, as these campaigns targeted only specific communities, social classes, and families, and not the practice of Islam or the production of Islamic knowledge in general (Nogmanov 2005).

Similarly, Rozaliya Garipova’s extensive work with the OMSA archive has suggested that the effects of the Russian government’s establishment of a state institution to supervise and manage Islamic law should not be overstated. While the OMSA acted as a clearing-house for Islamic legal cases, it did not ultimately remove Islamic legal decisions from the hands of Muslim jurists, who continued to be responsible for investigating and resolving disputes relating to Islamic family law (Garipova 2017, 2018b). While these jurists’ rulings had to comply with Russian imperial law in certain cases (for example, legal marriage age), they were otherwise rooted in the classical Hanafi Islamic law that the jurists learned in the madrasas of Russia and Central Asia (Garipova 2017). Thus, there was no moment at which the pre-conquest Islamic legal system built around individual juridical opinion was fully preempted by a colonial-imposed system of codified Islamic law or at which the Muslim jurists who adjudicated Muslim legal cases were cut off from their region’s pre-conquest Islamic legal tradition.

Between the post-conquest seventeenth century and the well-documented mid-nineteenth century lies a transitional period—the late seventeenth century to early nineteenth century—that is integral for understanding the development of Islamic legal culture in the Volga-Ural region and, especially, the roles of the standards and practices that would become fundamental to Volga-Ural Islamic law in nineteenth century. However, the paucity of documents for this period makes it difficult to map out this transition. Document preservation practices, the thinness of imperial institutions on the ground, and the apparent rarity with which Muslims engaged with imperial institutions mean that historians have very few cases of legal arbitration of any kind for the Volga-Ural Muslim community for these years. Occasional fleeting references in Russian-language sources to “sharīa courts” in the Volga-Ural region in the mid eighteenth century are tantalizing, but not terribly informative, as they give no information about how these courts operated, how many of them there were, how their rulings were enforced, or how they interacted with the Russian administrative system (Frank 1998; Azamatov 1996). Sources created within the Muslim community shed some light on aspects of the region’s legal culture, but these sources—contracts and legal digests—offer information on ideals and principles rather than on the application of legal standards. Nonetheless, even with the highly fragmentary nature of the sources, it is possible to draw some conclusions about what Islamic law looked like in the Volga-Ural region in the eighteenth and early nineteenth centuries, and how the Islamic legal culture, at least as it related to separated women, related to the legal cultures of the periods that preceded and followed it.

In the 1750s–1820s, Muslim women in the Volga-Ural region navigated a legal landscape in which at least three different legal systems came together: (1) Islamic law; (2) Rus-
sian imperial law; and (3) steppe customary/Chinggisid law. Which of these systems applied to a woman in a given situation varied according to the part of the region in which she lived and the specific legal issue she sought to resolve. Of these three systems, only Russian imperial law enjoyed a clear state institutional structure from 1552 to 1788. Interpretation and application of the other two systems were mediated at the level of the community (Azamatov 1996; Crews 2006; Spannaus 2020). Surviving Arabic- and Tatar-language sources suggest a landscape in which, already in the eighteenth century, Islamic legal standards relating to married and separated women’s rights concerning mahr (dower) were known and, no later than the early nineteenth century, were practiced by members of the Volga-Ural Muslim community. At the same time, for the settlement of financial disputes between separated Muslim spouses, petitioners had to turn to the Russian civil courts. This distinction between Islamic family law as a matter for Muslim jurists and financial obligations as a matter for the Russian courts continued to the end of the imperial period (Garipova 2013).

Based on this information, two conclusions may be drawn. First, the founding of the OMSA did not spur a sudden change in legal consciousness or legal practice, at least not regarding women’s financial rights. Rather, there is considerable consistency between the 1750s–1820s and the 1830s–1910s, when hundreds and, eventually, thousands of Muslim women took their cases before the OMSA and the Russian civil courts for arbitration. While more women may have availed themselves of these institutions, the hybrid Russian-Islamic legal framework within which they pedia their cases had existed from at least the eighteenth century. Within this framework, a separated Muslim woman was subject not only those rights conferred to her under Islamic law, but those financial rights conferred upon Russian women regarding personal wealth. Second, Muslim jurists’ knowledge of classical Islamic law relating to separated wives’ rights to mahr (dower) was already well-developed in the eighteenth century. As the OMSA increasingly became a point of contact for Muslims embroiled in marital disputes in the 1830s–1910s, jurists engaged by the OMSA brought this pre-existing knowledge with them into the new institutional structure.

2. Materials and Methods

This paper makes use of four primary sources relating to Muslim women’s control over marital payments in eighteenth- and early nineteenth-century Russia.

The first source is chapter from an Arabic-language Islam legal guide stipulating what divorced Muslim women and Muslim widows could and could not do with the wealth they had received as mahr. This work was composed or copied in 1788 and was preserved in the library of Zaynap Maqsudova (1897–1980), the daughter of a prominent pre-Soviet Muslim scholarly family from Agerje village, northeast of Kazan, Russia (Bustanov 2019). It is currently held at the National Museum of the Republic of Tatarstan in Kazan.

The second source is a 150-page Turki-language manuscript found during the renovation of the Tynybay Mosque in the city of Semey, Kazakhstan (formerly Semipalatinsk) in 2014. Although undated, the paper and calligraphic style of the manuscript resemble those of other eighteenth-century manuscript books. As the town of Semipalatinsk only began to grow as a trade settlement in the nineteenth century, it seems likely that this text was brought to the Semipalatinsk region by Muslim settlers coming from the Volga-Ural region in the 1840s–1900s. This manuscript book contains guidance on how to perform Muslim rituals such as prayer and ablutions as well as lists of acts permitted and forbidden by Islamic law. This manuscript was found by the article’s author and deposited at the library of Nazarbayev University in Nur-Sultan, Kazakhstan, where it is still held.

The third source is a manuscript book of Tatar-language contracts drawn up by Muslims residing in Volga-Ural region in the 1800s–1820s. This book is currently held in the Manuscript and Rare Book Collection of the Kazan Federal University Library in Kazan, Russia.

The fourth primary source is a set of Russian-language reports from the Kazan District Court pertaining to the suit brought by a Muslim woman of Kazan, ‘A’isha Alieva, against her ex-husband, Mufti Muhammadjan Husaynov, in 1802–1803 regarding moneys that
changed hands before and during their marriage, which took place in 1798. These reports are currently held at the State Archive of Orenburg Oblast’ in Orenburg, Russia.

3. Results and Discussion

3.1. The Multiple Legal Systems of the Volga-Ural Region in the 1700s–1820s

Legal pluralism is often associated with European colonial contexts (Merry 1988; Benton 2002; Burbank 2006). However, legal pluralism in the Volga-Ural region pre-dated the Russian colonial encounter. Islam reached the Volga-Ural region in 922 CE. Based on this, one might assume that Islamic law was in force in the region from this date onward. However, the Mongol campaigns against the Volga Bulghar cities in 1223–1236 and the subsequent inclusion of the Bulghar lands into the Jochid ulus (Golden Horde) complicated local law and legal practice. Although the Jochid ulus’s ruler, Berke Khan (r. 1257–1266), converted to Islam in 1252, it was only after 1313, under the reign of Uzbek Khan (r. 1313–1341), that Islam once again occupied a prominent place in public and political life and enjoyed generous royal sponsorship (Favereau 2021; DeWeese 1994).

Even as Islam gained patronage and prestige in the Jochid ulus, certain legal practices that aligned with Chinggisid law (rather than Islamic law) persisted. Two examples of this are levirate marriage (the marriage of a widow to her husband’s brother or another of his male relatives following the death of her husband) and ultimogeniture (the inheritance of the father’s household and property by his youngest son). Scholars of Volga-Ural Muslim and Kazakh history have identified these practices as part of traditional steppe or Turkic culture, but they were also practices approved of by the Mongol ruling elite, who, at least briefly, tried to implement them across Mongol-ruled lands, even in places where they contradicted the prevailing laws and practices (Birge 2017). Thus, the persistence of such “steppe” practices should not be seen merely as a timeless or inertial continuation of “customary” law, but, rather, as a development facilitated by the Mongols’ efforts to shape the legal culture of their realm. In the Kazakh steppe, both levirate marriage and ultimogeniture were still practiced under Russian rule in the late nineteenth century, where they were treated as part of adat or customary law (as contrasted with Islamic law) (Shormanov 2005; Zimanov 2005). Although the Russian state did not recognize customary law as a legal system in the Volga-Ural region, the practice of ultimogeniture continued in the parts of the Volga-Ural region until the Russian revolutionary period (Garipova 2018a).

In short, legal pluralism existed in the khanates of the Volga-Ural region and the Kazakh steppe (both of which derived their legal systems and culture from the Jochid ulus) before the Russian conquest. As such, the prevalence of classical Islamic law in the Volga-Ural region in the seventeenth-early nineteenth centuries should not be taken for granted.

By the end of the fifteenth century, the Volga-Ural region was divided among four polities: the Kazan Khanate (1438–1552), the Astrakhan Khanate (1466–1556), the Khanate of Sibir (1490–1582), and the Khanate of Qasim (1452–1681). The first three polities were Muslim, Turkic-speaking successor states of the Jochid ulus (Favereau 2021). The fourth was a Muslim-ruled buffer state established by the Muscovites in their relations with the Khanate of Kazan. All these states inherited the political and religious culture of the Jochid ulus, in which adherence to Islam was a prerequisite for participation in political life, in which public shows of charity took the form of financing the construction and upkeep of mosques and madrasas and sponsoring religious scholars, and in which Sufism was central to sociality for people of all socio-economic classes (Favereau 2021). Following the Russian conquests, Orthodox Christianity replaced Islam as the religion of politics and public life (Frank 1998; Romaniello 2012). Adherence to Christianity became, if gradually, the new requirement for full participation in imperial politics and matters pertaining to public life were governed by Russian imperial law. Islamic (and steppe/Chinggisid) law became confined to a narrow selection of interactions between individual subjects and the state (for, example, taking oaths of loyalty upon the Qur’an) and to matters of family law (marriage, divorce, guardianship, inheritance) (Azamatov 1996; Khabutdinov 2008; Garipova 2013).
As with the meeting of Muslim and Mongol societies, the arrival of Russian imperial law in the Volga-Ural region caused local variations and deviations from what would be considered classical Islamic law. Under Russian rule, hadādi crimes were no longer adjudicated and punished as they would have been in a Muslim-ruled state (Garipova 2018b). As Russian family law and personal status laws evolved, Islamic family and personal status law evolved in response. A well-documented example of this was Volga-Ural Muslims’ reaction to an 1836 Russian law that set the minimum marriage ages at sixteen for women and eighteen for men. In response to this law, Muslim families who wished to marry their children before they had reached the legal age arranged double marriage ceremonies, one held immediately to mark the union of the new couple before the community and a second “official” ceremony held after both the bride and groom had reached the minimum age stipulated by Russian law, at which point the marriage was formally registered in the state metric book. Muslim jurists were aware of this practice and in some cases even facilitated it (Garipova 2018b). So, once again, knowledge of and strict adherence to classical Islamic law in the Volga-Ural region should not be assumed.

The result of this post-conquest confessional and legal reshuffling was an amalgam of three legal systems: Islamic, steppe customary/Chinggisid, and Russian. Matters of property division, assault, murder, theft, and rebellion against the state lay in the jurisdiction of the Russian courts (Garipova 2013). Matters of family and personal status, whether interpreted through Islamic or Chinggisid norms, were left to the Volga-Ural region’s Muslim jurists (Garipova 2018a, 2018b). Unlike in the Kazakh steppe in the nineteenth century, no distinction between “customary” and “Islamic” law is evident in the surviving sources for the pre-1820s Volga-Ural region. Thus, while three kinds of law may, in theory, have been present in the Volga-Ural region, a Muslim woman navigating separation before 1788 would, in fact, have had a choice between only two systems of law: the Russian courts and the local Islamic jurists. From 1788 onward, her choice would have been between the Russian courts and, possibly, the OMSA, which would have then assigned her case to a local Muslim jurist. The choice to opt for Russian or Islamic law would have been based not upon where she thought she would get a more favorable verdict but, rather, upon the kind of dispute she was attempting to resolve. This division is borne out in the kinds of information that Tatar-, Arabic-, and Russian-language sources provide on the financial rights of separated women reflect this division.

3.2. Separated Muslim Women’s Financial Rights under Islamic Law: Marital Payments in Two Eighteenth-Century Sources

For most of the eighteenth century, matters of marriage, divorce, and inheritance in the Volga-Ural Muslim community were negotiated and resolved at the level of the community, rather than through the intervention of Russian officials and courts. Baturshāh ʿAlīev’s (1710–1762) letter to Empress Elizabeth following his uprising against the Russian state in 1756 gives glimpse into how this process worked in the 1750s. At this time, ʿAliev served as a state-approved ʾākhūnd, one of only four officially recognized Islamic legal specialists in the South Urals and western Siberia (Donnelly 1968; Azamatov 1996). Despite this official recognition, his authority was based on reputation among local Muslims as a learned scholar. His day-to-day job consisted of hosting Muslims who would come to him seeking his assistance in resolving their inheritance cases according to sharīʿa or going out to meet with Muslims in their home communities for the same purpose (Khusainov 1993). Likewise, when some local Muslims informed ʿAliev of a Muslim military officer who habitually demanded that the communities through which he passed provide him with young women to debauch, ʿAliev stood up to him and accused him of acting in violation of Islamic law (Khusainov 1993). This sort of Muslim jurist traversing the countryside to resolve Islamic legal disputes based on his knowledge and scholarly reputation was a system that pre-dated the Russians’ cooption of it in the 1730s and persisted under the OSMA to the 1910s (Garipova 2018b; Spannaus 2020).
Volga-Ural Muslim jurists like ‘Alīev obtained their knowledge of Islamic law derived from their education in madrasas in their native region and/or in Central Asia (Frank 2012; Ross 2020). While some of this information may have been transmitted orally, eighteenth-century jurists also purchased existing manuscripts of legal digests or copied them. Some jurists also compiled miscellanies of personal notes and excerpts from various legal works. While these volumes do not necessarily provide information on the concrete cases that the jurists resolved, they do offer insight into the kinds of information that they had access to when they were called upon to adjudicate a case. In the case of separated women’s financial rights, these sources can give insight into the legal terminology and categories recognized by Volga-Ural Muslim jurists and facilitate a comparison between the Volga-Ural region and other Muslim societies.

One mid-eighteenth-century Turkic-language manuscript book on Muslim ritual and morality recovered from the Tynybay Mosque in Semey, Kazakhstan contains a brief section addressing the financial issues surrounding divorce and separation. Specifically, it addresses the conditions under which a sum of money or property termed qıznıngh. aqqı may be retained or forfeited. The text addresses two specific cases. In the first case, a man marries a woman with whom he has become acquainted prior to the wedding, and, subsequently, finds her to be unacceptable. The text states that, if he wishes to divorce her, he must pay the qıznıngh. aqqı and then divorce her (Tynybay Manuscript on Muslim Morality 1770). In the second case, a man marries a woman that he has not seen in person prior to the wedding and, subsequently, wishes to divorce her. In this case, the text advises that he should divorce her and surrender half of the qıznıngh. aqqı (Tynybay Manuscript on Muslim Morality 1770).

This text establishes the qıznıngh. aqqı as a sum that is paid by the man before the marriage, and he may have to forfeit in part or in its entirety if he breaks the marriage agreement. Unfortunately, the ambiguity of the term qıznıngh. aqqı makes it difficult to determine what, if anything the separated women herself received in this situation. The word haqq as used in the regional vernacular can mean “right”, “price”, and “obligation”, depending upon the context. The word qız refers in general to a girl or a young woman, but in the context of a discussion of marriage, would refer to an unwed woman (as opposed to a wedded woman, khatın). Thus, qıznıngh. aqqı might be translated as “bride price”, implying a sum paid to the bride’s family in return for their giving their daughter in marriage rather than as a sum paid to the bride herself. This understanding would correspond more closely to the concept of bride price among the Mongols, the Buryats, and the peoples of Russia’s far north and far east than to mahr (Pop 2010; Boikova 2006; Newyear 2009; Plotskaya and Kolmakov 2020). (Russian officials and ethnographers, for their part, tended to use the term kalym in Russian-language documents as a term for both bride price and mahr.) Alternately, qıznıngh. aqqı might be translated as “bride right” or the sum “to which the bride has a right”, referring to the Qur’ānic requirement that a man should pay his future wife her “due compensation” (Qur’ān 4:24). In this case, qıznıngh. aqqı would stand as a Turkic translation of the Arabic mahr, a payment owed to the bride and not to her family.

In other words, the Tynybay text suggests that Volga-Ural Muslim marriage in the eighteenth century involved the transfer of money from a future husband to either his future wife or to her family as a means of binding him to the marriage. If he subsequently broke the marital agreement, either before or after the marriage has taken place, he forfeited part or all this money. Unfortunately, what is not clear from this source is whether the bride/wife ever received any part of this money or gained control over it. Nor does the source tell us how the woman was affected by her husband’s choice to end their marriage, whether and how she returned to her family afterwards, or how the dissolution of the marriage impacted her future marriage prospects. These complications spring from the laconic nature of the text combined with the uncertainty of whether it is describing a requirement stipulated by Islamic law or by Mongol or steppe customary law. This is an example of a case in which the legal pluralism of the pre-1552 period complicates the interpretation of a Russian imperial-era source.
An Arabic-language legal guide produced in the region around Kazan in 1788 (and preserved in the Zaynab Maqsudova collection at the National Museum of the Republic of Tatarstan) offers clearer insights into separated women’s financial rights as they related to Muslim marriage and divorce. This book offers Islam legal advice on marriage, divorce, and inheritance.

In the section entitled “Claiming Mahr”, the Maqsudova manuscript addresses the conditions under which a woman may demand her mahr (or the unpaid balance of her mahr). The section begins by stating that there are two kinds of mahr: mahr al-mithl or mahr al-mussama (Zaynab Maqsudova Islamic Law Miscellany 1788). Mahr al-mithl, translated as “proper” or “standard” mahr, is the standard sum appropriate for the woman to demand from her husband based upon her age, beauty, class, and other qualities (Siddiqui 1995). Mahr al-mussama, translated as “specified” mahr, a sum that is agreed upon by the parties involved in the marriage and recorded in contract (Siddiqui 1995). The Maqsudova texts notes that a woman entering a marriage had the right claim one of these types of mahr, but never both (Zaynab Maqsudova Islamic Law Miscellany 1788).

The text then addresses the means by which a woman should claim the balance of her mahr following her husband’s death. It states that if a woman chose to claim the balance of her mahr property after her husband’s death, then her claim must be settled before the claims of the other heirs. The mahr was to be paid to the widow and deducted from the late husband’s estate first. Only once this sum had been awarded could the remaining assets of the estate be divided among the husband’s heirs (Zaynab Maqsudova Islamic Law Miscellany 1788).

The “Claiming Mahr” section of the Maqsudova manuscript pertains primarily to widowed (rather than abandoned or divorced) women’s relationship to their mahr, although this information is useful for understanding the financial rights of divorced women as well insofar as it establishes that mahr as defined under Hanafi law, was known in the late eighteenth century Volga-Ural region, so would seem likely that Hanafi laws on the allocation of mahr during and after divorce would also have been known. This assumption is confirmed in a later section of the Maqsudova text that focuses on khul, a process by which a woman might divorce her husband by returning or forfeiting all or part of her mahr. The text details how much the woman must forfeit under various circumstances to leave the marriage in the case that her husband refused to initiate a unilateral divorce (talaq) (Zaynab Maqsudova Islamic Law Miscellany 1788). The specific amount she needed to return or forgo depended upon multiple of factors, including how much of the mahr had already been paid and the payment conditions agreed to before the marriage (Zaynab Maqsudova Islamic Law Miscellany 1788).

The clear Hanafi Islamic genealogy of the Maqsudova text’s sections on mahr and divorce sets it apart from the Tynybay manuscript, which offers neither the Arabic legal terminology nor the references to Islamic legal literature necessary to clarify the either the sources for the information it gives nor the legal system within which it was written. The Maqsudova manuscript also differs from the Tynybai manuscript insofar as its focal point is the woman rather than her husband. Throughout the text, it is the woman who exercises her financial rights by claiming or forfeiting payments to which she is entitled under Islamic marriage law and accepting or rejecting financial conditions. In practice, a divorced or widowed woman’s parents or other relatives might have encouraged her or assisted her in pressing her claim. However, in the Maqsudova text, the right to claim, agree to, receive, and forfeit mahr from a husband or his estate was defined as the prerogative of the wife.

In conclusion, a preliminary look at eighteenth-century Islamic legal manuscripts suggests that among the financial rights accorded to divorced and widowed women in Volga-Ural Muslim society included the right to a form of payment from her husband to guarantee he upheld his contractual commitment to the marriage. If the husband chose to dissolve the marriage or if he died, part or all of this money went to the woman or, depending on how one chooses to read the Tynybay manuscript, to her family. Moreover,
full or partial forfeiture of mahr could provide a path for a woman to separate from her husband. After which she would, after a waiting period, be free to marry someone else. While the Tynybay manuscript’s terminology leaves much to speculation, the Maqsudova manuscript suggests that by the 1780s, Muslim jurists in the Volga-Ural region were well-informed on Hanafi law regarding women’s right to mahr. What these documents do not reveal, however, is whether Volga-Ural Muslims applied this knowledge in practice or, as in the case of inheritance in the steppe and the South Urals, chose steppe custom over Islamic law. Nor, especially in the case of the Maqsudova text, which was clearly written for legal specialists, do they necessarily reveal the degree to which Muslim women themselves understood their financial rights before, during, and after marriage.

3.3. Separated Women’s Islamic Financial Rights in Practice: A View from Collection of Early Nineteenth-Century Mahr Contracts

Unfortunately, no mahr contracts from the eighteenth-century Volga-Ural region have been discovered at this time. However, the Manuscript and Rare Book Division of Kazan Federal University’s Lobachevskii Library does contain a collection of contracts and other notations composed in the early nineteenth century. The collection contains about 40 contracts and notations. The earliest was drawn up in 1804 and the latest in 1828. The notations most regard the deaths and burials. The contracts include agreements relating to various commercial and property transactions, including five mahr contracts. Drawn up in 1820–1827, these mahr contracts predate the Russian imperial government’s 1828 requirement that Muslim marriages and divorces be recorded in state metric books (Garipova 2017) and, so afford a look at the culture of Muslim marriage in final years before the imperial state made itself responsible for documenting them.

The mahr contracts, while varying in specifics, mostly adhere to the same formula. They began with the date at which the agreement was drawn up, then stated who was marrying whom, and finally, laid out the specifics of what was to be paid and when. All these contracts solely address the payment of mahr. Maintenance payments (nafaqa) and conditions for the marriage are never mentioned and must have been stipulated in a different document (if at all). The value of the mahr(s) agreed to in these contracts varies from 500 rubles to over 1000 rubles. The mahr(s) in these contracts were usually composed of a variety of items, including silver and gold coins, furs, livestock (horses, cattle, sheep, chickens), textiles (often cotton or silk), articles of clothing (dresses, shawls, girdles), jewelry (pearls), and honey. Monetary values were noted for each animal and article included in the mahr (Collection of Contracts 1804–1828).

These five contracts, though written thirty years later than the Maqsudova manuscript, give insight into the application of the Islamic legal culture described in that manuscript. The contracts were very consistent in their use of Islamic legal terms to articulate their agreements. Most made use of the Arabic term nikāḥ to designate the relationship that the parties were entering, and all identified the sum to be paid by the groom as mahr al-mujjal or “prompt mahr”, the portion of the mahr to be given before the wedding. In some of the contracts, this sum is distinguished from the balance of the mahr, which is to be paid in the event of the dissolution of the marriage or the death of the husband (Collection of Contracts 1804–1828). In other words, the legal culture described in the Maqsudova manuscript is readily visible in these texts.

At the same time, these contracts hint at some of the social realities that shaped how the women’s financial rights described in the Masqudova text were enacted. The brides-to-be are present in these contracts, designated by name: Nazīfa daughter of Rahmānqūl, Mahāba daughter of Murādqūl, Khalīja, etc. At the same time, the grammar of these contracts makes clear that these women are being married or given in marriage. Meanwhile, the contracts seem to be negotiated between the future husband and the bride’s male relatives (Collection of Contracts 1804–1828). This does not necessarily mean that the woman did not receive either the prompt mahr or the balance promised after the termination of the marriage, but, rather, that the process of her receiving that money or property involved multiple family
members and was fixed in contract form as a transaction between men. However, it should be kept in mind that there is little evidence of how much, if any, say the bride had in setting the terms of her *mahr*. Nor do these documents tell us about whether any of these women divorced and, if so, how successful they or their families were in having their *mahr* rights recognized.

When set side-by-side the Maqsudova manuscript and the *mahr* contracts present a picture of Muslim women’s marital and divorce finances that would be very familiar to historians of Islamic family law in the Volga-Ural region in the late nineteenth and early twentieth centuries, when the OMSA was at its most active. These documents suggest that while, especially from the 1830s onward, the Russian government introduced new regulations and requirements regarding Muslim marriage, divorce, and separated women’s status, the Muslim legal understandings of *mahr*, divorce, and women’s financial rights were already well-articulated in the Volga-Ural region by the time the OMSA was founded and were carried on uninterrupted through the first decades of the OMSA’s existence. As such, the founding of the OMSA seems not to have marked a clear rupture between pre-colonial and colonial legal culture or early modern and modern legal culture, at least where women’s marital financial rights were concerned. While the OMSA eventually became a conduit for the Russian government to attempt to shape aspects of Muslim marriage, this happened very gradually, later in the nineteenth century, and represented tweaks to the pre-OMSA body of law rather than the creation of a new body of law. To the end of the imperial period, Muslim jurists strove to reconcile later imperial impositions with this existing set of laws and practices (Garipova 2017).

From a perspective of uncovering separated women’s personal control over their own *mahr*, these documents, like the legal guides, are of less help. While we see women talked about in these documents, we do not see concrete examples of them utilizing this knowledge. Unfortunately, the very way in which Islamic family law was usually adjudicated before the 1830s, that is, by local Muslim jurists and within the community rather than in a court before a Russian judge, limits the kinds of sources historians have to work with.

### 3.4. Separated Women’s Financial Rights under Russian Law: A Court Case from the Early Nineteenth Century

Thus far, this article has focused on divorced women’s financial rights to *mahr* (dower). However, women in the eighteenth-century Volga-Ural region took part in other kinds of financial transactions that did not directly relate to marriage and divorce. According to Islamic law, all property that a Muslim woman brought with her into marriage remained hers. She retained control over it during the marriage and took it with her when she left marriage. Muslim women in the early modern period exercised these rights by running their own businesses, dealing in real estate, lending money, becoming landlords, and donating to charitable projects. They also appeared in court to defend their financial rights (Marcus 1983; Gerber 1980). In theory, Volga-Ural Muslim women, as Muslim women, were guaranteed the same control over their finances as Muslim women in Anatolia, Syria, and elsewhere. In fact, the Russia conquest complicates this picture. Under Russian rule, commercial and financial transactions in the Volga-Ural region were regulated by Russian law and not by Islamic law. Moreover, the kinds of financial transactions in which a Volga-Ural Muslim woman could take part were circumscribed not only by Russian civil and commercial laws, but by Russian laws regarding women’s financial and property rights. These rights had been in flux at least since the sixteenth century, but from the 1600s to the 1800s, the overall trajectory of change was toward Russian women gaining greater control over the property they brought with them into marriage or gained through marriage. By the mid-seventeenth century, married and separated women could also legally sue (and be sued) in disputes over marital property and inheritance (Weickhardt 1996). In the 1640s–1670s, men were prohibited from selling or mortgaging their wives’ properties without her consent (Marrese 1999). In the 1740–1753, the imperial government began to recognize
noblewomen’s right sell or mortgage their property without their husbands’ permission (Weickhardt 1996; Marrese 1999). By the end of the eighteenth century and the beginning of the nineteenth century, Russia courts increasingly upheld married women’s rights to exclusive control of property registered in their name (Marrese 1999). As Michelle Lamarche Marrese has argued, this shift, which resulted in married Russian women gaining legal control over their estates a century earlier than their counterparts in western Europe, was driven primarily by concern over the rights of the nobility and not by the Russian state’s desire to improve the status of women. Nonetheless, Russian women reaped tangible legal and financial benefits from it. (Marrese 1999).

The case of ‘A’isha ‘Aliева was brought to the Kazan District Court in 1803. This case stands at the intersection of Islamic law and Russian civil law as it related to women and finances. ‘Aliева came to court to sue for stolen property and unpaid debts owed by her ex-husband, Muhammadjan Ӄusaynov, (Records of the Chancery of the Governor of Orenburg 1803a). When they first met in 1798, ‘Aliева had been the widow of a successful merchant and resided in the town of Kazan. Ӄusaynov had been appointed as the mufti of the OMSA at the time of its founding in 1788 and still held that post. As they became acquainted, ‘Aliева and Ӄusaynov exchanged letters in which Husaynov had expressed his desire to marry her. He also asked ‘Aliева for a loan. ‘Aliева, anticipating that they would soon be married, sent Husaynov various gifts totaling 650 rubles in value. Husaynov came to Kazan, and they were wed.

Unfortunately, not all went as ‘Aliева had anticipated. According to the account she provided to the court, Husaynov departed for Orenburg without her soon after their wedding. He took 1000 rubles worth of her dresses and other items with him (Records of the Chancery of the Governor of Orenburg 1803b). When ‘Aliева tried to contact him, he claimed that they never been married. When she continued to press for the return of her property, he tried to pressure the imam who had conducted their marriage ceremony into saying that the ceremony had never taken place (Records of the Chancery of the Governor of Orenburg 1803b). It is not clear how common denials like Husaynov’s were in late eighteenth- and early nineteenth-century Volga-Ural Muslim society, but Husaynov’s case was perceived by other Muslim jurists as particularly scandalous, given his status as a prominent jurist and his abuse of his office for personal ends. It was perceived as part of a larger pattern of corrupt behavior by Husaynov during his time as mufti. When Husaynov continued to refuse to acknowledge ‘Aliева’s grievances and failed to compensate her for her losses, she took her case to court.

Had ‘Aliева lived in a Muslim-ruled society, her financial life would have been understood within the framework of Islamic law as it applied to women’s property. Within this framework, ‘Aliева had been a widow and the sole owner of all the property in her possession at the time she met her new husband, Ӄusaynov. As such, both before and during her marriage to Ñusaynov, she had the right to lend him money and expect that it would be paid back according to the conditions they had agreed to. During their marriage, she retained control of all her property. After Ñusaynov left her, effectively dissolving the marriage, she as an independent economic actor, had the right to sue him for his failure to pay back the loan and for his failure to return the property he had taken. However, no reference to ‘Aliева’s financial rights as a Muslim woman is made in the Russian court records. It seems, rather, that ‘Aliева (or whatever unnamed representative she might have chosen to assist her in filing her claim) presented the case purely within the framework of Russian civil law: Husaynov had failed to pay back a loan and had taken her property and she, as both the creditor and the rightful owner of the stolen goods, was suing for compensation. Although neither a noblewoman nor an ethnic Russian, ‘Aliева benefited from the transformations of Russian laws on noblewomen’s property that had occurred in the seventeenth and eighteenth centuries. ‘Aliева, as a property owner, had the right to sue regardless of her gender. ‘Aliева also had the right to carry out financial operations such as moneylending in her own name without the approval of a husband, father, or other male agent. Her brief marriage to Ñusaynov (which he denied in any case) gave him no claim to
any of ‘Alieva’s property either during or after their marriage. As a woman abandoned by her husband, Husaynov, and effectively separated from him, ‘Alieva retained control over her assets. Thus, while ‘Alieva’s case was not arbitrated within an Islamic legal framework, by the close of the eighteenth century, Russian imperial laws regarding women’s financial rights had reached such a condition that a Muslim woman might take her case to the Russian courts and receive a verdict that, if only coincidentally, confirmed the financial rights conferred to her by Islamic law. This ended up being the case with ‘Alieva. The Russian court ruled in her favor on all counts and ordered that Husaynov pay to her 3402 rubles and 59 kopecks for the loans, gifts, and financial support he had received from her.

4. Conclusions

From the arrival of Islam in the Volga-Ural region (in the 920s CE) onward, the Muslims of the Volga-Ural region found themselves under the rule of leaders and governments from various faiths and cultural backgrounds. In the case of Muslim women living in the eighteenth and early nineteenth centuries, this succession of conquests, conversions, and reforms led to a plural legal landscape that offered multiple standards for how wealth was to be transferred and divided different aspects of women’s financial lives among different legal systems. It can be extremely informative to focus on separated women’s financial rights through the lens of one legal system or one kind of legal institution. However, as can be seen even from the limited study in this article, such an approach reveals only one or another part of Volga-Ural Muslim women’s financial lives. Acquiring a holistic view of their financial lives—one that includes their rights as wives, ex-wives, and heirs as well as their rights as property owners and businesspeople—requires that one brings together legal knowledge from Russian, Islamic, and steppe/customary law and, where possible, records from the various systems that adjudicated these cases in accordance with these different kinds of law. Only once these different kinds of sources are brought together does it become possible to assess how the financial rights of separated Muslim women in the Russian-ruled Volga-Ural Basin compared with those of their sisters under Muslim rule.

Regarding the relationship between the finances of separated Muslim women in the 1700s–1800s and in the 1830s–1910s, the surviving records from the earlier period, while fragmentary, suggest that the distinction between family law and civil law existed already in the 1780s–1800s, if not earlier. As Russia’s judicial system was expanded and became more accessible to a wider range of subjects, this distinction was solidified and elaborated upon (Garipova 2013). In this sense, Volga-Ural Muslim women’s interactions with Russian-founded legal institutions in the 1830s–1910s can be seen as a culmination of relationships, divisions, and practices that had evolved gradually during the early modern period as the Russian government worked out both its relationship to its conquered lands in the Volga basin and its laws on finances and gender as they applied to ethnic Russian and/or Russian Orthodox subjects.

The assessment conducted in this article suggests that despite the Russian conquest in 1552 and the foundation of the OMSA in 1788, separated Muslim women living in the Volga-Ural region in the 1780s–1820s, in theory, enjoyed many of the financial rights that would have been guaranteed to them in neighboring Muslim-ruled societies such as the Ottoman Empire. In the case of separated women’s mahr rights, this situation was due to the large role that Hanafi Muslim jurists continued to play in adjudicating family law after the Russian conquest, although it is not always clear whether mahr, rather than bride price, was practiced in all the region’s Muslim communities. Women’s knowledge of their mahr rights and their success in pursuing them is also unclear from the current source base. In the case of separated women’s control of their property and their ability to engage in financial transactions, the Russian legal system that had preempted Islamic law after the conquest came, by the mid-eighteenth century, to recognize a set of financial rights for women similar to and compatible with those that Islamic law has previously extended to Volga-Ural Muslim women. Based on ‘Alieva’s court case, it can be argued that at least some separated women successfully asserted and defended the financial rights accorded to
them under Russian and Islamic law. However, further research is required to determine how common cases such as 'Alieva's were and how often rights afforded to separated women in theory were implemented and respected in reality.

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