In the 1860s and 1870s, Tsar Alexander II enacted a series of reforms that changed the nature of autocratic rule in Russia. The Judicial Reform of 1864 was a particularly radical step. Jörg Baberowski goes so far as to call the Judicial Reform «Russia’s first constitution». In particular, the introduction of an independent judiciary helped to establish a legal system in which the courts no longer functioned as the long arm of the state. Trials were now held in public, oral procedure was introduced, and in the courtroom lawyers could attack the regime without fear of retribution.

This article combines an investigation of post-Reform courts with an analysis of imperial rule in the second half of the nineteenth century. By discussing ordinary people’s participation in the reformed court system and visions of imperial society as communicated in the courtroom, it explores the legal sphere as an interactive space in which jurists and ordinary subjects of the Russian Empire shaped and experienced state policy. Significantly, as it focuses on Crimea and Kazan, two regions that were home to considerable numbers of Muslim Tatars, the article examines the court system as a mirror and point of entry into the study of imperial rule over ethnic and religious minorities.

The Judicial Reform of 1864 established a range of new institutions. Among the most important of these were the so-called circuit courts (okruzhnye sudy), designed to address serious crimes and major civil disputes. The jurisdiction of these new courts extended over large territories, usually covering whole provinces. For some civil and most criminal cases, the circuit courts relied on trial by jury.

The new court system was not immediately introduced in all parts of Russia. The government was hesitant to launch the new courts in borderland regions where

---

the Russian authority was tenuous or embattled, such as Poland in the west or the Steppe region and Turkestan in the south. The reforms were quickly implemented, however, in more central parts of the Empire, including Crimea and Kazan. The inclusion of these regions at this early stage was striking given that Tatars formed about 30 per cent of the population in the province of Kazan while their share in Crimea was just over 40 per cent.³ Both regions had formed independent Muslim khanates before they were annexed by the Russian Empire in 1552 (Kazan) and 1783 (Crimea).

Studies of the Russian legal system have largely neglected ethnic and religious minorities.⁴ At the same time, over the last ten years, scholars have produced numerous studies of law and legal practice in Russia’s imperial borderlands, including the North Caucasus and Central Asia, where distinctive legal regimes were allowed to continue, modified, or even put in place by the Russian authorities.⁵ Yet these peripheral regions represent rather specific cases. They were only annexed in the course of the nineteenth century and not fully integrated with the civil-administrative structure of the Empire. Non-Russians had few of the legal rights and opportunities in these regions that they enjoyed in many parts of European Russia. It is only in regions that by the mid-nineteenth century were treated as part of the imperial core (and both Crimea and Kazan count among these) that the full extent and implications of the use of state courts by non-Russians can be examined. Yet, while the expanding study of rural legal practice has paid much attention to the Empire’s interior provinces, it has neglected minorities.⁶ Historians focusing on Kazan or Crimea, moreover, have so far paid little attention to legal practice. With the notable exception of Robert Crews’s study, most works on these regions hardly mention the

³ In Kazan, this share remained stable over the decades that followed. In Crimea, by 1917 it had decreased to 12 per cent in the towns and 42 per cent in the surrounding districts (see Ia. E. Bodarskii / O. I. Eliseeva / V. M. Kabuzan, Naselenie Kryma v kontse XVIII-kontse XX vekov, Moscow 2003, 131).

⁴ S. Kucherov, Courts, Lawyers and Trials under the Last Three Tsars, New York 1953; J. W. Atwell, «The Russian Jury», in: Slavonic and East European Review 53 (1975), 130, 44–61; R. S. Wortman, The Development of a Russian Legal Consciousness, Chicago 1976; G. N. Bhat, Trial by Jury in the Reign of Alexander II. A Study in the Legal Culture of Late Imperial Russia, 1864–1881, Ph.D. Diss., University of California 1994; an exception is Baberowski’s Autokratie, yet the author limits his discussion of state law among non-Russian populations to borderland regions such as the South Caucasus, the Steppe region and Central Asia.


legal system. Part of the reason for this omission may be the fact that generations of Russian geographers and ethnographers presented non-Russians as followers of «customary law». What interest could these people have in state courts?

As Crews has recently shown, however, Muslims in the Russian Empire used state institutions, among other forums, to solve their legal disputes. He demonstrates that Muslim individuals and communities sent petitions to ministries, governors, local administrations, and state-sponsored Islamic authorities, which, in turn, helped the Muslim population to enforce (Islamic) law and order in their everyday lives – be it in the organisation of parishes or in matters of family law. While Crews documents that Muslims were integrated, at least to a degree, with the institutional life of the Empire, his discussion of the Tatar regions concentrates on the pre-Reform period and (perhaps for that reason) touches on the role of state courts only in passing.

The introduction of the new courts in Crimea (1869) and Kazan (1870) was a significant step. First, it provided Muslim Tatars, along with Russians, Germans, Greeks, Armenians, Mordvins, Chuvash and many other ethnic groups with a new legal infrastructure that allowed them to take action in quicker, more transparent, and effective ways. The new courts, which were a blend of models from France, England, and the Kingdom of Hanover, reflected the concerns of their creators, an army of jurists who increasingly advanced positions contrary to those of the old elites. From 1839, the recently founded School of Jurisprudence in St. Petersburg supplied the state with a steady flow of graduates. Over the following decades, the number of law faculties and students at Russian universities grew continuously. By the late 1860s, more than half of Russia’s students were pursuing law

Legends


8 For a comprehensive bibliography, see E. I. Iakushkin, Obychnoe Pravo Russkikh Inorodtsev, Moscow 1899. See also the two special issues of the Journal Zapiski Imperatorskago Russkago Geograficheskago Obschestva (po otdeleniiu etnografii) that focus on customary law among non-Russians: vol. VIII (1878) and vol. XVIII (1900). Most writings on cultural practices among Tatars examined lifecycle rituals. For a study of legal practice, see N. N-ch, «Narodnye iuridicheskie oby-chai u Tatar Kazanskoi gubernii», in: N. N. Vecheslav (ed.), Trudy Kazanskago Gubernskago Statisticheskago Komiteta, vol. 3, Kazan 1869, 21–42.


10 Ibid., 148–49, 166, 190.

degrees, as a result, even in provincial courts, the share of higher judicial officials with specialised legal training rose to around 70 per cent in a short period of time. By the early twentieth century, over 20,000 civil servants, lawyers, prosecutors, and judges were working in the Empire. These jurists were keen to promote a Rechtsstaat based on European models. Seeking to introduce, in the words of Alexander II, a «quick, just, merciful and equal court for all our subjects (sud skoryi, pravyi, milostivyi, ravnyi dla vsekh poddannykh nashikh)», the reforms established a system of state courts that were open to Russians and non-Russians alike (at least in the Empire's interior provinces). For Muslim Tatars, this was a significant break with the past. Until the mid-1850s, the Tatar populations of Kazan and Orenburg were encouraged to have all their administrative affairs and legal disputes handled by their own, separate administrations, known as tatarskie ratushi. In an effort to reduce costs, the local authorities in Kazan even officially banned Tatars from turning to city magistrates between 1834 and 1835.

Second, the establishment of the circuit courts imposed a new, state-centred form of legal pluralism onto an already complex plural legal order. Most courts had clearly defined areas of jurisdiction. After 1864, serious criminal cases were usually heard in circuit courts. In civil cases, the Muslims of Crimea and Kazan could turn to state-employed Islamic judges, but only in intra-Muslim cases of family and inheritance law in which there was no disagreement between the two parties. In all other cases, the appropriate forum (that is, circuit court or lower-level courts) was determined by the severity of the case. In short, the Empire's post-Reform legal system was clearly demarcated, and religious and other cultural differences mattered mainly in lower-level legal forums and specific civil cases.

This article explores symbols, imagery and participation in imperial circuit courts in order to shed light on the role and place of ethnic and religious minorities with regard to the Empire's formal institutions and its self-image. Focusing on the last three decades of the nineteenth century, it argues that the new courts included Muslim Tatars without much controversy. While the Empire had begun to extend the idea of citizenship to its eastern borderlands by the 1860s, it met with resistance to further integration and largely proved unable in these remote regions to reach people beyond local elite networks. The integration of Crimean and Kazan

12 V. R. Leikina-Svirskaia, Intelligentsiia v Rossii vo vtoroi polovine XIX. veka, Moscow 1971, 77.
13 Wortman, Development, 222, 264.
15 Quoted in G. A. Dzhanshiev, Epokha velikikh reform: istoricheskie spravki, Moscow 1900, 388.
17 Ibid., 35–36.
Tatars, by contrast, which had made significant strides since at least the eighteenth century, turned out to be more successful. This dissimilarity, however, also underscores that this article offers but a snapshot of a particular group and time in imperial history. The article presents the reformed courts as interactive spaces that were widely used, regardless of ethnic or religious affiliation. It draws mainly on court records from Kazan and Simferopol (Crimea), and on the local press coverage of court cases.

Before looking at Muslim representation in the post-Reform courtroom in greater detail, I will begin with an overview of the place generally accorded to Muslims in the Russian imperial imagination.

1. Muslims in Changing Visions of Empire

Religion was a distinguishing feature in Russian imperial society. The administration of the Empire used «faith» (veroispovedanie), along with «estate», as an organisational and classificatory instrument, for example, in official statistics. All subjects of the Emperor needed to profess a religion, and various rights and obligations were specific to particular religious groups. In some senses, then, Russia was a «confessionally clustered society» in which religious affiliation could influence everyday life in many ways. In addition, like other empires, it was a society in which the importance of religion was publicly displayed. While the Empire prided itself on its cultural diversity and multiethnic elites, it largely relied on Russian Orthodoxy – the state religion – in its public representations. Even so, changes occurred over time. Under Peter I (1682–1725), the Church’s moral authority and public visibility declined. A practical view of the Church as a provider of education and public welfare took hold among the ruling elite who increasingly defined the Russian state in secular terms. After Alexander III’s ascent to the throne in 1881, religious ceremonies once again became important.

For the period under examination in this article – the late nineteenth century – the importance of religion must not be overstated. First, while the use of religious symbolism continued to be instrumental, it expressed more than anything else the elites’ desire to visualise and reinforce the state’s authority and unity. Second, religion was far from the only mechanism for classifying and regulating the population. In the late eighteenth century, the designated «way of life» (sedentary or nomadic) served as a key way of categorising the population. As will be explained in greater detail below, for most of the late imperial period, not all Muslims living in

the Russian Empire had the same rights and obligations. These considerations pertaining to the importance of religion must be kept in mind when discussing the position accorded to the Tatars in the post-Reform legal system.

Rossiia was a multinational empire that had been ruled by a Westernised sovereign and elite at least since the reign of Peter I. For most of the early modern period, the term narod (people) was used to refer to the totality of inhabitants of Russia.\(^{22}\) And since obedience and loyalty to the tsar, rather than a common religion, were the defining characteristics of this narod, Muslims formed part of it. At the same time, Russian Orthodoxy was considered an important indicator of loyalty, and therefore conversion to Orthodoxy was a precondition for many rights and privileges. While policies towards Russia’s Muslim population changed over time – oscillating between «aggressive ideology» and «pragmatic flexibility»\(^{23}\) – Muslims were usually seen as culturally inferior and consequently accorded a limited legal status.\(^{24}\)

Steps to promote the integration and loyalty of the Muslim population were taken under Catherine II (1762–1796), who not only prohibited the Church and local authorities from destroying mosques or putting pressure on Muslims to convert. She also institutionalised the Muslim faith from «above», most importantly by creating state bodies responsible for the management of mosques and all other religious questions in Muslim communities (the so-called «Muhammadan Spiritual Assembly» in Ufa and the «Muhammadan Spiritual Administration» in Crimea, established in 1788 and 1794, respectively).\(^{25}\) Over the decades that followed, these administrative bodies were widely used as appellate institutions by Muslims who were dissatisfied with the rulings of Islamic judges (mainly in cases of family law).\(^{26}\) Thus the Tatars of Crimea and Kazan began to develop a pragmatic relationship with the institutions of the central state.

Russia’s continuing expansion into and absorption of non-Russian regions, however, demanded further differentiation in the rule over its Muslim population. Thus in the mid-nineteenth century, most non-Christian inhabitants of Siberia, Central Asia, and the Caucasus were put under the newly created legal category of inorodtsy (aliens or literally «those of other descent»). As a separate estate listed in the Digest of Laws of 1832, the inorodtsy stood outside the general laws of the Em-


\(^{26}\) Crews, For Prophet and Tsar, 148, 154.
pire. The settled Tatars of the Volga-Kama region and Crimea, however, were regarded as sufficiently «civilised» to qualify for legal equality and were integrated in the estate system as state peasants, merchants, or even Cossacks.27

As a result, by the mid-nineteenth century, Muslim subjects of the Empire lived under a variety of policies with differing legal statuses. Some were subject to military rule, others lived under civilian administration. Some, such as the settled Tatars, were required to do military service, while others – including most inhabitants of Central Asia – were not. Some had their disputes and crimes ruled on by «native» or Islamic judges, some did not. Successive governments, in other words, cemented the legal segregation of those considered to be «underdeveloped», while furthering the integration of those viewed as «civilised» and loyal.

The Empire’s multiplicity of policies and attitudes towards its Muslim inhabitants also has to be viewed with regard to wider trends in nineteenth-century thinking. The debates held across Europe in the aftermath of the French Revolution about nations and nationality left their mark on Russia’s intelligentsia. In the course of the century, increasing numbers of intellectuals, along with members of the bureaucracy and army, turned to ethnically grounded Russian nationalism that challenged the government’s vision of Russia as a heterogeneous, dynastic Empire ruled by a Westernised elite.28 Many were influenced by German romanticism and historicism, which saw nations in linguistic and ethnic terms at different stages of «development». These influences stirred debate about the essence of Russianness, which led to a distancing from anyone of different ethno-linguistic or religious origin and an increasing feeling of superiority over «less developed» peoples. It also spurred interest in the Empire’s domestic «others», resulting in a flurry of ethnographic descriptions of the Tatars and other minority groups that ranged from sympathetic to openly hostile.29 More than anything else, these studies helped to folklorise and exoticise the Tatars.

The monarchy, however, did not recast itself in ethnic terms. The policy of Official Nationality promulgated in the 1830s defined nationality in Russia as the distinctively Russian fusion of imperial rule and autocratic monarchy in which the

---

27 J. Slocum, «Who, and When, Were the Inorodtsy?» in: *The Russian Review* 57 (1998), 179. Regardless of such legal equality, there were still special provisions for different religious groups in the criminal and civic codes.


inhabitants of the Empire, as one people, voluntarily surrendered power to their rulers.  

Towards the late nineteenth century, the importance attached to linguistically based ethnicity increased in the Empire, whose leaders, especially after 1881, put greater emphasis on the promotion of Great Russian culture, including Russian Orthodoxy, to further national unification. The assimilation of non-Russians was encouraged, and undoubtedly the wider use of the Russian language meant constraints on other languages and cultural practices. While this process has often been denounced as «Russification», it is probably best understood as a form of standardisation and centralisation aimed at the elimination of difference in administrative practice and the maintenance of the unity and territorial integrity of the state. Unification was, at best, partial, not only because the preservation of stability usually took precedence but also because the elites continued to view diversity as both natural and desirable.

Late imperial attitudes and policies towards Muslims remained ambivalent. On the one hand, Russian intellectuals, Church officials, and state representatives increasingly viewed the Muslim population through the lens of confessional struggle, to some extent due to repeated wars against the Ottoman Empire and Islamic groups in the North Caucasus. At the same time, from the period of the Great Reforms, the Russian government also sought to spread a new ethos of citizenship to its more remote borderlands. Convinced of the transformative power of the state, it created institutions designed to protect people and allow them to participate in imperial society: a new «public sphere» of theatres, courts, schools, and self-government. Aggressive anti-Muslim policies did not become the rule in Russia’s Muslim regions. Russia had no interest in disturbing its Muslim subjects beyond making a few minor changes, for example, in school policy.

Some of the Empire’s efforts at unification, however, had a lasting impact in both Crimea and Kazan. As Russian politicians and intellectuals stressed their civilising mission towards the Empire’s domestic «others», they also presented themselves as the harbingers of zakonnost’ (the rule of law). This mission may have

30 Wortman, Scenarios, vol. 2, 12.
33 Weeks, Nation and State, 9, 13; for the argument that the Empire was mainly concerned with stability as the guarantor of economic profit, see Kappeler, Russlands erste Nationalitäten, 409, 505.
34 Crews, For Prophet and Tsar, esp. 293–316.
35 Yaroshevski, «Empire and Citizenship».
36 Ibid., 75. This reflected Tsar Alexander II’s more general desire to involve the «public» on a greater scale – be it the nobility or the urban and rural masses. See Wortman, Scenarios, vol. 2, 19–157.
37 Martin, Law and Custom, 48; and Jersild, Orientalism and Empire, 92.
seemed more feasible in these regions than in more recent territorial acquisitions in the Caucasus or Central Asia.

I now want to examine the post-Reform court as a space in which new ideas about social order and legal equality were presented and put into practice. I will then turn to the case of the Muslim Tatars and explore the extent to which this group helped to shape this new legal space.

2. Imperial Representations: Monarchy and Modesty in the New Courts

The new courts were full of images and symbolic acts that could be identified as Russian or Russian Orthodox. In Simferopol, the opening ceremony of the circuit court in April 1869 began with an Orthodox procession (krestnyi khod) led by the archbishop and his clergy from the central cathedral (kafedral’nyi sobor) into the court building. Following the opening speech by a senator from St. Petersburg, the archbishop conducted a prayer service (molebstvie) before proceeding with the consecration (osviashchenie) of the court building. As throughout the Empire, the central courtroom was filled with a mixture of secular imperial and Orthodox religious imagery. A juror in Kazan observed: «A portrait of the tsar hung on the wall above the court; the Gospel and a cross lay on the lectern.»

As a unifying symbol of the Empire, the Emperor’s image played a key role in the courtroom. Loyalty and obedience to the monarch were defining characteristics of the Russian «nation» long before debates over the alleged cultural essence of the Russian narod emerged in the late eighteenth century. After the Great Reforms, the unity of the people of Russia was still seen as residing in their collective submission to the Emperor. For liberal jurists, images of Alexander II, especially as the tsar who had ended serfdom, «united the whole of the Russian people, the whole of Russian society, without distinction of rank or economic condition, origin, or faith». They saw the Emperor’s authority as no longer resting in an allegedly divine mission, but in his ability to modernise Russia. The new legal system could be presented as evidence of this ability – a feat around which all subjects could rally and unite:

Closely connected with the emancipation of the peasants is the new court – just, merciful and equal for all – and especially the jury court, a living school of jurisprudence, justice and the rule of law for a liberated people. The precept of «truth and mercy», drawn up for the new court, reflects the meek and good-natured image of the Monarch. His rule has not only been marked by great reforms, but every single reform has been marked [...] by the creative stamp of the very Implementer of these great transformations.

38 GAARK (State Archive in the Autonomous Republic of Crimea), 376–1–6 (1869), I–IV.
40 Iuriditcheskaia Gazeta, 16 August 1898, no. 54.
41 Ibid.
These words, published on the front page of a legal newspaper, cast the new courts as the Emperor’s personal achievement. Yet on whose behalf did he act when introducing his changes? The article is ambiguous on this question. After stressing the Emperor’s unifying role, the author goes on to present him as a crusader for Russian Orthodoxy:

[...] in (his) majestic and meek features, the Russian people read not only the praise of past heroic deeds, but also the divine promise of coming great destinies, the ringing of church bells that powerfully resound from the highness of the Throne, «Cross yourself, Orthodox people, and with us summon God’s blessing of your free labour, the guarantee of your domestic prosperity, and the social good.»

The Emperor was not only a rallying point for all subjects, regardless of faith and other distinctions, but also the embodiment of the state religion. The fact that the exclamation at the end of this statement is a quotation from the Emancipation Manifesto (1861) written by Metropolitan Filaret, reaffirms the Emperor’s image as the liberator and moderniser of Russia and once again highlights the bond between the state and the Orthodox Church.

Displays of loyalty to the Emperor were important both inside and outside the courtroom. They were performed by Russians, as well as by Tatars and other minorities. On 4 April 1868, for example, the Tatar society of Kazan (tatarskoe obshchestvo) took part in the prayer service held on the central square in honour of the Emperor and «expressed their feelings in a congratulatory telegram» (while apologising for the misbehaviour of a few Tatar peasants during the celebrations). Whether these Tatars were really great admirers of the tsar is less important than the fact that they made a formal display of their loyalty.

Loyalty to the monarch was reflected in the interior design of the new courts. Portraits of the Emperor were essential and made a priority, as the correspondence between the Ministry of Justice and the governor of Kazan before the opening of the circuit court in November 1870 suggests. In September, the governor asked for an additional credit of 3000 roubles to complete the furnishing and decoration (omeblirovanie i ubranstvo) of the new court building, and then informed the Ministry that it was impossible to have the necessary portraits painted locally. The Ministry replied in mid-October, saying nothing about the requested credit but telling the governor that it had already «taken care of the purchase of the portraits here, in St. Petersburg, and of their dispatch to Kazan». The four portraits which the Ministry had ordered cost 378 roubles and 60 kopecks and were then added to the total

---

42 Ibid.  
43 On the representation of Tatars at the coronation ceremony and festivities, see Wortman, Scenarios, vol. 2, 35, 45.  
44 Kazanske Gubernskie Vedomosti, 8 June 1868, no. 45.  
(7500 roubles), which the Kazan governor had received earlier for the purchase of «furniture and other items».  

According to liberal jurists, these images made a great impression on those present in the courtroom. The jurist Sergei D'iachenko recalls a conversation with his former mentor and chairman of the Kazan Judicial Chamber, Andrei Il'iashenko: «I told him about my observation that the simple mentioning of the fact that the court takes place at the behest of His Majesty the Emperor and in his sacred name stirs an unusual desire in the jurors to find the truth, and imbues them with pride and the most serious attitude towards the case.»

This may have been wishful thinking by an ardent supporter of the jury courts, for there are many cases in which ordinary subjects were anything but complimentary to the tsar. There is little doubt, however, that the monarch served as a point of reference in the courtroom that people could see and hear in the speeches. This exposure to imperial imagery was new to the extent that pre-Reform courts, which had operated without jurors, lawyers and spectators, had not been accessible to the public.

For some people, the setting was awe-inspiring:

[There were] tables with red tablecloths, behind which the prosecutor, secretary, and members of the court were seated in uniforms embroidered with gold. The presence of a priest, a mullah, a policeman – all of this makes a very strong impression on the unaccustomed eye. It is overwhelming for the peasants, who are forced to be even more taciturn and to recede into their shells.

Aware of rank and afraid of anyone appearing like an official, peasant jurors would initially rise from their seats every time a court clerk entered the room (who had little authority, but wore a uniform). Only the lawyers did not instil the peasants with fear, mainly because they were the only officials whose uniforms did not have golden collars.

Certainly, it was not easy for the new courts to diminish the impact of long-established symbols of rank and hierarchy. This is precisely what they did, however. The circuit courts were not intended to intimidate, but rather to be sites where distinctions – religion, estate, and rank – faded into the background. The rules of procedure, for example, required the jurors, many of whom were peasants, to remain seated when talking.

Considering that they often had to address people from
higher estates (judges, but also defendants, who could be noblemen, civil servants, or army officers), this was a significant break with established etiquette. Even the prosecution, as the only institution representing the state in an otherwise independent judiciary, had to show respect and rise from their seats for the court and the jurors.\textsuperscript{53} The controversial nature of this practice caused the Ministry of Justice to intervene, as a letter by the prosecutor of the Simferopol circuit court to the chairman of the court illustrates:

On the basis of the instruction by the Minister of Justice, dated 17 May (no. 8281), I have been asked [...] to oblige the prosecutors and assistant prosecutors [...] to rise from their seats not only in cases in which all official and private persons present in the courtroom do so but also when the indictment is read out and when the final speeches [...] are pronounced.\textsuperscript{54}

Not surprisingly perhaps, conservatives such as the publisher Katkov and the jurist Fuks continually denounced the new jury courts as «courts of the street» and «mob rule» in which the uneducated had – wrongly in their view – received the right to cast judgment on the more privileged estates.\textsuperscript{55}

The liberal jurists who staffed the new courts, by contrast, found it important to visibly express the ideas of equality and modesty that informed the Judicial Reform. Clothing was one important area. For example, upon entering his service as a secretary of the newly established Judicial Chamber in Kazan, the jurist D’iachenko was asked by the head of the Chamber to never address him as «Your Excellency» and never to wear a dress uniform (\textit{paradnaia forma}) when working with him.\textsuperscript{56}

Court staff was also expected to shed other vestiges of the old regime. Alexander II thus prohibited civil servants from growing beards, which were considered symbols of pre-Reform Russia. The well-known jurist A. F. Koni recalls a meeting with a criminal investigator who had just been scolded by the Minister of Justice for wearing a beard.\textsuperscript{57}

At times, the jurists’ insistence on modest clothing and appearance clashed with the ideas of the remaining representatives of the old order, many of whom could be found among the governors and the higher clergy. A short episode featuring a peace mediator (\textit{mirovoi posrednik})\textsuperscript{58} and Kazan governor Nikolai Skariatin, an ardent op-
ponent of the Reforms, may serve to illustrate this disagreement. In July 1869, several drunken Cossacks started a fight at a local fair. As the town’s police officer was not present, the local *posrednik* had them arrested and forwarded the case to the governor and the public prosecutor in Kazan. Skariatin was furious, for the peace mediator had ignored existing rules of conduct: only the police were entitled to make arrests and pass cases on to the courts. After the governor had hurled various accusations at the local functionary in his office, he asked emphatically: «And how dare you even turn up in these clothes?» The accused official, who was wearing a black suit, answered that there was no legally regulated dress code for peace mediators. Skariatin would have none of it, however, and shouted: «As long as I am the governor here, I shall not allow the peace mediators to make accusations behind the back of the police, and I am telling you to put on a uniform in the future!».

Following the spirit of the Reform, however, which called hierarchies into question, the peace mediator did not take this treatment lying down. He wrote a letter to the *Sudebnyi Vestnik*, a newspaper established by the Ministry of Justice in 1866, to ask whether the governor had any right to summon him to his office, scold him and complain about his dress. Post-Reform jurists no longer reflexively cowed to the administration. This was a major concern for «old school» administrators like Skariatin, who was accustomed to discipline and order. The governor thus complained to the first prosecutor of the Kazan circuit court, A. F. Koni, that the new jurists showed him no respect and put themselves above «his» police. «I should work for the Mr Prosecutor?» he asked Koni incredulously in June 1870. «What sort of head of the Province can I be after this?».

The legal system, in short, was set up as a space of modesty and greater equality that called traditional mechanisms of rule and the self-image of the ruling elite into question. At the same time, it was presented as the Emperor’s gift to his subjects. As a result, the courts were also used for the public expression of loyalty to the monarch, which all estates, ranks, and religions were expected to share. I will now turn to a more detailed discussion of the space accorded to, and claimed by, Muslim Tatars in imperial courts.

---

59 For a detailed description of this scene, see «Iz Kazani (Pis’mo v redaktsiiu) [From Kazan (Letter to the Editor)]», in: *Sudebnyi Vestnik*, 21 August 1869, no. 182.

60 A. F. Koni, «Prokuratura i administratsiia», in: *idem*, *Na zhiznennom puti*, vol. 1, Moscow 1914, 205.
3. Muslim Representation and Participation in Imperial Courts

Some observers saw Kazan as «one of the most difficult provinces to govern, given the heterogeneity (raznorodnost’) of its mixed population, Muslim fanaticism and the earlier disorder and neglect there». And yet, the fact that the new circuit courts of Simferopol and Kazan had jurisdiction over large Muslim populations stirred little debate. Since both Crimea and the Volga-Kama region were considered inextricable parts of Russia by the mid-nineteenth century, it may not have even occurred to policymakers to not introduce the new court system in these two regions. The report on the extension of the Judicial Reform to Crimea and Kazan contains only a few generic statements on the cultural diversity of the regions. Other than that, ethnic and religious considerations are absent from this report, and the introduction of the circuit courts is thoroughly recommended.

While Muslim elements were integrated into these circuit courts, they played a less conspicuous role than those that were Russian Orthodox. Mullahs were required to administer oaths in the courtroom. Following Article 714 of the Rules of Criminal Court Procedure (1864), people took their oaths «in accordance with the dogmas and rituals of their faiths» (soglasno s dogmatami i obriadami ikh very). As a result, mullahs were summoned to court whenever a case involved Muslim litigants, defendants, or witnesses.

Muslim Tatars also held positions of responsibility in the new legal system, serving as lawyers and jurors and as justices of the peace (elected officials also introduced by the Judicial Reform to deal with minor criminal offenses and civil disputes). While there are few reliable figures on Muslim lawyers in imperial Russia, these lawyers are occasionally mentioned in passing. For example, in December 1896, a Kazan newspaper reported that the lawyer Aleksei Mikhailovich Alkin, a Muslim Tatar, noticed and informed the court about a faulty translation of a Tatar witness’s testimony. Alkin, in fact, was also known as Shagi-Akhmet Mukhametov. His family had entered the Kazan nobility in the 1840s, while retaining their Muslim faith. His older son Ibniamin became a court investigator in the 1880s, whereas his younger son Sagid-Girey became a lawyer. Court records in both Crimea and Kazan show further examples of Muslim court staff and legal practitioners.

62 See the chapters on Kazan and Taurida in Sudeno-statisticheskie svedeniia i soobrozeniia o svedeniia v deistvie sudebnikh ustavov 20–noiabria 1864g., St. Petersburg 1866.
63 «Eshche i eshche ob iskazheniakh perevodchika s tatarskogo v okruzhnom sude», in: Kazanskii Telegraf 118, 22 December, 1896.
65 The case of a Muslim clerk who leaves his position at the governor’s office in order to work at the Kazan circuit court is found in NART, 2–2–233 (1871). For the case of a young Tatar who trains to be a lawyer at the Simferopol circuit court, see GAARK, 376–2–897 (1875). A discussion of the legal activities of the Kazan merchant Sagadeev is offered by E. Chernyshev, «Volnenie Kazanskikh Tatar v 1878g. Ocherk po arkhivnym materi-alam», in: Vestnik Nauchnogo Obshchestva Tataro-vedenii 7 (1927), 201ff.
As far as jurors were concerned, state revisions of jury lists in the mid-1870s suggest that in various districts of Kazan province around 20 per cent of jurors were Muslims.\textsuperscript{66}

An information request by the Ministry of Justice in 1884 on the composition of juries in the preceding year revealed that in individual districts of Kazan Province, such as Tetiushi, non-Christians made up 36 per cent of those entered in jury lists. In the district of Simferopol, their share was 31 per cent. Separate percentages for Muslims are not available for this year, but, at least in Kazan, this group formed the vast majority of non-Christians.\textsuperscript{67}

While these figures are substantial, they are lower than the non-Christian percentages of the population. The main reason for the underrepresentation of Muslim Tatars (not only in juries but in the legal system as a whole) was structural: the legal system was dependent on educated urban elites, in both Crimea and Kazan, while Muslims tended to be peasants, merchants, and craftsmen. Most were therefore unfit for service in the highly professionalised legal system. As jurors, moreover, Muslim Tatars were underrepresented largely for practical reasons, as Russian language skills were a prerequisite for service. Nonetheless, to conservatives such as Skariatin, the influence of non-Russians on the juries was still too great. In his annual report to the Council of Ministers in 1879, he wrote that people with ‘doubtful moral qualities’ served in the juries because «the majority of jurors sometimes consist of uneducated rural inhabitants, and also of inorodtsy,\textsuperscript{68} who are unable to relate to the legal proceedings the way one should».\textsuperscript{69}

While Muslims were barred from becoming regular judges, most lists of justices of the peace in the 1870s contained the names of Muslim Tatars, and in their capacity as justices of the peace, they served as surrogate judges. A juror from Kazan noted about a circuit court session:

Whenever the chairman was absent, one of the members of the court (chleny suda) took up his place while one of the honorary justices of the peace was invited to take up the seat of the third member of the court. Twice, a justice of the peace from the Tatar population participated, wearing a uniform, the golden chain of the judge, two golden medals around the neck, and a skullcap embroidered with gold.\textsuperscript{70}

\textsuperscript{66} A. K. Afanas’ev, «Sostav suda prisiazhnykh v Rossii», in: Voprosy Istorii 6 (1978), 201. See also Baberowski, Autokratie, 132–133.

\textsuperscript{67} In Crimea, both Jews and Muslims were strongly represented. For the above figures and comparable data on other districts, see RGIA (Russian State Historical Archive, St. Petersburg), 1405–73–3656a (1884), 175, 192.

\textsuperscript{68} By the late nineteenth century, it was common to refer to most non-Russians as inorodtsy, even if this did not correspond to the use of the term as a juridical category. In everyday speech, Tatars were therefore also referred to as inorodtsy.

\textsuperscript{69} RGIA, 1263–1–4038. Appendices to journal of 13 June, part 2, 1879, nos. 340, 379, 379v.

\textsuperscript{70} «Iz zapisnoi khnizhki». 
The rich adornment of the judges, like the Emperor’s portraits and the general decoration of the courtroom, were surely meant to reinforce the authority of the court. As Sally E. Merry observed in a different context, the ritual demarcation of space, costume, and language enhanced the power of the court and had an effect on those present in the courtroom.\footnote{S. E. Merry, «Courts as Performances. Domestic Violence Hearings in a Hawai’i Family Court», in: M. Lazarus-Black / S. F. Hirsch (eds.), Contested States. Law, Hegemony, and Resistance, New York-London 1994, 37.}

The concerns of Tatars were also accommodated on other levels. For example, before the justices of the peace were elected in the Tatar-majority district of Mama-dysh, east of Kazan, a local official calculated the days on which court sessions could be held. After deducting harvest days, Sundays, and Russian holidays, he added: «Tatar Fridays, urazy and kurban bayramy on which [the Tatars] do not go to the judge [ne poidut k sud’e] are equal to the Russian holidays.» He accordingly concluded that court sessions could not be held on those days either.\footnote{NART, 1–3–1481 (1868), 1v-2. Such consideration of cultural difference and convenience has already been noted for peasant-run village courts (Burbank, «An Imperial Rights Regime», 414).}

Legislative changes in the late 1870s, and especially after the assassination of Alexander II in 1881, not only curtailed the powers of the jury courts but also affected the role that non-Russians played in them. Changes included two restrictive laws on jury service: the speaker of the jury now had to be a Christian and, in some western regions of the Empire, including Crimea (from 1884), the share of Jews in the jury could no longer be higher than their share in the local population.\footnote{Restrictive laws include: Polnoe sobranie zakonov Rossiiskoi Imperii. 2nd series, vol. LI, 1877. St Petersburg 1879. No. 57589, 19 July 1877; Polnoe sobranie zakonov Rossiiskoi Imperii. 3rd series (hereafter PSZ 3), vol. IV, 1884. St Petersburg 1887. No. 2283, 5 June 1884; PSZ 3, vol. VII, 1887. St Petersburg 1889. No. 4396, V 2), 28 April 1887.}

These measures reflected a wider change in the state’s minority policies under Alexander III: in the spheres of education and self-government, in particular, the representation and influence of non-Russians (especially Jews) were reduced.\footnote{These measures reflected a wider change in the state’s minority policies under Alexander III: in the spheres of education and self-government, in particular, the representation and influence of non-Russians (especially Jews) were reduced.}

The everyday running of the courts, however, was hardly affected by these changes. Muslims largely continued to participate as before. In practice, the reforms of the 1880s, often dubbed «counter-reforms», did not change the religious composition of the juries in any significant way.\footnote{A. A. Demichev, Istoriia rossiiskogo suda prisiash-chnykh, 1864–1917gg., Nizhniy Novgorod 2002, 142.}

For most of the late imperial period, Muslims appeared in courts in a variety of roles: not only as jurors and lawyers, but more importantly as witnesses, injured parties, defendants, and plaintiffs. The new courts were widely accessible. Contact between court representatives and local Muslims took place not only in the central court buildings, but also during external sessions (vyezdy). In the cities of Kazan and Simferopol, the circuit court met on a regular basis. Every month it held 8 to
12 day sessions in which about 30 criminal and civil cases were decided. Most of these cases involved people from the city and its surrounding districts. To expand access to the reformed justice system, however, the circuit court also travelled to more remote districts several times a year. In 1884, the head of the Kazan circuit court, for example, informed the Ministry of Justice that, in the course of the previous two years, the city of Kazan had seen 20 jury court sessions dealing with criminal cases, whereas the smaller district towns of the province had hosted 65 such sessions. Large districts such as Chistopol', where Tatars formed a third of the population, had four annual visits from the circuit court, with each session lasting up to three weeks. Contemporary jurists and academic observers mostly focused on the bad conditions of the external sessions, and local records indicate that this was no different in Kazan. Yet the fact that the courts were even accessible hundreds of miles away from the city was perhaps more important than the fact that they were dirty or badly heated.

The records of the Simferopol circuit court suggest even closer contact between legal representatives and Muslim peasants. In Crimea, the external sessions of the court were not limited to the administrative centres of the peninsula's districts. In the district of Simferopol, which surrounded the capital city, external sessions were regularly held in the merchant towns of Bakhchisaray and Karasubazar. In various districts, regular trips to villages were recorded, sometimes to several villages on the same day. In more remote regions, the court tended to organise extended sessions. The judge responsible for a particular district, known as a «member of the court for the district of …» (chlen suda po… uezdu) used a set phrase in his routine applications for these trips. He justified them «in view of the remoteness of the place of residence of the litigants and witnesses (v vidu otdalennosti mesta zhitel'stva storon i svidetelei)». On 11 February 1878, for example, the prosecutor informed his assistant that an external session dealing with criminal cases was to be held in the town of Kerch, on the easternmost tip of the Crimean peninsula, from 15 May to 9 June of that year. Cases that could not be handled for practical reasons had to be reported immediately. On 12 June, therefore, the prosecutor sent an angry note to his assistant: «On 1 June, the hearing of Adzhi Khalil Velikai oglu did not take place because one witness was missing; however, you have not brought this to my attention in a special presentation as the guidelines (…) prescribe. Do so immediately.»

---

76 RGIA, 1405–73–3656b (1884), 351.
77 M. Laptev, Materialy dlia geografii i statistiki Rossii, 162; and «XIV: Kazanskaia Guberniia», in: Per-vaiia vseobshchaia perepis' naselenia Rossiiskoi Imperii, 1897g. VI.
78 NART, 41–1–318 (1879), 72–73.
79 Baberowski, Autokratie, 137ff. For a complaint about the conditions in Mamadysh, Kazan Province, see NART, 41–1–318 (1879), 72–73.
80 GAARK, 376–1–195 (1901).
81 GAARK, 376–1–229 (1902), 51.
82 GAARK, 483–1–12 (1877–1878), 12.
83 Ibid., 48.
In villages and districts predominantly inhabited by Tatars, entire sessions of the circuit court could be devoted to Tatar cases. In April 1902, for example, the member of the court for the district of Evpatoria wrote to Simferopol about an imminent external session of the court:

I have the honour of informing the circuit court that, in view of the remoteness of the place of residence of the litigants and witnesses from the town of Evpatoria, I have arranged the hearing of the following criminal cases on 22 April in the village of Kadjanbak: 1) Kendje-Islam Adil oglu and Ermetbet Kurte-Metbet oglu, accused of violating the Excise Duty Regulations; 2) Abliamit’ Adji-Murat oglu, accused of violating the Excise Duty Regulations; and 3) Mengli Arslan Osman oglu on the basis of Article 519 of the Criminal Code.

Some of these «crimes», such as violations of duty regulations, may have seemed nonsensical to the local population. Yet in other cases such as burglary or theft, the imperial courts ended up defending Tatar interests. For example, in the village of Chongurchy, in the Crimean district of Evpatoria, a travelling judge recorded the case of the brothers Alexei, Maksim and Mikhail Litvinenko, who were accused of breaking into the mill and stealing the property of Matbet Abdulrashid oglu. In these cases, then, Tatar livelihoods were protected against Russian or Ukrainian thieves and burglars. In other cases, the circuit courts defended Muslims against other Muslims. For example, at the court session in Ak-Mechet, Seliadin Djeliakoi oglu and Emir-Suin Abii-Bulla oglu were tried for stealing the property of Abduraim Menumer oglu.

These cases offer a first hint that circuit courts were perhaps more than alien state institutions rejected at the village level. As I discuss in greater length elsewhere, they helped to regulate the everyday lives of ordinary subjects of the Empire, including Muslim Tatars. An examination of court procedure also underscores that the presence of Tatars and other minorities was an everyday phenomenon. First, circuit court files tend not to mention the fact that defendants or witnesses were «Tatars» or «Muslims». Instead, the people who appeared in court are referred to by name, estate, and geographical origin (for example, «the peasant

84 For an example of a Tatar-dominated court session in Yalta, see «Spisok del, naznachennykh k slushaniu v gor. Yalte s uchastiem i bez uchastiia prisiazhnykh zasedatelei s 20 po 24 marta 1891», in: Tavricheskie Gubernskie Vedomosti 10, 7 March 1891.
85 GAARK, 376–1–229 (1902), 9.
86 GAARK, 376–1–195 (1901), 5–5v.
87 GAARK, 376–1–229 (1902), 39.
88 Ibid., 45.
89 For a detailed discussion of cases in which Tatars reported crimes and thus turned to the court, see S. B. Kirmse, «Dealing with Crime in Late Tsarist Russia. Muslim Tatars and the Imperial Legal System», in: ibid (ed.), One Law for All? Western Models and Local Practices in (Post-)Imperial Contexts, Frankfurt am Main-New York 2012.
New Courts in Late Tsarist Russia

In the Volga-Kama region, Tatar rural inhabitants were classified as krest’ianin (peasants). In Crimea, Tatar peasants fell in the category of poseliane (settlers).

Second, while the details of the cases, in addition to first names and surnames, suggest that certain people were Tatars (there would usually be a remark in the document that testimony was translated from Tatar or that an oath was administered by a mullah), the minutes of court sessions also show that the courts had established mechanisms for accommodating diversity. Thus many cases involving Tatars began with the same procedure: once the judge had learnt that not everyone in court understood Russian, he proposed a person as interpreter for the duration of the trial, who then had to be approved by all parties. The quotidian character of this procedure suggests that circuit courts were not only capable of dealing with diversity, but were designed to do so.

4. Conclusion

The post-Reform courts were full of representations that challenged existing mechanisms of rule and the self-image of the old elites. They were staged as spaces of modesty and greater equality, and, because of this, they sometimes clashed with the ideas and practices of local authorities and ordinary subjects, who were used to public expressions of rank and hierarchy. But as they were also portrayed as the Emperor’s gift to his subjects, they were arenas for the cultivation and enactment of loyalty to the monarchy. Ethnic and religious minorities were expected to participate in this performance of loyalty, and thus the courts were able to exhibit and legitimate traditional dynastic rule over a heterogeneous Empire.

By the end of the nineteenth century, Muslim Tatars participated in the Empire’s new legal system in different ways. While they had already made use of imperial legal institutions before the 1860s, they now had access to public, independent and accountable courts, in which they became involved in an unprecedented manner. The new courts were widely accessible, partly thanks to the external sessions they held in their areas of jurisdiction. They integrated Tatars without much controversy, and let them experience and shape the post-Reform legal system as litigants, jurors, legal practitioners, and simple spectators. Many other minorities in locations considered part of the imperial core were integrated in similar ways.

Legal integration is not to suggest that there was a disappearance of imperial hierarchies and inequalities. Tatars were underrepresented in most positions of responsibility. Those who did not speak the courts’ only working language – Russian – were excluded from many positions, and some responsibilities (such as regular judge) were not usually open to minorities.

Linguistic, financial, geographical, and other barriers put Tatars at a disadvantage regarding the use of imperial courts. Unfortunately, there are few data on the
numbers of Tatars who actually went to court. The reports prepared by the circuit courts and the Ministry of Justice only give details on the religion and ethnicity of the convicted. In Kazan, the share of «Muhammadans» (magometane) among the convicted oscillated between 29 per cent (in 1880) and 15.4 per cent (in 1900). At the Simferopol circuit court, the share of Muslim offenders ranged from 20.3 per cent (in 1879) to 16.2 per cent (in 1900). As these percentages are lower than the share of Muslims in the population, it is likely that Muslims interacted with the state courts less frequently than other groups. Just the same, these figures also show that they were a significant part of the system.

The new circuit courts had little interest in ethnic and religious distinctions and thus contributed in some ways to the integration of imperial society. While the cases mentioned above were about Matbet Abdulrashid oglu or Adzhi Khalil Velikai oglu, they could have just as easily featured people called Ivan Petrov. While religious affiliation continued to influence people’s daily lives, it had a limited impact on the new courts, which formed part of an increasingly unified legal space. In Crimea and Kazan, Tatar representation and participation in the circuit courts acquired a quotidian character: their inclusion was never openly called into question, and the courts had established mechanisms for accommodating their specific needs. That said, the treatment of Muslim Tatars was not representative of all Muslims in Russia; especially those living in more peripheral regions such as Central Asia, Siberia, or the North Caucasus were classified as inorodtsy and remained cut off from the general laws of the Empire.

Beyond the relatively equal treatment of Tatars in the new legal system, there was no liberal policy of integrating minorities. It was part of a practical approach based on the assumption that Tatars were more «developed» than other Muslims. While the post-Reform legal system integrated Tatars to a considerable degree, it also contributed to an increasing differentiation among Muslims in the Empire. Cultural considerations may have been of secondary importance within the reformed court system; yet, they played a key role in defining who formed part of the system and who did not.

91 See the following reports by the Ministry of Justice: Svod statisticheskikh svedenii po delam ugrolovnym, Proizvodivshimsia v 1880 godu, Part II, 135; and Svod statisticheskikh svedenii po delam ugrolovnym, Proizvodivshimsia v 1900 godu, Part II, 194.

92 See Svod statisticheskikh svedenii po delam ugrolovnym, Proizvodivshimsia v 1879 godu, Part II, 137; and Svod statisticheskikh svedenii po delam ugrolovnym, Proizvodivshimsia v 1900 godu, Part II, 193.
New Courts in Late Tsarist Russia:
On Imperial Representation and Muslim Participation

This article explores the new circuit courts introduced in late tsarist Russia in the 1860s as an interactive space in which jurists and ordinary subjects of the Empire shaped and experienced state policy. Furthermore, by focusing on Crimea and Kazan, two regions that were home to significant numbers of Muslim Tatars, it considers the court system as a point of entry into the study of imperial rule over ethnic and religious minorities. Discussing the role of Tatars in the new courts and competing visions of imperial society as communicated in the courtroom, the article argues that the new legal system furthered the integration of Tatars into the institutions of the Empire. At the same time, the courts contributed to an increasing differentiation among Muslims (as those in the Steppe region, Central Asia and the Caucasus remained outside the system). The article draws mainly on court records from Kazan and Simferopol (Crimea), newspaper coverage and on the reports and memoirs of jurists.

Neue Gerichtshöfe im späten Zarenreich:
Imperiale Repräsentation und muslimische Partizipation


Stefan B. Kirmse
Humboldt-Universität zu Berlin
Juristische Fakultät
Rechtskulturen
Unter den Linden 9
10099 Berlin
e-mail: stefan.kirmse@rewi.hu-berlin.de

https://doi.org/10.17104/1611-8944_2013_2_243
Generiert durch IP '54.70.40.11', am 12.02.2019, 19:48:45.
Das Erstellen und Weitergeben von Kopien dieses PDFs ist nicht zulässig.