

# Subaltern Dialogues: Subversion and Resistance in Soviet Uzbek Family Law

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We must address this question very seriously. We can no longer be patient with violations of women's rights. Our country is growing [and] moving ahead; the collective farms are growing; culture is expanding; we are moving forward on all sides with regards to women. We must take care to help them. Among us Uzbeks it is said that only a crazy person gets mixed up in family matters between a husband and wife. This is not so: what about the cases in which signals arose of [bad] relations between husband and wife, [but] based on this sentiment no attention was paid and bad results [followed]. This [advice to leave family affairs alone] is the invention of *bois* [wealthy people] and the religious clergy and only serves their hostile ends.

—Abdurakhmanov to a conference of Uzbek Stakhanovite kolkhoz women, 1940

By 1940 Bolshevik ideology in Uzbekistan had been transformed in important ways by its Central Asian social and cultural context—and in particular by the logic of its *hujum* (assault), a campaign for European-style women's liberation that had been launched thirteen years earlier, in 1927. This campaign involved a massive and continuing attack on all manifestations of perceived gender inequality and, especially, on systems of female seclusion practiced in parts of Central Asia and elsewhere. As such, it represented a recasting of the party's message of class revolution into a new lexicon, that of women's liberation, as a way of translating Bolshevism and its state-building project into the Soviet "east." The *hujum* persisted for decades, both in practice and in rhetoric, and in some ways is still felt today. It became a foundational myth of the Soviet project in Uzbekistan and long served as a crucial legitimation for Soviet power in Central Asia. Shaped by a combination of orientalist, class, public health, and moral arguments, it reflected a powerful consensus among party workers, many of them Slavs only recently arrived in Central Asia, that such patterns of daily life as were currently practiced in Uzbekistan had to be changed—both for the betterment of Uzbeks themselves and to ensure the success and survival of Soviet power.

Legal reform was one principal strategy employed to make the Soviet vision of an unveiled, fully equal, socially active Uzbek woman a reality,

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and thereby to create a truly “Soviet” Uzbekistan. Party leaders went so far as to announce in 1940 that one could infer the continuing presence of anti-Soviet “class enemies” from the high rate of crimes committed against women.<sup>1</sup> Class enemies and *byt* crimes (crimes of daily life) went hand in hand, and in a circular logic each was taken to reveal the other. More than twenty years ago Gregory Massell noted the particular attention paid by Soviet Central Asian officials to law and legal questions, dubbing this approach “revolutionary legalism.”<sup>2</sup> This article explores the ramifications of this legal approach for the wider relationship between Soviet power and Uzbek society, drawing both on local archives and on Uzbek- and Russian-language materials not available to Massell. By focusing simultaneously on questions of gender, nationality, and empire, it also builds on more recent work in Soviet and postcolonial history. Peter Solomon and others have explored the meanings of criminal justice in Stalin’s USSR; this article concentrates on what Wendy Goldman has called “the collision between law and life,” but unlike most prior work it does so with particular reference to the Soviet empire.<sup>3</sup>

This study also addresses the crucial issue of power—its character and effects—in the Stalinist order.<sup>4</sup> I find real debates occurring among local and regional cadres about how the Soviet state should best use the family to reshape Uzbek society. The outcomes of these debates were not preordained and were decided only through an ongoing interplay of ideology, argument, and hard-won experience. The very choice of law as a means of social change, too, shows something of an unexpected weakness of Stalinist authority on the ground. Through the laws they passed, Soviet Central Asian leaders did clearly declare their goal of transforming indigenous family life. Yet the questions of power became far more complicated *after* these laws were written, when the problem became one of putting them into practice.

The campaign to liberate Muslim women through law cannot be judged a mere “success” or “failure”; it played out in a manner that was neither simple nor straightforward. Party leaders and women’s activists made concerted efforts to emancipate Uzbek women through legal, judicial, and police action, and Uzbek society reacted to, in many ways subverted, and ultimately reshaped these same efforts. As Nicholas Dirks

1. ÖzRMDA, f. 2454, op. 1, d. 412, l. 137 (draft article by Uzbek TsIK chair Yoldosh Akhunbobaev).

2. Gregory J. Massell, “Law as an Instrument of Revolutionary Change in a Traditional Milieu,” *Law and Society Review* 2, no. 2 (1968): 195–200 and 219–28; and Massell, *The Surrogate Proletariat: Moslem Women and Revolutionary Strategies in Soviet Central Asia, 1919–1929* (Princeton, 1974), 192–212.

3. Peter H. Solomon, Jr., *Soviet Criminal Justice under Stalin* (Cambridge, Eng., 1996), esp. 447–69. The phrase is adapted from the title of chapter 3 in Wendy Goldman, *Women, the State, and Revolution: Soviet Family Policy and Social Life, 1917–1936* (Cambridge, Eng., 1993), 101. Recent scholarship has considered wider Soviet campaigns to transform everyday culture and *byt*, but usually only in Russia proper. See Michelle Fuqua, *The Politics of the Domestic Sphere: The Zhenotdel, Women’s Liberation, and the Search for a Novyi Byt in Early Soviet Russia*, Treadgold Papers, no. 10 (Seattle, 1995).

4. Among the most recent work on this theme is Sheila Fitzpatrick, ed., *Stalinism: New Directions* (London, 2000), and the Annals of Communism series at Yale University Press.

has argued with reference to British law in India, the imposition of legal norms by a colonizing power can create a discursive sphere in which the contradictions of colonial rule both flourish and are laid open for all to see, a situation that certainly existed in Soviet Central Asia.<sup>5</sup> The encounter between Soviet power and Uzbek society—permeable, unstable, and interpenetrated as each side was—resulted in complex processes of interplay and negotiation between the two, not simple dictation by one to the other. This encounter helped to shape *both* sides.

Although most Central Asian Bolsheviks during the 1920s were non-Muslim Slavs, just as most Uzbeks joined neither the Communist Party nor the Soviet state apparatus, it would be misleading to see the Soviet-Uzbek encounter as a meeting of two discrete, well-defined sides. As I argue elsewhere, in Central Asia these “sides” only emerged out of this interplay over issues like family life and women’s status.<sup>6</sup> Yet at the same time this article’s investigation of law and legal practices shows the two sides remaining interwoven in complicated and lasting ways. Thanks in part to the official New Economic Policy—era stress on *korenizatsiia* (indigenization), by the late 1920s a small but important group of Uzbeks had come to occupy positions of authority in the Central Asian state and party hierarchies. As such these indigenous men and women helped to define Soviet policy, in the hujum and elsewhere, but in many cases they also helped to undercut that policy in practice. As a result it can be difficult to identify particular individuals—such as Abdurakhmanov, quoted in the opening epigraph—as “Soviet” rather than “Uzbek,” or vice versa. Many such individuals spoke both languages (and no doubt others too): the mixture changed at different times, with different audiences, and when different purposes were pursued. To identify the discursive universe in which an actor was participating, much depends on the context of the utterance—and on the source in which it has been preserved.<sup>7</sup> This article explores some of the complexities of this Soviet-Uzbek matrix by showing actors playing conflicting and even contradictory roles from within as well as outside the Soviet apparatus.

I first consider how party activists debated and passed a series of new laws designed as templates to regulate personal behavior within the intimate space of the Uzbek family. By using law to define and enforce “proper” behavior, activists hoped to change the terms of debate within Uzbek society, to accumulate what Pierre Bourdieu calls “symbolic capital” by creating “an official version of the social world.”<sup>8</sup> These activists made a

5. Nicholas B. Dirks, “From Little King to Landlord: Colonial Discourse and Colonial Rule,” in Nicholas B. Dirks, ed., *Colonialism and Culture* (Ann Arbor, 1992), 175–208.

6. See Douglas Taylor Northrop, “Uzbek Women and the Veil: Gender and Power in Stalinist Central Asia” (Ph.D. diss., Stanford University, 1999).

7. These notions have been most thoroughly discussed and theorized by linguistic anthropologists. See, for example, Judith T. Irvine, “Shadow Conversations: The Indeterminacy of Participant Roles,” in Michael Silverstein and Greg Urban, eds., *Natural Histories of Discourse* (Chicago, 1996), 131–59, esp. 135.

8. The phrase is from Richard Harker et al., eds., *An Introduction to the Work of Pierre Bourdieu: The Practice of Theory* (New York, 1990), 13. On “symbolic capital,” see Pierre Bourdieu, *Language and Symbolic Power* (Cambridge, Mass., 1991), 166–67.

series of choices to define the new laws, deeming certain customs—and thus simultaneously not others—subject to legal action and judicial penalties. The contingent aspects of these choices can be seen in the extensive debates within party ranks on which “crimes” to identify, how to define them, and how harshly they should be punished. The activists of the party’s Zhenotdel (women’s department), in particular, fought to persuade their colleagues and the regional party leadership to carry out a wide-ranging effort to “protect” (in their terms) indigenous Muslim women through law. Once Soviet legislators arrived at a canonical list of what they called “crimes of daily life,” though, such tensions and uncertainties were erased wherever possible and muted wherever not. Soviet police officers, prosecutors, and judges, many from outside Central Asia, then took up the cause, setting out to survey the population, enforce the new rules, and thereby reshape the fabric of Central Asian daily life along “Soviet” lines. Uzbek men and women responded to these new norms in a variety of inventive ways, making their voices heard both inside and outside the Soviet system and producing ultimately a negotiated outcome. The path to Soviet-style women’s liberation turned out to be anything but smooth.

### Custom Criminalized: Defining a Canon of “Byt Crimes”

Many European colonial regimes of the late nineteenth and early twentieth centuries attempted to govern vast numbers of subjects with a comparative handful of officials and soldiers. Since direct physical force and coercion alone could not guarantee imperial power, these regimes needed other means to control indigenous populations. Laws and legal norms served this purpose, creating codes for behavior against which colonized individuals could be measured and, if all went well (from the standpoint of colonial authorities), even inculcating these norms among their colonial subjects to such an extent that no massive police force would be required. The “protection” of indigenous women from “oppression” was a common justification for such laws, as for instance when British authorities decided in 1829 to ban the practice of *sati* (widow-burning) in India. As postcolonial theorist Gayatri Spivak argues, the protection of Indian women from Indian men in this case helped justify colonial British rule. Such a law became, she says, “a signifier for a *good* society which must, at such inaugurative moments, transgress mere legality, or equity of legal policy. In this particular case, the process also allowed the redefinition as a crime of what had been tolerated, known, or adulated as ritual.”<sup>9</sup>

By the late 1920s, Soviet Central Asian authorities had also passed a series of laws meant to address the problems posed by such Uzbek “rituals.”<sup>10</sup> These laws established new norms for personal behavior and cre-

9. Gayatri Chakravorty Spivak, “Can the Subaltern Speak?” in Cary Nelson and Lawrence Grossberg, eds., *Marxism and the Interpretation of Culture* (Urbana, 1988), 298. Emphasis in the original.

10. It should be noted that each nationality received its own distinctive set of “crimes”—specific to Kazakhs, Turkmens, Uzbeks, and so on. See ÖZRMĐA, f. 86, op. 1, d. 4434, l. 206 (report on Uzbek Narkomiust, 1928), and also Northrop, “Uzbek Women and the Veil,” chap. 1.

ated legal templates to shape new patterns of family life. Many of these laws took effect piecemeal during the years after 1917, and especially between 1924 and 1926. Marriage codes, for instance, underwent radical changes.<sup>11</sup> The practices of polygyny, forced marriage, and brideprice (known as *qalin*, rendered in Russian as *kalym*) were banned. The legal age for marriage was raised from nine, as permitted (nominally) by the Muslim law code of *shariat*, to sixteen. Forcing a woman to marry against her will suddenly carried a potential sentence of five years in jail. Reforms in divorce procedure and property law, too, safeguarded women's rights and ensured women, at least in theory, a degree of economic independence from men.<sup>12</sup> New laws also addressed women's personal safety: it became illegal to mistreat or insult a woman, and in particular to use force or coercion to induce her to wear a veil or remain in seclusion.<sup>13</sup> When violence greeted the hujum during and after 1927—thousands of Uzbek women were attacked, raped, even murdered and mutilated—special laws were passed and confirmed by the Soviet Supreme Court deeming such acts “counterrevolutionary” state crimes, “terrorist acts” meriting the death penalty.<sup>14</sup> The Soviet state thus expressed expansive goals in passing a panoply of laws. State concerns were wide-ranging and quite intrusive—party activists sought no less than to overturn the fundamental character of what they saw as the most intimate and closely guarded spheres of Uzbek social life.

Each of these laws was announced with great fanfare and publicized widely. Soviet officials justified these new legal norms in humanitarian terms, as required by the party's self-proclaimed duty to defend the most defenseless members of Central Asian society. Party leaders painted a horrific picture of Uzbek life and portrayed each of the new laws as self-evidently progressive and humane—as no more than the expressions of modern common sense. The harm caused to young girls' sexual health as a result of underage marriage, for instance, was said to be contributing to

11. See Partiinyi arkhiv tsentral'nogo soveta narodnoi demokraticeskoi partii Uzbekistana (hereafter, PATsS-NDPUz), f. 60, op. 1, d. 4868, ll. 25–26 (Zhenotdel report on women's work in Turkestan, 1924), and ÖzRMDA, f. 86, op. 1, d. 2772, l. 148 (resolution on *qalin*, 1926). PATsS-NDPUz unfortunately remains closed to scholars. I am grateful to several colleagues for providing typescripts and notes from PATsS-NDPUz holdings. Some wish to remain anonymous; of those I may acknowledge, I thank Shoshana Keller of Hamilton College for kindly sharing her archival notes. References from Keller's notes are recorded as PATsS-NDPUz(K).

12. Divorce became easier to obtain, and child support and alimony became obligatory on the part of the spouse with the greater degree of financial independence, usually the husband. See Rossiiskii gosudarstvennyi arkhiv sotsial'no-politicheskoi istorii (the former RTsKhIDNI, hereafter RGASPI), f. 62, op. 2, d. 1224, l. 55 (Zhenotdel investigation of Central Asian judicial system, 1926); ÖzRMDA, f. 86, op. 1, d. 2217, ll. 22–23 (suggested discussion themes, 1926); d. 4434, ll. 208–9.

13. “O predostavlenii osobykh l'got zhenshchinam po okhrane ikh cherez sudebnye uchrezhdeniia ot nasiliia i oskorblenii po povodu sniatia parandzhi,” *Sobranie uzakonenii i rasporiazhenii raboche-dekhkanskoġo pravitel'stva UzSSR*, 1927, pt. 1, no. 11:234–35.

14. See ÖzRMDA, f. 6, op. 2, d. 462, ll. 28–29 (Workers' and Peasants' Inspectorate [RKI] report on women's work, 1931); f. 9, op. 1, d. 3417, l. 135 (report of Committee to Improve Women's Labor and Life [KUBT], 1930); f. 86, op. 1, d. 5602, ll. 1–3 (Uzbek Supreme Court reports, 1929); f. 86, op. 1, d. 5885, ll. 382–83 (report on the implementation of byt crime legislation, 1929); f. 86, op. 1, d. 6574, l. 42 (KUBT report, 1930).

the “degeneration of the [Uzbek] nation.”<sup>15</sup> In Bolshevik eyes, moreover, the alleged prevalence of pederasty among Uzbek men and boys showed prerevolutionary Uzbek society to be little more than a den of iniquity and perversion.<sup>16</sup> New Soviet laws were needed to protect Uzbek women and children from the patriarchal oppression that dominated their everyday lives.

By 1927 calls could already be heard for standardization across the Soviet state and uniformity within the codes of family law. One party report argued that the current patchwork of “decrees, resolutions, directives, [and] orders” did not comprise a coherent legal framework, and that one was badly needed.<sup>17</sup> The result, it was hoped, would be a unified web of *byt* law, which would be both consistent internally and easier to explain and enforce. Yet the party’s own debates over the process of defining a new category of “*byt* crimes” reveal internal divisions as well as the contingent aspects of Soviet policy in Central Asia. Even while newspapers and pamphlets trumpeted the inexorable and inescapable logic of Soviet legal liberation, archival records show vividly the constructed nature of this supposedly seamless web. Party activists came to focus on certain Uzbek customs as “oppressive,” for instance, while ignoring others that might equally have been included. These choices, while not altogether arbitrary—they certainly drew upon orientalist preconceptions of the “east” shared by prerevolutionary Russian scholars, travelers, and administrators—unquestionably reveal at least as much about these party members and their views of the world as they do about the problems facing Uzbek women. In the end, an accepted canon of *byt* crimes did emerge, but neither its shape nor its exact contents were obvious at the outset to all concerned. Throughout 1927 wide-ranging conversations within the party and in discussion circles (*kruzhki*) debated these issues and found few predetermined answers.

Members of the Zhenotdel argued most forcefully for party attention to what they saw as the patriarchal oppression of Central Asian women. The Zhenotdel, of course, had both institutional and ideological interests in promoting such discussions.<sup>18</sup> Comprised principally of Russian and

15. See the report from 1929 in RGASPI, f. 62, op. 2, d. 2081, l. 16 (socialist competition to eradicate byt crime).

16. Pederasty was called a common sex crime (along with *qalin*) in a 1928 report in ÖzRMDA, f. 86, op. 1, d. 5602, ll. 22–22ob.

17. RGASPI, f. 62, op. 2, d. 1199, l. 21 (Fifth Provincial Conference on Work among Women, 1927). For the text of existing *byt* laws before the standardization of 1926–27, see I. A., “Bytovye prestupleniia,” *Vestnik iustitsii Uzbekistana*, 1925, nos. 4–5:27–30. For an exhaustive list of changes considered in the late 1920s, see ÖzRMDA, f. 86, op. 1, d. 5885, ll. 321–62 (Uzbek TsIK resolution, 1929).

18. Its success in making such arguments enabled the Zhenotdel to survive in Central Asia after its official disbanding in Moscow in 1930. Under the name “Zhensektor” (women’s section), these activists retained an organizational presence in Uzbekistan for several more years, at least through the mid-1930s, due to the special circumstances of women in Central Asia. A Zhensektor report from late 1936 or early 1937, for example, can be found in PATsS-NDPUz, f. 58, op. 13, d. 1169, ll. 7–14. See Dilorom Agzamovna Alimova, *Zhenskii vopros v Srednei Azii: Istorii Izucheniia i sovremennye problemy* (Tashkent, 1991), 62–64; and Petr Matveevich Chirkov, *Reshenie zhenskogo voprosa v SSSR (1917–1937 gg.)* (Moscow, 1978), 71.

other Slavic women activists from outside Central Asia, the Zhenotdel denounced practices such as female seclusion and veiling, polygyny, and the marriage of young girls. Other party organizations—also staffed disproportionately by non-Muslims—generally agreed with the Zhenotdel's bleak portrayal of Uzbek family life. In their view, however, “women's work” should not be the party's top priority when other issues (such as land and water reform, a major focus in 1925–26) were so urgent. The comparatively few indigenous Muslim communists, nearly all male, also generally lobbied for other priorities, often contending (accurately) that an attack on the veil and local forms of family life would backfire against the party. The few Muslim women in the Zhenotdel and other Soviet organizations before 1927, moreover, did not speak with a unified voice. Some of these women favored legal reform to improve the status of Uzbek women, but others supported a focus on economic training, literacy work, and social welfare reform.<sup>19</sup>

These tensions—between Zhenotdel and party leaders, between newly arrived Russians and indigenous Muslims, and between women and men—were expressed in the debates over how (and even *whether*) to proceed with family law reform. Some Bolshevik writers argued that new family and marriage codes should arise from local conditions rather than party dictates. As long as such laws underpinned the party's economic aims, they should be drawn as flexibly as possible—and no laws should be passed without the support of local Central Asian populations.<sup>20</sup> Other party activists, especially in the Zhenotdel, rebuffed this idea, asserting that the widespread existence of *byt* injustice showed local populations to be the *least* qualified to influence Soviet decisions.

Such arguments highlighted the difficulties of creating uniform laws to govern Soviet family and marital relations. Simply adopting the laws used in Russia did not always work. In Russia and elsewhere, for example, “*de facto*” marriages had been recognized on a footing equal to official marriages—an approach meant to undercut the sanctity of religious weddings. In Central Asia, however, authorities faced different potential problems: in the name of personal freedom, Uzbek men could ignore Soviet beliefs about “underage marriage” and live with a teenage girl—or with several pre-teenage girls. Since this could not be welcomed by any good Bolshevik, the argument ran, cohabitation without official sanction thus represented a threat, one that could not be permitted in Central Asia as it was in Russia. As an Uzbek government report to Moscow in 1928 explained, “local conditions” had driven Soviet Central Asian authorities to contradict the Russian Republic's legal codes by recognizing only legally registered marriages as a permissible basis for cohabitation.<sup>21</sup>

Difficulties and disagreements created by such “local conditions” cropped up every step of the way, and efforts to define a canon of *byt*

19. For more on these issues, see Northrop, “Uzbek Women and the Veil,” chaps. 2, 7, and 8.

20. ÖZRMDA, f. 245, op. 1, d. 222, l. 118 (Peasant union [*Koshchi*] protocols, 1927). On this debate, see also RGASPI, f. 62, op. 2, d. 1240, l. 18ob. (Uzbek party Central Committee plenary report on *hujum*, 1927).

21. ÖZRMDA, f. 86, op. 1, d. 4434, l. 208.

crimes proceeded fitfully. Even if most party and Zhenotdel activists could agree that a particular Uzbek *byt* practice oppressed women and therefore had to be changed, they often found themselves tripped up by the details. How should the “crime” in question be defined? Who was responsible for it, and thus who should be deemed the guilty party? How harsh should penalties be, and how strictly should they be applied? Drawing on long-standing orientalist images of the “east” as well as on Marxist ideas of exploitation, for example, most Zhenotdel workers could agree that certain Central Asian marital practices—such as polygyny, *qalin*, and the marriage of young girls—should be ended. Yet in each case these well-intentioned general beliefs proved difficult to translate in a straightforward manner into specific laws.<sup>22</sup>

Few *byt* issues inspired more unanimity among party leaders and Zhenotdel staffers than polygyny. Nearly all Soviet legislators agreed that the practice was harmful to women and should not be permitted anywhere in the Soviet Union. Such agreement within upper and middle party ranks, however, was not by itself enough to create forceful and effective laws, since loopholes, flaws, and shortcomings quickly appeared in every effort the party made to end the practice. The Uzbek criminal code in 1926 threatened a jail term of up to one year for those marrying concurrently a second (or third or fourth) spouse and declared that all weddings must henceforth be registered at local civil registry offices (*Zapis' aktov grazhdanskogo sostoianiia*, or ZAGS) in order to be recognized as legal.<sup>23</sup> Even apart from the issue of public compliance, however, the complexities of Uzbek social life soon seeped through this ostensibly unambiguous prescription. How could Soviet authorities require all marriages to be registered at ZAGS? What about existing (religious) marriages, for example? What about the many regions in which it was impossible to find a ZAGS office? After sharp debate within party ranks, such factors helped bring about a decision in 1928 to recognize as legally binding all *pre-existing* religious marriages and to require ZAGS registration only for new weddings from that point onward.<sup>24</sup>

This apparently reasonable decision, however, only solved the uppermost layer of problems. It did not take long for lower-level staffers to point out its logical flaws. As the party member Kurbanov declared to one closed-door gathering, if *all* religious marriages now had legal force, then what about existing *polygynous* marriages?<sup>25</sup> Was the Soviet state sanctioning polygyny? Surely not; that would be inconceivable. But if not, how

22. Due to space limitations, I discuss here only the first of these areas—polygyny—as an illustration of the problems in Soviet law-making. Other topics, such as underage marriage and *qalin*, are discussed in later sections on social responses to the new laws. For more on the complexities of devising legal definitions for this *byt* canon, see Northrop, “Uzbek Women and the Veil,” 344–63.

23. ÖZRMDA, f. 86, op. 1, d. 2772, l. 148; f. 86, op. 1, d. 3618, ll. 4–11 (family law code, 1926).

24. See the sharp debate at ÖZRMDA, f. 904, op. 1, d. 200, ll. 8–12 (Narkomiust materials on family law code, 1928). See also “Novyi zakon o brake, sem'e i opeke,” *Pravda Vostoka* (PV), no. 219/1415 (25 September 1927): 3.

25. ÖZRMDA, f. 904, op. 1, d. 200, ll. 8ob.–9ob.



would a monogamous family structure be determined? Only a few possibilities logically existed. Would it be in order of seniority—would a first wife automatically be considered “legal,” with later spouses shorn of all rights? Would the decision be left to each family (meaning, in practice, the husband) to choose one wife to keep, with the others thrown out onto the street, publicly shamed, and perhaps driven into prostitution? In Kurbanov’s blunt depiction, the party faced three equally unpalatable choices: to permit such injustices to cast-off wives; to legalize polygyny; or to permit a married man to live with many women while legally being married to only one of them.

Such problems boggled the mind, and indeed, the party never addressed the issue of existing polygynous marriages in a forthright manner. Once banned, to be sure, polygyny was never legalized in Soviet Uzbekistan, although it did achieve a kind of de facto recognition. Women in polygynous marriages were encouraged by Zhenotdel workers and local women’s clubs to seek a divorce and to pursue the alimony and child-care support to which they were entitled. Yet they were never required to do so, nor were their marriages declared illegal or defunct. The Uzbek criminal code technically only forbade an already married person from *entering* into another marriage, not from continuing an existing multiple marriage. “Life itself,” as Kurbanov declared ruefully, “forces [us] into this compromise [*Sama zhizn’ zastavliaet idti na etu ustupku*].”<sup>26</sup> His words serve as a motto for the overall Soviet effort to transform Uzbekistan through law.

### Soviet Law as a Starting Point: Negotiation, Subversion, Creativity

Soviet laws defining “byt crime” thus emerged only after long and sometimes contentious debates within the Central Asian party and government organizations. Yet obviously Bolshevik activists and party leaders were not alone in having ideas about how Uzbek social life should be lived, and (despite occasional appearances to the contrary) their debates did not proceed in isolation from Central Asian responses to Soviet power. To the contrary, many party members—even those new to Uzbekistan—believed that Soviet law could only advance with the support of local populations.<sup>27</sup> Indeed, perceived or expected social responses often colored Soviet views about how best to proceed and about whether a particular law would work at all. Despite the undeniable and sometimes overwhelming power of the Stalinist state during the late 1930s and early 1940s, the expressed or anticipated views of Uzbek men and women not directly identified with or connected to Soviet power could (and did) produce modifications, extensions, even withdrawals of official legal norms during these years. Such social responses are fundamental to the processes of cultural negotiation that shaped the various, unstable, and changing meanings of Soviet law in Central Asia.

Many Uzbeks outside the party simply ignored the new laws, while others appropriated and subverted Soviet rules and the new judicial system in

26. *Ibid.*, I, 9.

27. *ÖzRMDA*, f. 245, op. 1, d. 222, l. 118.

a wide variety of fascinating and creative ways. In the words of historian William Wagner, who has studied legal reforms and family life in the late tsarist Russian empire, “although the law affects behavior, it is far easier to change the law than to use it effectively to inculcate specific values, control behavior, or shape social relations in conformity with ideals.”<sup>28</sup> His observation is borne out in Stalinist Central Asia. Despite the dramatic show trials to mete out exemplary punishment for such practices as qalin and polygyny, for example, these practices continued largely unabated, albeit in an altered form to avoid the gaze of Soviet police, ZAGS officials, and Zhenotdel activists. Soviet women’s workers privately admitted that many early laws governing byt crimes had what they called a merely “declarative” character, given the resolutely non-Soviet sensibility of most Central Asians.<sup>29</sup> The spectrum of social responses to Soviet attempts to define and enforce a legal category of “byt crime” was broad, fascinating, and complex, ranging from vocal support and open hostility at the two extremes to subtle forms of mutual accommodation. In James Scott’s famous phrase, many Uzbek men and women used the “weapons of the weak” against Soviet incursions. From positions both inside and outside the Soviet system they emulated peasants and colonized peoples around the world by generating “hidden transcripts” that spoke back to governmental and judicial structures of power.<sup>30</sup>

Some Uzbek men and women chose openly to resist Soviet efforts through formal protests. They made speeches opposing the creation of “crimes” out of customary practices; they organized large-scale public meetings to show their opposition; they submitted petitions asking for a reconsideration of the new Soviet laws. They appeared to believe their voices mattered: in 1928, for example, one workers’ meeting in the New City of Farghona voted publicly, 50–16, against the idea of raising the age of marriage for girls to seventeen.<sup>31</sup> Archival records from the hujum’s early days in 1927 show Zhenotdel workers unhappily contemplating organized crowds of several hundred people marching in protest, and the arrest of crowd “ringleaders” failed to dissuade others. By 1929 party reports complained that such anti-hujum “agitation” had taken on a “systematic, organized character” (allegedly led by Muslim clerics), and that verbal assaults against Zhenotdel activists were occurring all across the Uzbek SSR. Instances of open protest against the unveiling campaign and against Soviet byt legislation continued throughout the 1930s.<sup>32</sup>

28. William G. Wagner, *Marriage, Property and Law in Late Imperial Russia* (Oxford, 1994), 383.

29. RGASPI, f. 62, op. 2, d. 1685, l. 85 (theses on Zhenotdel’s tenth anniversary, 1928).

30. The first phrase is drawn from James C. Scott, *Weapons of the Weak: Everyday Forms of Peasant Resistance* (New Haven, 1985). On “hidden transcripts,” see his *Domination and the Arts of Resistance: Hidden Transcripts* (New Haven, 1990).

31. ÖZRMDA, f. 904, op. 1, d. 203, ll. 109–12 (Narkomiust materials on new marriage code, 1928).

32. On the 1927 marches, see ÖZRMDA, f. 1714, op. 5, d. 663, ll. 42–43 (criminal proceedings against Mukhamedjon et al. for agitating against women’s liberation, 1927–31); ringleaders’ arrests in 1928 are described in RGASPI, f. 62, op. 2, d. 1688, l. 187 (report on International Women’s Day in Tashkent province). “Systematic, organized”

Perhaps the most common form of resistance to the new laws was a simple refusal to observe them in practice. It is even possible that in some cases and in some regions violations of Soviet byt norms became *more* flagrant once they had been written into law. While it is difficult to evaluate the extent to which the commission of byt crime represented a form of protest through civil disobedience, clearly the widespread—in some cases virtually universal—infracture of byt laws could not be ignored by any party activist. Local newspapers, indeed, initially showed the hujum's difficulties with remarkable candor. "Yet another victim," screamed one headline in November 1927: "Having recently thrown off the *paranji* [veil], Achil'deeva is savagely strangled by her husband."<sup>33</sup> Only when Zhenotdel and party officials complained that such media reports made people reluctant to cooperate with them did the tone of newspaper coverage shift in the 1930s.

Yet whether discussed in the newspapers or not, rampant violations of Soviet byt laws remained a cause of concern within the party leadership as well as the Zhenotdel, a fact revealed by the confidential archival record. Throughout the 1920s and 1930s, one finds careful attempts to chronicle individual acts of byt crime, to track and analyze broader trends, and to improve police and prosecutorial efforts to stamp out such phenomena once and for all. The codification of such behaviors as crimes, after all—and their placement in a linked pyramid of criminality, with "counter-revolutionary" byt attacks at its pinnacle—had marked *all* byt transgressions, whether violent or nonviolent, as intolerable political acts. The persistence of such acts may not be surprising in the late 1920s, during the turmoil surrounding the hujum, but they continued throughout the 1930s and beyond and, according to some accounts, increased over time. Rape, murder, and the occasional mutilation of unveiled women and Zhenotdel activists occurred with regularity—by one estimate as many as 2,500 women were murdered during the first three years of the hujum—along with an apparently endless stream of cases involving polygyny, qalin, and forced veiling and seclusion.<sup>34</sup> Even excluding the large number of

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resistance in the form of anti-Soviet speeches across Uzbekistan in 1929 is described in ÖzRMDA, f. 86, op. 1, d. 5885, ll. 381–82. For an example from later years, see Shakirkhoja Tagirkhojaev's protests in 1937 about the legality of marriages to unveiled women. ÖzRMDA, f. 837, op. 32, d. 346, l. 2 (investigative brigade materials on "Red Partisan" *mahalla* [urban neighborhood], Tashkent).

33. "Eshche odna zhertva," *PV*, no. 1406 (14 September 1927): 5.

34. For some of the copious documentation on such crimes during the 1927–29 period, see RGASPI, f. 62, op. 2, d. 1214, ll. 12, 26, 43, 47, 54, 59, 74, 79–81, 83, 89–91, 93–94, 96, 132, 140, 154, 156 (OGPU reports on Central Asian women's liberation, 1927); f. 62, op. 2, d. 1520, ll. 224–25 (criminal proceedings against communists accused of raping an unveiled woman, 1928); f. 62, op. 2, d. 1692, ll. 22, 113–23, 198–99 (Central Asian Party Bureau [Sredazbiuro] correspondence about murdered women's activists, 1928); and PATsS-NDPUz, f. 58, op. 5, d. 815, ll. 175–78 (internal party investigation of members' implementation of hujum, 1929). Numerous published sources include A. Nukhrat, "Na bor'bu s perezhitkami rodovogo byta," *Sudebnaia praktika RSFSR*, 1929, no. 3:58; and S. Akopov, "Bor'ba s bytovymi prestupleniiami," *Revoliutsiia i natsional'nostei*, 1930, nos. 4–5:66. The figure of 2,500 murders is from N. Ibragimova and F. Salimova, "Opyt raskrepostshcheniia zhenshchin respublik Srednei Azii i Kazakhstana i ego burzhuaiznykh falsifikatory," *Kommunist Uzbekistana*, 1985, no. 8:83–89.

rapes and “insults” to women, and also leaving aside terrorist acts that qualified under Article 64 as “counterrevolutionary” crimes, the remaining categories of byt crime produced almost one out of every ten cases heard in the Uzbek criminal justice system in 1929.<sup>35</sup> Lamentations that the party was losing the war against byt crime continued throughout the pre-1941 period. Prosecutions of qalin and underage marriage increased dramatically in 1938 and 1939, and the rate of byt murder, sexual crimes, and women being beaten appeared to some observers also to be growing.<sup>36</sup> An official list of byt cases from Khorazm province in 1940–1941 included murder, attempted murder, rape, underage marriage, and beatings to prevent wives from attending school or training courses. No wonder that at a conference of procurators held in late 1941—well after the war against Hitler had started—these Uzbek officials each reported dozens of byt cases and discussed the unfortunate “shortcomings” (*kamci-liklar*) that continued to mar the realm of women’s legal rights and to hinder the war effort.<sup>37</sup>

Resistance through noncompliance was not the only Uzbek response to Soviet byt laws. In many cases Uzbek men and women did not withdraw completely from interactions with Soviet structures, but instead creatively negotiated this relationship to produce benefits for themselves—even if doing so ran the risk of conferring implicit legitimacy on Soviet authorities. Soviet cash, for instance, could be used to pay brideprice obligations. Despite a widespread reluctance to observe the precise stipulations of the new laws, moreover, it is striking to note that large numbers of Uzbek men and women still traveled to local ZAGS offices to register their marriages legally with Soviet authorities. Frequently, though, indigenous populations took steps both overtly and covertly to make the new system work to their own advantage and often did their best to modify that system’s exact provisions. Patterns of creativity were apparent in the Uzbek responses to new Soviet marital laws, such as the regulations meant to prevent qalin, polygyny, and underage marriage, respectively.

Soviet attempts to ban qalin quickly ran into trouble as the new laws were bent, broken, and subverted at every turn. According to one report from 1928, qalin in Khorazm province was “almost legal,” since it happened in plain sight and was rarely prosecuted. Party investigations turned up continuing evidence of the practice on a massive scale throughout the 1930s and into the 1940s, with brideprice ranging as high as several thousand rubles, as many as 45 head of cattle, and including large quantities of grain.<sup>38</sup> The only real change resulting from the Soviet ef-

35. *Materialy k otchetu Tsentral'nogo Komiteta KP (bol.) Uzbekistana V-mu Partiinomu kulltauu* (Samarqand, 1930), 58.

36. The number of qalin and underage marriage prosecutions in the Uzbek SSR grew from 152 in the first half of 1938 to 213 during the first four months of 1939. PATsS-NDPUz, f. 58, op. 15, d. 1383, ll. 39–43 (Uzbek party Central Committee report on work with Uzbek girls, 1939).

37. ÖZRMDA, f. 904, op. 10, d. 91, ll. 42–46 (Uzbek Narkomiust materials on judicial efforts to eradicate crimes against women). Consider the litany of violations in Farghona in ÖZRMDA, f. 2454, op. 1, d. 412, ll. 135–36, or the crime statistics in ll. 144–45.

38. The report from Khorazm is at RGASPI, f. 62, op. 2, d. 1690, l. 2 (Zhenotdel report, 1928). One partial audit in 1936, for example, found hundreds of cases during the

fort to ban qalin was a shift away from cattle in favor of (more easily concealed) cash payments, on the one hand, and the frequent portrayal of brideprice payments as wedding “gifts” falling outside the scope of the law, on the other.<sup>39</sup> Such “hidden qalin” could easily be concealed from the gaze of Soviet police and prosecutors; in some cases, local authorities assisted in such deception. Local police officers were known to drive away party investigative brigades, for instance, offering their big-city visitors assurances that they had been mistaken, that byt crimes like qalin did not exist in *this* region.<sup>40</sup> Responses on the ground could be creative. One man accused of rape and forced marriage in 1928, for example, tried to turn the tables on his accuser. He argued that she had accompanied him willingly, that they had sexual relations voluntarily, and that only afterwards had she demanded qalin as a form of blackmail. Although his story failed to sway the Soviet court, it is interesting in its attempt to recast him as the victim of qalin rather than the criminal.<sup>41</sup>

Ironically, the very weakness of Soviet efforts to enforce new rules against qalin can be discerned through the records of successful prosecutions. It is quite revealing to consider the cases that actually came before Soviet courts. With thousands of instances of brideprice spread all across Central Asia, criminal accusations generally came to light only if some aspect of the contractual arrangement went awry. Perhaps a man paying qalin in the form of labor decided to seize his bride before working the full, agreed term; possibly the young woman refused to participate in an arranged marriage; in some cases the bride’s father reneged on the deal and refused to accept the agreed-upon amount in payment.<sup>42</sup> The wronged party could then threaten to turn to the Soviet courts, but this was a step taken only in extremis, once negotiations had failed, since unlike a *qozi* (Islamic) judge, no Soviet court would enforce the marriage contract. In fact such an appeal could quite possibly lead to jail time and fines for all men involved, including those lodging the complaint. For this reason, barring the unlucky few who happened to be visible to Zhenotdel investigators—whether because they occupied positions of Soviet or party authority or because they had the ill fortune to be present during a spot check or intensive local audit—marriages in which qalin arrangements proceeded smoothly to all parties’ satisfaction rarely surfaced in the Soviet courts.

The reported cases thus tend to be exceptional. Each story, of course, no matter what its particulars, served to underscore the self-consciously

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previous year: see PATsS-NDPUz(K), f. 58, op. 12, d. 638, ll. 96, 105 (Uzbek party and OGPU reports). For the persistence of the practice, as well as the magnitude of the prices involved, see PATsS-NDPUz, f. 58, op. 4, d. 1235, ll. 12–13 (OGPU report on women’s movement, 1928), and f. 58, op. 9, d. 968, ll. 196–97 (report on conference of kolkhoz women in Qoradarë, 1933).

39. On the shift to cash, see ÖZRMDA, f. 9, op. 1, d. 3397, l. 88 (Uzbek party reports on byt crime, 1929); on “gifts,” see (among many others) ÖZRMDA, f. 86, op. 1, d. 4902, l. 20 (KUBT resolutions, 1928).

40. RGASPI, f. 62, op. 2, d. 1224, l. 48.

41. ÖZRMDA, f. 1714, op. 5, d. 322, ll. 83, 98 (criminal case against Iarashev et al., 1929–30).

42. ÖZRMDA, f. 86, op. 1, d. 5885, ll. 387–88.

European horror of Slavic party activists at what they saw as the buying and selling of young girls. Yet since only in truly extraordinary circumstances would one party to a qalin transaction actually complain to Soviet authorities, these cases also show the boundaries of customary behavior by revealing what acts violated local norms flagrantly enough to trigger such strong social sanctions. Frequently complaints would be lodged when one woman was “sold” many times but never actually given in marriage, or when a father or brother tried to squeeze extra money out of a suitor. In 1927 one local official sold his (“very pretty”) sister three different times for qalin, but only faced trial when his neighbors complained that he simply kept the money and refused to give his sister in marriage to any of the suitors. Another rural Uzbek man was reported in 1936 to have sold his adult daughter to five different men in two years, and in yet another instance in 1940, one father was accused of selling his fifteen-year-old daughter for 4,400 rubles and other material goods. After the wedding, though, he seized his daughter—and sent her into hiding in Kazakhstan—while threatening to resell her unless her husband paid an additional 10,000 rubles.<sup>43</sup> Clearly such actions violated accepted codes of behavior among neighbors, not to mention inciting anger among prospective husbands. These cases therefore show Uzbek men using and manipulating the resources of the Soviet legal apparatus to fight a battle antithetically opposed to the one party activists thought they were fighting. Soviet courts were being used to *enforce* rather than overturn the boundaries governing the practice of qalin in Uzbekistan.

Similar patterns characterized Soviet efforts to stamp out polygyny. Although intensive local investigations continued to turn up hundreds of violations during the 1930s, Zhensektor and party activists found it difficult to make headway in enforcing Soviet legislation barring multiple spouses. One delegate to the First All-Uzbek Congress of Female Youth in 1935 complained that men in her region who married second and third wives received paltry prison sentences of only a month or two, after which they returned home and laughed at local Zhensektor workers, taunting them with the question, “What are you going to do [about it]?”<sup>44</sup> Deception, too, played a role: many men obtained false certificates from local *mahalla* (urban neighborhood) commissions stating that they were unmarried, which permitted them to register a new bride at ZAGS. In other cases, they never registered religious weddings at the local ZAGS office.<sup>45</sup> One unhappy party activist, Mostovaia, called such phenomena “hidden bigamy,” explaining that if an Uzbek wife did not produce a son she could be taken

43. The case from 1927 is in RGASPI, f. 62, op. 2, d. 1250, l. 54 (local party reports on *hujum*); from 1936 in PATsS-NDPUz(K), f. 58, op. 12, d. 638, ll. 96, 105; and from 1940 in ÖZRMDA, f. 2454, op. 1, d. 413, l. 72 (articles and speeches of Khursan Mahmudova).

44. ÖZRMDA, f. 86, op. 10, d. 632, l. 209 (transcript of First All-Uzbek Congress of Laboring Female Youth, 1935). Hundreds of cases of polygynous unions were also reported during 1934 in PATsS-NDPUz, f. 58, op. 10, d. 141, l. 32 (Uzbek Central Committee Bureau resolution).

45. See Emine Mukhitdinova, *Revoliutsionnaia zakonnost' i bytovye prestupleniia na Vostoke* (Moscow-Leningrad, 1929), 29–34. For a case from 1937, see ÖZRMDA, f. 837, op. 32, d. 346, ll. 29, 32.

to ZAGS and divorced in the eyes of the state. Her husband would then marry another wife but refuse to grant the first wife a divorce according to shariat—meaning, given the difficulties experienced by Soviet authorities in making such legal cases stick (not to mention associated claims for child support and alimony), that she could not remarry and had to remain with him.<sup>46</sup> Finally, some men with several wives—including a number of local communists—went so far as to argue that they were serving the Soviet cause by staying married to all of their spouses. They were *protecting* these women, they contended, in view of the dangers facing cast-off wives and the current impossibility that an uneducated Uzbek women could earn an independent, yet honorable, living. If the party had not insisted that he stay married for the sake of social justice, said one such local official, Kadyrov, in 1929, he would of course have divorced all but one of his wives.<sup>47</sup>

Kadyrov's *chutpah* may have been unusual, but his playfulness with Bolshevik categories and legal limits was not unique among the reactions to—and reshapings of—Soviet byt law in Uzbek society. Similar patterns of flexibility and creativity were also visible in the last area of marital regulation to be examined, namely the rules on underage marriage. The contested and provisional nature of these stipulations were plain to many observers,<sup>48</sup> so it comes as no surprise to find Uzbek men and women willing to do whatever was necessary to mitigate the impact of Soviet restrictions, on the one hand, and to make the new Soviet system work to their benefit, on the other. Once again local audits consistently turned up evidence of massive violations of Soviet laws setting a minimum marriage age for girls (and, to a lesser degree, for boys). Again, these cases were likely only the tip of the iceberg, since for the most part only couples who sought to register their marriages with Soviet authorities turned up in such audits. The number of unregistered marriages—such as that of a sixteen-year-old girl discovered in 1939 living with her husband—can only be guessed at, since such cases rarely found their way into Soviet records.<sup>49</sup>

Even among marriages registered at ZAGS, however, underage brides were common. Local audits of civil-registry records turned up hundreds of cases in the late 1920s, and such violations showed no sign of decreasing during the 1930s and early 1940s. They may in fact have increased when the minimum marriage age for girls was raised to eighteen. One audit in 1935–1936 found many marriages of twelve- and thirteen-year-old girls, locating hundreds of cases of underage marriage spread across fifty-

46. E. Mostovaia, "Pervoe vsesoiuznoe soveshchanie Komissii po uluchsheniiu truda i byta zhenshchin-vostochnits," *Vlast' Sovetov*, no. 9 (4 March 1928): 8.

47. ÖzRMDA, f. 9, op. 1, d. 3397, l. 114. The argument about the contradictions between destroying polygyny and the impossibility of independent economic lives for women was used by "enemies" according to V. Kasparova, "Zadachi 3-go soveshchaniia rabotnikov sredi trudiashchikhsia zhenshchin Vostoka," *Izvestiia TsK RKP(b)*, 1925, no. 9/84:6.

48. For a detailed discussion of how these rules were created, see Northrop, "Uzbek Women and the Veil," 356–63.

49. This case is described in PATsS-NDPUz, f. 58, op. 14, d. 1092, ll. 1–2 (report on women's work in October and Kirov districts of Tashkent, 1939).

four of the sixty-one districts under investigation. The girls involved were mostly between the ages of eleven and fifteen, although some were as young as eight or nine. Another report from 1940 listed a series of cases in which thirteen- to sixteen-year-old girls had been withdrawn from school, veiled, and married to older men.<sup>50</sup>

Uzbek parents—both mothers and fathers, it is important to note—and matchmakers (*sovchilar*) employed various strategies to marry their daughters off before they attained the requisite age. Subterfuge served as a principal tactic. Since ZAGS offices required official certificates (*spravki*) to prove a girl's age, for instance, the production of false *spravki* became a cottage industry. Occasionally a bribe was required—one woman was prosecuted in 1939 for offering 200 rubles to a mahalla commission worker to obtain a false *spravka* for her seventeen-year-old daughter—but often local Soviet workers and mahalla commission members were only too happy to oblige.<sup>51</sup> Even doctors, whose scientific expertise served as a court of last resort in certifying the age of girls who appeared too young to marry, could be malleable. Substantial numbers of inflated age certificates were discovered as late as 1941, despite the existence of criminal sanctions against medical fraud.<sup>52</sup> If a ZAGS official appeared reluctant to register a marriage, the applicant's family could assure him or her not to worry, that the family would take the responsibility of dealing with any troublesome Soviet investigators who took an interest in the case—and given the sympathy of local police and Soviet officials, such investigators were unlikely to look very hard.<sup>53</sup> Substitution also proved a simple but effective way to deceive ZAGS officials. One eight-year-old girl in Jizzakh was able to marry a twenty-eight-year-old man in 1929, for example, thanks to her older sister's willingness to appear at the ZAGS office in her name to pass the medical examination. Similar cases occurred throughout the 1930s.<sup>54</sup> Interestingly, in some circumstances men tried substitution as well. One Uzbek man, for example, had been denied a health certificate to marry in 1929 after being diagnosed as syphilitic. Seeking to evade this health restriction, he sent a healthy man to the doctor in his place. Unfortunately for him, the plan was discovered (appar-

50. For a party investigation of Bukhoro in 1928, see ÖzRMDA, f. 86, op. 1, d. 5718, l. 208. The audit of 1935–36 is reported at PATsS-NDPUz(K), f. 58, op. 12, d. 638, ll. 95, 105. The 1940 report is at ÖzRMDA, f. 2454, op. 1, d. 412, ll. 130, 139.

51. The case from 1939 is in PATsS-NDPUz, f. 58, op. 14, d. 1092, ll. 1–2. Other cases of girls as young as twelve being given *spravki* attesting to their legal age for marriage—often with the connivance or support of local officials—are in ÖzRMDA, f. 86, op. 1, d. 3031, l. 11 (transcript of First Uzbek Congress of Female Soviet Members, 1927); f. 86, op. 1, d. 3626, l. 103 (Qashqadare KUBT materials, 1927).

52. ÖzRMDA, f. 904, op. 10, d. 91, ll. 5–6. For the criminal sanctions since the early 1930s, see ÖzRMDA, f. 86, op. 1, d. 6556, l. 162 (party resolutions and reports on cultural work among Uzbek women, 1930).

53. ÖzRMDA, f. 86, op. 1, d. 5594, ll. 234ob.–235 (transcript of Second Congress of Andijon Soviets, 1929).

54. RGASPI, f. 62, op. 2, d. 2080, l. 1 (Zhenotdel discussions of attacks on activist women, 1929). For a similar case in 1935, see ÖzRMDA, f. 86, d. 10, l. 634, l. 225 (First All-Uzbek Congress of Laboring Female Youth proceedings).



ently by chance) and he was arrested.<sup>55</sup> Many similar cases, however, must certainly have gone undetected.

These patterns of deception—and the culpability and dubious loyalty of many in the Soviet judicial, police, and civil-registry apparatus—emerge with particular clarity in a case recounted by one Sarymsakova, a delegate from Andijon, to an Uzbek Party Congress in 1929. According to her, local authorities were complicit in dodging the requirements of Soviet byt law, and local mahalla commissions often committed “criminal mistakes” in cases of underage marriage. The corrosive influence of such behavior on Soviet authority could be seen in the story of an unnamed twelve-year-old girl who was to be married in Andijon in 1929. As Sarymsakova told it, the local mahalla commission had provided this girl with a *spravka* attesting falsely that she was of legal age to marry. The commission then sent her to the ZAGS office, first dressing her in a heavy *khalat* to make her appear more solidly built and placing cotton wadding on her chest to make her appear more fully developed. Sarymsakova, a ZAGS employee, became suspicious and, surmising that the girl was younger and slighter than she appeared, sent her to a doctor for examination. When the doctor fixed the girl’s age at not more than eleven, her marriage application was denied—but the story did not end there. After this application had been denied, Sarymsakova herself endured repeated harassment from a local police officer, Sabirjon, who insisted that she had been wrong to request the doctor’s exam in the first place.<sup>56</sup>

### Reworking Bolshevism from Within: The Uzbek Soviet Apparatus

This episode shows the potential for an important subversive response by Uzbek men and women to Soviet byt law, namely, to work within Soviet institutions to transform them. Many Uzbeks who gained Soviet or party positions used their newfound authority to block the hujum. This approach amounted to a “nativization” of the Soviet apparatus—a principal goal of the party’s *korenizatsiia* policy during the 1920s and 1930s—but did so in ways that were neither expected nor wanted by party leaders. Obviously not all Uzbeks responded in the same way, and some served in Bolshevik posts with great distinction and loyalty—Sarymsakova, for one, presented herself to the congress in this light, and no evidence exists to the contrary. Uzbek Central Executive Committee chair Yoldosh Akhunbobaev, party first secretary Akmal Ikramov, and Council of People’s Commissars chair Faizulla Khojaev, among others, helped to define party policy in the region, and as such played a role in starting and shaping the hujum. Yet many Uzbek professions of support appear strategic: either situational or designed to further other, sometimes hidden, cross-cutting personal and ideological agendas. And in any event, not all Uzbeks reacted with support. More often than not, Uzbek personnel within the Soviet and party apparatus hindered the hujum, sometimes consciously and sometimes not.

55. ÖzRMDA, f. 86, op. 1, d. 5594, l. 236.

56. *Ibid.*, l. 232.

It is not always possible to determine whether such obstruction was a product of conscious action (or inaction) or whether it resulted from bureaucratic inertia, a lack of training, or some other cause. Clearly some of the difficulties that marred the unveiling and legal campaigns were not intentional products of conscious resistance. Recent scholarship has shown the chaos, disorganization, and disagreement in many Soviet institutions, in Russia and elsewhere. In Central Asia the massive efforts to recruit Uzbek cadres during the early decades of Soviet power—seen with such high hopes by Bolshevik leaders in both Moscow and Tashkent as crucial in providing the Central Asian populace with indigenous models of socialist behavior—worked simultaneously against the efficiency of socialist rule. It required party and government agencies first to rely upon ill-trained, semiskilled, and sometimes completely illiterate local personnel.

This situation had unhappy consequences for the effectiveness of Soviet justice no less than for the efficiency of Soviet administration. Some Central Asian staff workers were unable to understand the “formal juridical language” used in laws and were at a particular disadvantage when these laws had not yet been translated from Russian into indigenous languages.<sup>57</sup> Others refashioned Soviet institutions and authority to work in a way consonant with their own expectations and experiences: one customs officer arrested a woman in 1929, for instance, when she appeared before him without a veil. *Pravda Vostoka*, the main Soviet regional newspaper, complained that Soviet courts in Uzbekistan had, under the direction of indigenous judges, taken on a tinge of shariat norms. Men had been convicted of entering a house with unveiled women inside, for example, and had been found guilty of drinking alcohol, although neither action was a crime under the new Soviet code.<sup>58</sup>

Similar problems cropped up in the courts, where judges and procurators faced manifest difficulties in carrying out the judicial effort to punish Uzbek “crimes of daily life.” Many byt cases collapsed, whether due to neglect, incompetence, or sabotage, before ever reaching trial. According to one internal report, for instance, the proportion of such failed cases in Uzbekistan reached nearly 50 percent by 1930. Even when problems appear to have resulted from ineptitude as much as conscious obstruction, higher party leaders and investigators, conditioned by the framework of the hujum, frequently portrayed them as evidence of political deviance and oppositionism. The same report, for example, argued that the high rate of byt cases failing to reach trial showed the prevalence of “Right-opportunist practices” in the Central Asian judicial system. “This shows,”

57. See the discussions of Turkmen staff members and delays in the early 1930s, for instance, in ÖZRMDA, f. 6, op. 2, d. 462, ll. 10–11, 94–134; f. 9, op. 1, d. 3397, ll. 96–107. A similar report on the Uzbek campaign is at f. 736, op. 3, d. 77, ll. 5–11ob. (Zhenotdel reports on local women’s work, 1928). Sometimes the ethnically Russian staff proved unable to address indigenous populations at all: see, for example, the case of a speech to Tajik women in 1927 that was delivered in Uzbek. RGASPI, f. 62, op. 2, d. 1694, l. 20 (OGPU reports on hujum, 1928).

58. The *Pravda Vostoka* complaint is in M. Grek., “Shariat v sovetskom sude,” *PV*, no. 287/1781 (13 December 1928): 5. For the customs officer in 1929, see Iu. Larin, *Evrei i antisemitizm v SSSR* (Moscow-Leningrad, 1929), 13.

it concluded, “how in many places the courts do not serve us, nor [do they serve] the proletarian state, nor the proletariat, nor the party, nor the laboring masses, but rather the kulak, either openly or in a roundabout manner.”<sup>59</sup>

Even while such accusations may appear overblown—and certainly the use here of the politically loaded tag “kulak” reveals more about party leadership priorities than about Uzbek society—much evidence suggests that many Uzbek staff workers during the 1920s and 1930s *did* consciously use their positions to hinder the Soviet byt campaign. From the perspective of party leaders, such subversion from within the Soviet apparatus could be maddeningly hard to trace and eradicate. Foot-dragging and purposeful obfuscation, after all, could easily be masked as genuine confusion, all the more so because the high illiteracy rates and poor communications made confusion a more-or-less normal state of affairs. Police and court paperwork could be lost intentionally as well as accidentally. In some cases local officials actually hid the murder of women activists from their superiors in Tashkent.<sup>60</sup> All of these problems flowed from the perceived need to involve Uzbek men and women in the campaign to stamp out byt crime, both as part of the broader korenizatsiia effort and to give credibility to the ostensibly universal norms of personal behavior enshrined in the hujum and the new byt codes. The unintended possibilities opened by this reliance on Uzbek personnel, however, soon became apparent.

The failure (in Soviet eyes) of local police officers, prosecutors, and judges to recognize the political nature of byt crimes lay at the heart of these problems. As a result, women’s activists contended, local officials were reluctant to punish byt criminals with the requisite severity. Men arrested for “insulting” unveiled women could sometimes gain release in as little as two hours.<sup>61</sup> The need for a different kind of rapidity—for Soviet justice to be swift as well as sure—remained a continuing theme of party discussions, suggesting that delaying tactics were common among local authorities. Many indigenous officials, after all, were not particularly concerned about eradicating such “crimes” as underage marriage, polygyny, and qalin, and unannounced local audits and confidential investigations found a persistent pattern of failure among local courts and police districts to press for the rapid resolution of such cases. In 1929, for instance, byt cases in Khorazm province could take several years.<sup>62</sup> Similar lamentations about judicial foot-dragging were heard throughout the 1930s and 1940s, as local procurators came under fire for permitting lags in the speed with which women’s complaints earned their day in court.<sup>63</sup> Only a small percentage of cases, moreover, worked their way through the system

59. RGASPI, f. 62, op. 2, d. 2691, ll. 30–31 (transcript of First Central Asian Congress of Zhensektor Workers, 1931).

60. Anna Louise Strong, *Red Star in Samarkand* (New York, 1929), 257.

61. PATsS-NDPUz, f. 58, op. 3, d. 1598, l. 35 (OGPU report on hujum, 1927).

62. *Rezoliutsii Uzbekskogo soveshchaniia rabotnikov sredi rabotnits i dekhkanok* (Tashkent, 1929), 16.

63. See ÖZRMDA, f. 904, op. 10, d. 91, ll. 7–10, and Iuldash Saidov, “V Surkhan-Dar’e oslablena rabota sredi zhenshchin,” *PV*, no. 204/5068 (5 September 1939): 2.

to a conviction and punishment. An audit in 1928 found 120 cases of underage marriage in one local ZAGS office—in the Old City of Bukhoro—but noted that only ten cases were prosecuted that year in the entire province. During the same year, courts in Andijon province heard only five such cases.<sup>64</sup> Even violent crimes appeared to fall between the cracks of prosecutors' workloads. Officials in Khorazm, for instance, reported twenty prosecutions for the murder of activist women in 1928, a figure included in the official total of 203 such murders for the year in Uzbekistan. Yet an independent investigation later discovered that at least 68 such murders had occurred in Khorazm province during 1928, most going unreported and unpunished.<sup>65</sup> Indeed, many local officials appeared eager to reclassify the most serious crimes downward (although doing so was deemed a "Right deviation")<sup>66</sup> by, for example, declaring that a woman's murder or attempted murder had been a "simple" crime (that is, a crime of passion or jealousy) rather than a "counterrevolutionary" crime subject to the death penalty.

All of these problems in the Soviet judicial apparatus continued throughout the 1930s and into the 1940s. An internal evaluation of the court system in Namangan province in 1941, for example, was fairly typical. It harshly criticized judicial personnel for failing to classify crimes properly and to apply maximum penalties for *byt* crimes, for dismissing *byt* cases without cause, and for obtaining "illegal" verdicts of "not guilty" in what was deemed a clear contravention of the facts.<sup>67</sup> In the angry words of an Uzbek Central Committee Bureau resolution from late 1939, "The organs of the procuracy and courts, which are obligated to lead a decisive struggle against violations of women's rights, [have instead], through the taciturn and indifferent attitude of some party organizations, in most cases not attached the necessary political meaning to the [continuing] fact of brutal violence against activist women, [instead] regarding [this violence] as *byt* trifles [*bytovye melochi*] and in some cases indulging a mocking attitude toward women."<sup>68</sup> But in Soviet Central Asia by 1939, there could by definition be no such thing as "*byt* trifles": that had been the central point of criminalizing patterns of intimate and social behavior in the *hujum*. Such patterns could no longer be portrayed as a concern only of the (now-defunct) Zhenotdel. The investment of huge amounts of political capital in the Soviet vision of liberation for Muslim women made such continuing transgressions a matter of grave concern for all true Bolsheviks in Central Asia. As a result, any "indulgence" of im-

64. ÖZRMDA, f. 86, op. 1, d. 5885, l. 386.

65. *Ibid.*, ll. 381–83. See also ÖZRMDA, f. 86, op. 10, d. 1091, l. 6 (party reports on women's work, 1936–37).

66. ÖZRMDA, f. 6, op. 2, d. 462, l. 29.

67. This report is in ÖZRMDA, f. 904, op. 10, d. 91, ll. 47–55. Similar reports from 1941 describing the provinces of Samarqand and Bukhoro are at ll. 58–69 and 72–97, respectively. All such regional courts came under severe scrutiny in a resolution of the Uzbek Commissariat of Justice Collegium (ll. 70–71ob.).

68. PATsS-NDPUz, f. 58, op. 15, d. 81, ll. 10–11 (resolution of the Uzbek Central Committee Bureau, 1939).

proper byt behaviors among Uzbek officials represented a grave danger to the Soviet project and to Soviet authority as a whole.

### **Languages of Power: Uzbeks outside the Party**

If Uzbek members of the Soviet judicial and police apparatus found ways to slow or reverse the campaign to define certain patterns of family life as “criminal,” Uzbek men and women outside the Soviet system also entered the fray. A fierce battle, both discursive and physical, ensued over the definitions of proper forms of everyday life in southern Central Asia, and efforts to use law and the courts to shape these definitions represented an important front in that struggle. Soviet activists, as already discussed, mobilized a mix of medicine, morality, and Marxism to make the case that so-called traditional byt norms were oppressive, unhealthy, and evil. But their Uzbek opponents subverted Soviet activists’ legal and moral spaces and constructed languages to challenge Soviet claims. Polygyny, qalin, and underage marriage, for example, could be portrayed as markers of propriety and devoutness—and by the late 1920s, of national and cultural authenticity—rather than “crimes.” By drawing upon supposedly timeless conceptions of Uzbek social customs and Muslim religious norms, threats of punishment could be made against those who transgressed preexisting (if newly constructed) codes of “proper” behavior, such as women who unveiled or Soviet officials who threw men in jail for paying qalin.<sup>69</sup> When a Soviet women’s activist ventured into a village outside Tashkent in 1929, to take one extreme example, her body was returned the next day to the city center in a cart, cut into pieces. Her mutilated corpse was thus sent into the public space in Central Asia most identified with Soviet and Russian power with a note attached that read, “Here is your women’s freedom!”<sup>70</sup> Notions of “justice,” punishment, and retribution—not to mention the dramatic use of public space—were not uniquely the property of Soviet officials, prosecutors, judges, and activists.

Those Uzbeks, Tajiks, Turkmens, and others who opposed the formulation of new norms of “byt crime” for religious, national, political, and cultural reasons found it comparatively easy to resist the new rules by ridiculing and manipulating the Soviet judicial system. Since from the Muslim perspective ultimate judgments about truth and falsity did not properly fall within the jurisdiction of a Soviet court, witnesses could be produced who would impede a trial by corroborating false alibis, disparaging the victims of byt attacks, or discrediting Soviet officials. In 1929, for example, when the activist Tagirova was murdered by her husband and other male relatives, the guilty parties dragged her corpse to the edge of the village and concocted a story to explain her death. When Soviet investigators nevertheless found sufficient evidence to convene a trial, many witnesses appeared to attest to this story—although happily for the courts

69. See, for example, the letter to Soviet officials threatening such retribution in RGASPI, f. 62, op. 2, d. 1694, l. 50.

70. Strong, *Red Star in Samarkand*, 256.

(and the only reason that the case later appeared in published accounts) the truth about the murder was “unmasked” in the end.<sup>71</sup> Again it is important to note, though, that such cases appear in official records only on the margins, coming to light only if and when these schemes to mislead the court failed for some reason. Many other invented stories or planted witnesses must certainly have succeeded in avoiding detection, and such subversions of the judicial process may have been widespread indeed.

In other, even more interesting, cases, Soviet courts and procedures were manipulated to become an instrument working against stated Soviet goals. It has already been shown, for instance, how Soviet courts unwittingly helped police the boundaries of “proper” qalin payments. Such subversions also operated to undercut party personnel. Some anti-Soviet Uzbeks, for example, showing a sense of ironic humor, went so far as to accuse Bolshevik allies of having transgressed—of all things—Soviet byt law and arguing that they needed to be disciplined and punished. In one such case in 1928 a group of Uzbek men brought charges in Soviet court against members of their local mahalla commission. Having mobilized (and apparently coached) supporting witnesses, they accused the commission of running women’s liberation meetings while drunk and of forcing women to attend—in short, of violating the code of byt conduct expected of Soviet officials. The Soviet court declared that these accusations were manufactured and convicted the accusers of perjury. Yet the prominent coverage given to these perjury sentences reveals the deep concern felt by Soviet authorities about the dangers of such a provocative technique, which threatened to subvert the entire system of justice through show trials and educational theater by turning it against its makers.<sup>72</sup>

Even the very terms of authority in the formulation of Soviet laws were contested and unstable. Once it became clear, for example, that the party treated scientific and public-health arguments as “objective” and thus beyond attack, indigenious opponents of the new byt laws attempted to appropriate the medical and scientific terms of debate. To take one example, consider the debate in the late 1920s over raising the marriage age for girls. In 1928 one meeting of ninety-five union workers in Surkhondaryo—one of the most “backward” regions of Uzbekistan according to party leaders—argued that the marriage age of Uzbek girls should be *reduced*, from sixteen to fifteen. Their argument was clever: “Considering the slower physiological development of Europeans,” the resolution declared, “[we] consider it desirable to raise the marriage age for European women to seventeen and for [European] men to nineteen.”<sup>73</sup> If Russians wanted higher marriage ages, these Uzbeks had no objection—as long as Russian rules applied to Russians only! The problem in their eyes arose only when colonial political structures and western medical science imposed externally derived norms on a culture and society that had no need or desire for them. Uzbek union members here announced their

71. T. T. Inoiatov, “Sudy sovetskogo Uzbekistana v bor’be s feodal’no-baiskimi perezhitkami,” *Trudy SAGU* (Novaia seriia, iuridicheskie nauki), bk. 4 (1958), no. 124:26–27.

72. N., “Druz’ia chachvana i ichkari,” *PV*, no. 1595 (7 May 1928): 4.

73. ÖzRMDA, f. 904, op. 1, d. 203, l. 106. See also l. 128.

willingness to attack the Bolshevik transformation of cultural norms into legal distinctions by subverting their principal tactic, namely constructing biomedical distinctions through each culture's allegedly distinctive, racially differentiated rate of child development. Unfortunately the party leaders' response to this resolution is not recorded, but they could not have welcomed such attempts to appropriate their own banner of "objectivity" and scientific certainty.

Finally, Uzbek women themselves occupied a unique position in this struggle over law. Both as agents and as the ostensible beneficiaries of Soviet byt liberation, they had the potential—should they choose to use it—to point out with a comparative degree of freedom the colonialist assumptions and internal contradictions of the new Soviet byt laws. On the one hand, these women enjoyed far greater latitude than Uzbek men to protest any aspect of the hujum.<sup>74</sup> Women enjoyed a much wider sphere of possibilities for voicing their fears, anxieties, and opposition to new laws. Given the party's analysis of Central Asian society as fundamentally patriarchal, after all, in Soviet eyes any Uzbek woman who opposed "liberation" could not be "criminal" in the same manner as her husband, brothers, and father. A young girl by definition could not give her consent to a marriage for qalin, for instance, and only the payer and recipient of brideprice were subject to penalties under Soviet law.<sup>75</sup> Any opposition voiced by a local woman to these new rules was taken by party analysts to show only either ignorance (which could be rectified through education) or manipulation and control by male relatives (which would be overcome through the hujum itself). In either case it was almost inconceivable that she would be subject to lasting criminal sanctions. Even in those cases where women led openly defiant protest marches to their local Soviet, arrests were made only in exceptional cases.<sup>76</sup>

This interpretation of women's latent sympathy for the Soviet program, which of course underpinned the hujum itself, thus created spaces for women that did not exist for men. Yet women as well as men had been socialized into local norms of propriety and decorum and these beliefs cannot be understood merely as a form of false consciousness, nor as an act of complicity by these women in their own oppression. Women who observed the principles of strict seclusion, after all, could enjoy great influence and moral authority within their households and communi-

74. This argument, of course, parallels that of Lynne Viola, who has shown how Russian and Ukrainian women used preconceptions about female weakness and customary roles in order to lead protests against collectivization. Soviet authorities likewise tended to perceive them as manipulated, not free, actors insofar as they opposed Soviet efforts. See Lynne Viola, "Bab'i Bunty and Peasant Women's Protest during Collectivization," *Russian Review* 45, no. 1 (January 1986): 23–42.

75. ÖzRMDA, f. 86, op. 1, d. 2772, l. 148; f. 86, op. 1, d. 3933, ll. 88–89.

76. Such women were usually described as the wives of *bois* or Muslim clerics, and generally only a few "ringleaders" would be arrested for a short time. See ÖzRMDA, f. 86, op. 2, d. 27, l. 41 (report by Zhukova and Shadieva on women's work, 1928); RGASPI, f. 62, op. 2, d. 1419, l. 4ob. (Sredazbiuro information on International Women's Day, 1928); f. 62, op. 2, d. 1689, l. 55 (Sredazbiuro discussions of Central Asian holidays, 1928); f. 62, op. 2, d. 2064, l. 48ob. (OGPU reports on hujum, 1929).

ties.<sup>77</sup> Given this fact, it is not surprising to discover some women taking advantage of the resulting opportunities. Mothers as well as fathers had arranged marriages for their thirteen-, fourteen-, and fifteen-year-old daughters, for example, and while seeking good matches they also paid attention to the issue of how much qalin could be obtained. By the early 1930s some party activists wrote confidentially to their superiors to complain that indigenous women helped hide evidence of byt crimes and thus represented a noteworthy part of the byt problem.<sup>78</sup> Yet *female* criminals in Central Asia specifically were amnestied en masse in 1928, a step meant as a celebratory commemoration of the Zhenotdel's tenth anniversary.<sup>79</sup> The adoption of gender liberation as shorthand for Soviet revolution helped bring about such an approach, despite the foreseeable consequences: the release of female byt offenders further undercut efforts to enforce the new laws.

To be sure, most Uzbek women did not declare open opposition to the new byt laws. A small minority actively welcomed the Soviet attack on indigenous forms of patriarchy and worked hard to help eradicate female seclusion and subordination.<sup>80</sup> Some local women took advantage of Soviet courts when it was in their interest to do so, while most simply ignored them. Yet at the same time female opposition, where it existed, represented a much deeper threat in principle to the hujum as a whole—and thereby to Soviet power in Central Asia—than is shown by the small number of women willing to stand up and speak out against such foreign forms of “liberation.” Zhenotdel and party activists remained hamstrung by the ideological necessity of treating *all* indigenous women as potential revolutionary allies, and by their consequent inability to take action against recalcitrant women. The resulting threat these women presented is plain. Their actions, along with those of their male counterparts, suggests something of the scope for resistance remaining in—indeed, in some ways cre-

77. Some women, for instance, became *otins*, a uniquely Central Asian institution in which women served as religious teachers with full oversight responsibility for other female believers. *Otins* enjoyed positions of very high status and honor, equivalent in many ways to that of (male) *mullas* and with a similar charge to uphold and spread the faith. See Habiba Fathi, “*Otines*: The Unknown Women Clerics of Central Asian Islam,” *Central Asian Survey* 16, no. 1 (1997): 27–43.

78. ÖZRMDA, f. 9, op. 1, d. 3385, l. 54 (report on byt crimes in Turkmenistan, 1929–30).

79. For more on this amnesty, see ÖZRMDA, f. 86, op. 1, d. 5885, ll. 476 and 489–92.

80. This group of indigenous female activists is the focus of many Soviet (and some western) publications. Apart from a small number of female relatives of top party leaders and those inspired by pre-Soviet *jadid* reformers, the foot soldiers of this cohort were drawn disproportionately from socially marginal groups like widows and orphans. As such they occupied positions largely outside local kin networks, which meant they were not subject to the same control by male relatives and also that they benefited from new Soviet social, educational, and welfare institutions. See, for instance, *Pervyi s'ezd trudiashcheisia zhen-skoi molodezhi Uzbekistana* (Tashkent, 1936), 63–66, *Probuzhdennye velikim Oktiabrem: Sbornik ocherkov i vospominanii* (Tashkent, 1961), and V. P. Pal'vanova, *Emansipatsiia musul'manki: Opyt raskrepostcheniia zhenshchiny sovetskogo Vostoka* (Moscow, 1982), 163–201. A good recent study of this group is Marianne Ruth Kamp, “Unveiling Uzbek Women: Liberation, Representation and Discourse, 1906–1929” (Ph.D. diss., University of Chicago, 1998).



ated by—the strictures of the Stalinist state in prewar Uzbekistan. Clearly that state held enormous power, in many obvious and crucially important ways. Yet the many creative patterns of popular response and subaltern resistance to Soviet laws show how Uzbek women and men simultaneously found ways to act that helped to shape the world in which they lived. The final outcome—as measured in the character of Uzbek daily life as it was lived in the intimate and social spaces of family, neighborhood, and town—resulted from an ongoing interplay between these two always interwoven and mutually shaping sides, not through dictation by one to the other.