

Introduction

INVOKING CUSTOM

The bus came from Engels and while he was driving, something must have gotten into the driver's eye and he couldn't see. He hit the horse and the bus flipped over. It was the bus from Engels. They called me and I went there. I told the driver, "Driver, you know the rules. You will have to pay for the horse no matter what you say." Then some people said, "Kudaibergen, there are *aksakals* [elders] in Engels, too. He didn't hit it on purpose." Then I said, "All right," and I told my son, "Get a knife and butcher it!" Somebody had a knife. I told the boys, "Butcher it and distribute the meat to the relatives here" [meaning all people present]. That's how you make peace. One needs to trust people. He did not hit it on purpose. But if it had been someone else in that situation and not me, he might have said, "Pay for the horse."

This story was narrated by Kudaibergen Ata in 2006 during a session of the court of elders (*aksakaldar sotu*) in the village of Aral, a couple of days after the incident took place. It sheds a great deal of light on how everyday life is ordered in two adjacent mountain villages in a peripheral part of Kyrgyzstan.¹ For one, we can see that the relations between the two villages seem to be regulated by certain rules, and that these rules cover, for example, what happens if a person's livestock is accidentally killed. It also seems that people view the *aksakals*—the local village elders—as central figures who are intrinsically related to these rules. However, this story does not specify whether the *aksakals* are regarded as responsible for the elaboration of the rules or for their application. Also, while alluding to the existence of rules, Kudaibergen Ata (see figure 0.5) did not mention their content. These rules appeared to be self-evident to everyone present that day. While the passengers from Engels paid respect to Kudaibergen Ata by listening to him and by not disputing the "rule" he invoked, they reminded him that "there are elders in Engels, too," implying that those elders deserved respect as much as he did, some-

thing that he, in turn, ought to take into account. Finally, the very rules to which Kudaibergen Ata referred in the beginning were not only not spelled out, they were also not adhered to by the aksakal himself. Instead of having the driver give a horse in payment to the owner (who was not present that day), he ordered the slaughtering of the horse in order to make peace among all witnesses of the accident, whom he referred to as “relatives.” By accepting the meat that his son distributed among them, the witnesses, who were from both villages, also accepted his decision. While the sharing of food reaffirms the “axiom of amity” (Fortes 1969), the old man also drew attention to his own personality: under the guidance of another elder, the situation might have developed differently.

As the head of the court, Kudaibergen Ata used this example as a precedent. In the court case during which he told the story, he was about to decide on a dispute between a herder who had lost a cow in the mountains and the owner of the cow, who was demanding compensation. The story was told to the disputing parties and the court audience to remind everyone of how good relations are maintained between villagers. The old man thereby emphasized his reputation as a good judge and as someone who is respected not only in Aral but also in the neighboring village of Engels. Kudaibergen Ata was successful in his admonition, as both plaintiff and defendant acknowledged that he had acted properly in the earlier case of the bus driver and the dead horse. This, in turn, gave the old man the opportunity to conclude the court case about the lost cow amicably as well. The herder was told to raise a calf until the following autumn, which he then had to hand over to the plaintiff. In this particular court decision, the poor economic condition of the herder was taken into account. To further bolster his decision, Kudaibergen Ata invoked a proverb “Take a young goat from the one who owes you and be grateful for that”² which suggested that the plaintiff should be satisfied with a small animal even though he had suffered the loss of a larger one, especially because the herder had not deliberately abandoned the animal in the mountains. On our way home from the court case during which the old man had told the story, Kudaibergen Ata asked me, “Did you see how I did it? I did it in the Kyrgyz way [*kyrgyzcha*] according to custom [*salt boiuncha*].”

I heard the utterance “according to *salt*” many times during fieldwork, mostly as an ex post statement through which people reflected upon, reasoned about, or justified a particular action. Whenever someone declares that something is (or should be) “according to cus-



FIGURE 0.5. Kudaibergen Ata (2015).

tom,” they are formulating what they consider righteous and appropriate behavior in a given situation. This can come at the expense of the people toward whom these utterances are directed. When I asked Kudaibergen Ata whether the owner of the dead horse had agreed with his decision to slaughter the animal and distribute its meat among everyone present, he said, “He screamed at first when he found out. But they have all eaten his food [the horse meat]. His reputation will rise.” From the perspective of the aksakal, then, *salt* was something he enforced. From the perspective of the owner of the horse as well as from the perspective of the man whose cow had been lost by the herder, it was something forced upon them. These two nested cases give a vivid impression of how the invocation of *salt* can enable agency—to be able to declare what is “according to *salt*” and how it can demand patiency—to accord to *salt*.³ This tension is present whenever people talk about custom in Kyrgyzstan.

Salt has all characteristics that Geertz ([1983] 2000) listed for *adat* (Arabic: *'ada*). Referring to Franz von Benda-Beckmann’s (1979) discussion of the Indonesian concept of *adat*, Geertz presents it as follows: “In his [Benda-Beckmann’s] glossary, the word is ‘defined’ as ‘tradition, custom, law, morality, political system, legal system’ which, except for the omission of ‘etiquette’ and ‘ritual,’ is about the size of it” (Geertz [1983] 2000, 210). Analogous to Geertz’s approach to *adat*, I understand *salt* as a form of “legal sensibility”: it is through *salt* that people forge new kinds of relations with one another and reinterpret and adapt existing ones. *Salt* is the product of such relations and interactions as much as it orders them. While *salt* thus encompasses more than strictly legal aspects, it is also law in the strict sense of the term because my informants often talk about *salt* using the same terms that they use in regard to state law or Islamic law: *salt* has “laws” (*myrizam*; Russ. *zakon*), and obeying these laws is considered obligatory. Some few elements of *salt* are even codified, so that people can refer to detailed written rules when they manage disputes regarding land, property, family, and penal issues. I also noticed that when disputes and discussions arose, they arose mostly over the correct interpretation of the rules and principles of *salt*.

How do Kyrgyz order their everyday lives, and what role does the invocation of custom (*salt*) play in it? If we want to understand how people in rural areas of this post-Soviet country conceptualize their world today, we need to pay attention to this key aspect of Kyrgyz history and culture and how it relates to Islamic law (called *shariat* in Kyrgyz) and state law. Often, these two legal repertoires are precisely

what *salt* is compared to or contrasted with; in such instances, it is not a stretch to translate *salt* as “customary law.” *Salt* has normative and cognitive elements, and just like shariat, it is also inherently connected to everyday interactions and performed in utterly mundane as well as highly ritualistic ways. As there is little codification of *salt*, people’s invocations of it and their efforts to justify or explain situations according to *salt* are often the only observable actions or behaviors whereby people develop and propose new or defend old ways of understanding *salt* and each other. Starting from everyday conversations as the most pervasive mode of interaction in social life, in this book I investigate how people order their social relations through speaking and performing “according to *salt*.”⁴

Social relations need to be actively and continuously realized through communicative and performative acts; they require constant work, effort, and maintenance. The invocation of *salt* is used in conversations as a stronghold, providing rhetorical refuge to those who want to evade accountability for their own actions or seek an excuse for not acting in a particular situation. It is a reflexive cultural technique by means of which my informants invoke *salt*’s purported stability while they in fact dynamically adjust its principles and rules, just as Kudaibergen Ata did in the aforementioned dispute. Backed up by the rhetoric of stability and continuity, *salt* is thus constantly “in the making.” As Chanock observed long ago: “customary law is not customary” (Chanock 1985, 4). He argues that customs are “among the armoury of arguments” that people put in place in order to deal with social and economic changes: “Claimed custom is sometimes simply ideological, but it is often pragmatic, a claim put forward in a form in which it is likely to be successful. In circumstances of conflict and change where there is an unbridgeable gap between social ideals and the actual ways in which life can be lived, custom, or customary law, cannot be a rule which emerges from, is descriptive of and which governs practice or social system. In this changing world claims about custom were competitive rather than descriptive” (1985, 17).

In these constructions of custom, which are frequently at odds with each other, actors more often draw on normativity than on lived reality, on how things should be and not on how they are. Any discussion of *salt* (and, for that matter, of shariat and of state law), taken out of context, triggers normative definitions of the term and how people should live according to it. Only when discussed in concrete situations—during life-cycle rituals, political events, village court

sessions, or within the intimacy of the household do actors depart from these ideal-typical definitions and get down to the nitty-gritty of the matter at hand. This leads us back to the idea of ordering, which is based on the observation that the world is complex and heterogeneous. Acknowledging inconsistencies in one's own behavior or wrapping one's head around the messy entanglements of lived life and its legal predicaments takes a lot more effort and reflexive thinking than postulating clear-cut tenets. Ordering depends on representation: "It depends, that is, on how it is that agents represent both themselves, and their context, *to* themselves" (Law 1994, 25, emphasis in original). In these contexts, *salt* is often blamed for bringing about more disorder and hardship than order and harmony. Nevertheless, it allows people to disavow responsibility for their actions.

THE BODY OF CUSTOM

The entry for salt in the Kyrgyz ethnographic dictionary (Karataev and Eraliev 2005, 402–3) offers a circular definition of the term. It lists terms such as *ürp-adat*, *nark*, *yrym-zhyrym*, and *kaada-salt*, thus specifying one term by referring to others with a similar meaning. In conversations the word salt itself can be used interchangeably with *adat* and the aforementioned terms, even though references to salt are much more common. All of my efforts to delineate these notions and translate them adequately failed, as every person I talked to had a different way of conceptualizing them and their respective differences. It seems, then, that not only for my informants but also for local scholars in Kyrgyzstan it is impossible to define salt in a way that would allow the observing researcher or the involved actors to easily delineate, codify, or otherwise pin it down.

This realization led me to concentrate more on practices and conversations in my efforts to better understand in what situations my informants used any of these terms, and specifically what they achieved when they invoked *salt*. Baiyz Apa, my Kyrgyz "grandmother" to whose extended family I belonged during my fieldwork in Aral, reflected on why she according to *salt* needs to participate in certain ritualized exchange practices during mortuary rituals even though it goes against her understanding of shariat: "I will feel sick," she explained. "If others do it, how can I not do it? . . . You have to be with the others. If you do not follow the others, it is not good. They do not even have to cast you out. *Salt* itself leads to it. This is why we

don't go astray—we do not want to be left out of *salt*.”⁵ As this statement shows, *salt* is often presented as a burden or—to stick with the bodily metaphors Baiyz Apa and others often use—as something that makes your body “sick” (*naarazy*) or that can make your “head spin” (*bash alaman*). While *salt* is actively “being done” by individuals, they perform it in ways that often deny their very agency in the matter: they describe *salt* as being “in our mentality” (*mentalitet ichinde*) and “in our blood” (*kanybyzda*), thus claiming that *salt* is an inextricable part of themselves. Such a categorical understanding liberates people from having to reason or justify in each case why something is done in a particular way or why something cannot be done differently: they do not have to reflect on why *salt* is part of their world because it is already part of them. When people in Talas say, “*Salt* is in our blood,” they employ a primordialist metaphor and extend a typical symbol of identity—blood—to a notion that people associate with a wide variety of activities, practices, and discourses. To have “*salt* in the blood” is also a claim to *communitas*, as individual bodies are symbolically united with those whose blood also contains *salt*. All those who are involved in this kind of legal socialization are considered to be “one.” These are acts of self-persuasion that can serve to provide rationalizations whenever actors need to reflect on and reason about their behavior. To have “*salt* in the blood” signals that one is able neither to think nor act in ways that would contradict this shared normative repertoire. It suggests that actors deliberately deny their agency and subject themselves to the practices and discourses of *salt*. The reference to “blood” suggests that, rather than being a domain of knowledge or even a particular virtue, *salt* is prior to such social constructions, as it moves people’s minds and bodies.

This emic perception is accompanied by a creative process or practice that keeps *salt* flexible: irrespective of countless acts of incorporation and silent forgetting of cultural elements, it remains “ours.”⁶ This is particularly striking when my informants speak of *salt* “swallowing” (*zhutui*) state law or Islamic law.⁷ I refer to this gradual incorporation of noncustomary cultural elements into *salt* as “customization.” The term was originally used by Inda and Rosaldo (2002, 16–17) to refer to the process of making “foreign cultural forms” customary. However, it would be misleading to say that my informants incorporate cultural forms of “alien” origin (2002, 19). Rather, the idiom of *salt* allows them to downplay the very “alienness” of noncustomary law, practices, objects, and notions by asserting that they have “always” been “ours.” Inda and Rosaldo talk about

customization in the explicit context of globalization, but globalization is not the most important backdrop against which to analyze these practices in Kyrgyzstan. People in Talas province, where Aral and Engels are located, do not actively perceive themselves as living in a “globalized” world or being subjected to “global flows” any more or less than during the Soviet period or even before. I suggest that these processes of customization are not a recent phenomenon but are, rather, a more general way of ordering the world. People have applied *salt* in this way for a long time, leaving scholars and policy-makers confounded when trying to get a grip on what seemed to be chaotic modes of livelihood.

Presenting *salt* as unchanging while at the same time engaging in customization provides people in Talas with the opportunity to frame their world as an orderly place. To try systematically and objectively to document *salt* would be to turn a blind eye to the fact that *salt* only maintains its relevance as it remains flexible. To capture and codify its rules and principles at a given moment in time would destroy the possibility of negotiation in future situations.

ENTWINED LEGAL REPERTOIRES

It is widely acknowledged in the literature that a plurality of legal repertoires exists in most societies, and that the history of a system of law is largely a history of borrowing of legal materials from other legal systems (see, e.g., Geertz [1983] 2000, 221; Örüçü 2006, 281). The following Kyrgyz proverb is an example of how such legal plurality is locally interpreted in Kyrgyzstan: “The person who assaults his parents has to be stoned – this is the law of shariat.”⁸ As an established proverb, it belongs to the realm of *salt*, but it refers directly to Islamic law and, somewhat surprisingly, uses the Russian word for law (*zakon*) instead of the Kyrgyz word (*myizam*). This particular proverb thus combines references to three legal repertoires, which gives us the first indication that in the emic conception and especially in observable practice, these legal repertoires are neither clearly delineated nor kept apart. The following examples show how *salt*, state law, and shariat become entwined.

ISSUING FINES

In my fieldsites, villagers usually do not conclude an agreement by writing a document. Written evidence is perceived as spoiling the

relationship between two parties from the very beginning. In Talas, agreements are concluded by shaking hands and reminding one another that “*Kudai* [God] is watching,” and by the subsequent sharing of food or alcohol. In the following example, however, villagers have decided to write down every spring a set of rules and fines related to animal husbandry. These were “the rules” Kudaibergen Ata was referring to in the opening vignette.

Once a year, a large group of men – aksakals, household heads, herders, and staff of the local administration – gather in Aral and Engels for a so-called *kurultai* or *eldik zhiyin* (people’s meeting), during which the following questions are discussed: When shall the herders leave the village with their animals to set out on their spring migration to the mountain pastures? What route will they take to the pasturelands (*zhailoo*)? Who will stay where on the pasture? And when will the herds be allowed to return to the village? These questions are crucial for a number of reasons: as horses, cows, sheep, and goats have to be brought from one place to another, covering distances of more than 150 kilometers, it has to be ensured that no damage to people’s fields is caused by the passing herds. The animals should avoid recently sown fields and those with new sprouts, and they should return to the villages only after the potato harvest is in; that is, around the end of September. However, every year damage occurs because some herders ignore these regulations and drive their animals home earlier in an effort to avoid early snowfall in the mountains. This is one of the most severe problems villagers face, as revenues from the harvest represent their only source of cash.

During the *kurultai* the men work out a list of fines that herders have to pay if fields are destroyed or if animals are lost, stolen, or killed by predators on the way. If a villager suffers such losses, he usually contacts the aksakal court, which then deals with the issue. While writing up a list of fines and other decisions of the *kurultai* is explicitly “according to *salt*,” there is also another option that would render the documentation official: handing it over to the village council (*aiyldyk kengesh*), in whose name it would be issued and subsequently sent to the department of justice in Talas city.⁹ The manner in which this option is exercised has changed at least superficially in recent years. In 2006 Kalipa Ezhe, the secretary of the mayor of Aral (see figure 0.6), explained, “If we register these decisions there [in Talas], they become official. If they are registered ‘according to law’ [Russ./Kyrg. *zakon boiuncha*], they become legal decisions. But somehow we never get around to registering them on time. The reg-

istration needs to be done within twenty days after the decision is made here. We know this, but we never register on time [laughing]. So, God willing [*Kudai buiursa*], we will register next year.” As is often the case, no reference to *salt* was made in this statement, but it was clear that Kalipa Ezhe was hinting at the fact that villagers had their own way of handling their problems. They did not consider it helpful to “officialize” their issues by transferring them to Talas.

In 2014, however, the practice changed, with the list of fines for the year being published in the regional newspaper *Manas Ordo*, just as any other official document or decision passed on the village level. Doing so turned these customary decisions into *toktoms*—legal acts.¹⁰ When I asked Kalipa Ezhe why the mayor’s office (*aiyl ökmötü*) was now making official the fines for trespassing, destruction of planted crops, lost or killed animals, and theft of irrigation water, she first gave an ideal-typical answer at first: “We have to make it official because many disputes are being dealt with in the aksakal court. And from the aksakal court they would go to the regional court. If a case reached the regional court and the list was not official, the decision that we make here [in the aksakal court] would not have any power.” But when I later asked her, Kudaibergen Ata, and the secretary of the aksakal court if there had been actual cases that had been transferred from the aksakal court to the regional court, the three could only think of one in the period from 2010 to 2015. A claimant had wanted higher compensation from a fellow villager whose animals had destroyed his hay. The state court, according to the villagers, had backed the decision made in the aksakal court, and villagers had scolded the person for taking things “outside.” Kalipa Ezhe then departed from her formalistic description and gave me her opinion on how things are getting done in the village:

In general, people do not go to the state court. We do it according to village law [*aiyldyk myizam*]. For example, in another case the aksakal court made a decision to fine a person 17,000 som.¹¹ But that’s just what it said on the paper. The person said he could not afford that much money and paid as much as he could afford. The case was concluded and everyone was thankful. The custom, which people have agreed upon among themselves, will not change [*ich-ara kelishken salty kalbait*].

This new practice of publishing village decisions in the form of *toktoms* and in the name of the local village council could be interpreted as an attempt by the state to reinstitutionalize village customary law



FIGURE 0.6. Kalipa Ezhe, working in the Aral mayor's office (2008).

at the state level. In this case, state law has incorporated customary law in order to make it more tractable to state courts and, conversely, to allow villagers who might find themselves deprived of their rights in the village aksakal court to bring their cases to the state courts. But we have also heard that according to Kalipa Ezhe, who is in charge of publishing village decisions, this possibility is generally not realized. I therefore interpret this recent development as an administrative measure that, like so many others in Kyrgyzstan, is followed in principle but not in practice. In 2015, I spent a day on the pasturelands (*zhailoo*) with village herders from Aral who told me that they still do not report problems that happen on the zhailoo to the police. Kudaibergen Ata, however, already knew about them: “There are two cases we have to deal with in the aksakal court,” he explained to me in Aral, “but we will wait until autumn when the men are back from the zhailoo.” Families who send their animals to the pastures usually do not even report the actual numbers of animals they own to the authorities in order to evade higher taxation. Finally, informal agreements exist that also alter the village rules. For example, herders are supposed to be paid in money, but they often agree to forego wages in favor of being allowed to keep and sell the mares’ milk and other milk products to the many drivers who pass by the zhailoo on their way to or from Bishkek. Thus, even when *salt* becomes part of state law, villagers do not seize the opportunity to pursue it outside their village institutions. Within the village, there remains a great deal of flexibility in terms of when problems are dealt with and the possibilities to reinterpret existing rules.

THE PRESIDENT’S FATWA

I visited Nasir Baike, the village imam, at his home in August 2015. We were discussing the most recent changes in terms of his work as the head of his mosque congregation, and he explained that the highest religious institution in Kyrgyzstan, the Muslim Spiritual Board (*muftiyat*), had started paying him and the other three village imams a monthly salary for their services.¹² That led into a discussion of the role of the state in religious affairs in contemporary Kyrgyzstan, and he got up and handed me a document from one of his kitchen drawers. “This is our President’s fatwa,” he said. “It tells you all about how religion should be.”

A fatwa is an authoritative legal opinion of an Islamic expert. It derives its authority from the authority of the person issuing it. What

Nasir Baike gave me was the nineteenth (and final) article of a declaration issued by Kyrgyzstan's Council of Defense, an institution headed by President Almaz Atambaev.¹³ This article concerns the reorganization of religious institutions from the muftiyat down to every village mosque. It concerns the procedure of regular reporting to the mufti, attestations for religious leaders under the auspices of state bodies, the appointment of imams only after "appropriate checks" from law enforcement authorities, and preventive measures to be taken by religious authorities and the village administration against "religious extremism and religious conflict" in cooperation with the government of Kyrgyzstan.

This caught my attention for several reasons. To call what was in fact part of an official governmental declaration a fatwa implies that the country's president is a religious as well as a political authority. Almaz Atambaev is the first of Kyrgyzstan's presidents who not only openly talks about his Muslim beliefs but also prays in public and appeals to both custom and Islam in his speeches. This was only the most recent decree in a line of legal documents concerning the state's attitude toward religion. On January 20, 2014, only two weeks before the "fatwa" had been issued, the Talas regional administration had sent an administrative ruling (*bairuk*) to my fieldsite, drawing on presidential decrees of March 2012 and December 2013.¹⁴ In this decree of January 2014, the village administration of Aral was instructed to form a coordinative council in each *aiyl ökmötü* in order to provide religious security, maintenance of harmony (*ynty-mak*), and freedom of religious belief. They were also expected to work out punishment procedures and to improve "tolerance of religion" (*sabyrduuluktu chыngdoo*). These quite nebulous instructions had still not been implemented by the summer of 2015, when Kalipa Ezhe gave me copies of the earlier decrees. Regardless of its limited enforcement at the village level, the document indicates not only the state's interest in religion but also its approach to "containing" it by establishing a system of checks and balances. Village imams are now not only subordinate to higher religious institutions such as the *kazyiat*¹⁵ in each province and the muftiyat in Bishkek but also required to report monthly on their religious activities and subject to exams in which state authorities play a key role. From the perspective of the believers, however, the state's engagement with religion does not seem to create a problem per se. Kudaibergen Ata, for example, found a creative way to relate shariat and state law to each other: "Shariat is the law for those who keep the religion. The constitution

is the law of the state. It is written in shariat, in different *hadith*, to obey the *amir*. That means to obey the king. It means to keep and maintain the constitution [Russ. *Konstitutsiia*]. You have to keep the constitution written by the state. As we are not an Islamic state, we have to obey the constitution. I mostly obey shariat, but I also have to obey state law.” The imam also had no problem with the recent changes. He simply reframed his work in terms analogous to those of a person who works in the mayor’s office and who also gets paid a regular salary every month.

Looking at the “President’s fatwa” of February 2014 in its entirety, we can see that in the full nineteen articles, the Kyrgyzstani state paints a rather bleak picture of the state of religion in its country. The document starts out referencing domestic “terrorist attacks” in 1999–2000, as well as “attempts of certain circles to use Islam for their political interests.” It also mentions “Islamic funds providing financial support to promote the ideology of fundamentalism and extremism,” and warns that “insufficient attention to the religious situation in the country will lead to conflicts, inter-religious clashes and the threat of a split state, as has taken place in several other countries.” Moreover, it argues that the present state policy toward religion “does not fully meet the modern challenges of national and regional security, and the needs of a modern, democratic, and secular society.” Its authors also observe “the weakening of traditional Islam” and that “the contradictions in the Muslim community lead to a loosening of the traditional Hanafi Sunni Islam.” In order to tackle these issues, a “fundamental revision of the principles and methods of the interaction between state and religion” have been put in place, realized through “making changes and amendments to the relevant legislation.” The document then lists nineteen different topics, several of which contain up to eight further subpoints, and it does so in the name of “the defense of national culture and national identity” (*uluttuk madaniyaty zhana birdeilikti*). In the final two sentences, we find the following stipulation: “it is proposed . . . to appoint only those imams and *kazis* who know and follow the Hanafi school which is customary [*salttuu*] for Kyrgyz Muslims, and to not allow the establishment of foreign behavior, dress, and appearance.”

What President Atambaev is promoting is thus a customary version of shariat, one that combines the “right kind” of Islam with the “right kind” of custom. This version of shariat not only is compatible with state law but is also in line with “national culture and national identity.” And while Atambaev tries to set an example through his

own personal behavior, he also issues decrees to realize this conjunction by means of state law.

CUSTOMARY SHARIAT

Talking to the village imam as well as to other villagers from both of my fieldsites about what these new legal documents mean for the relationship between Islam and *salt*, I encountered a neologism that I had not heard during earlier stages of my fieldwork: *salttu shariat* (customary Islamic law). Nasir Baike, the village imam of Aral, was the first person to mention it to me in 2015:

Now there is such a thing called *salttuu shariat*. Atambaev, the president, accepted it. Our Prophet also said to practice and use *salt*, which would not harm or violate shariat. For example, men wearing hats, or women wearing long dresses. Starting from the face to the foot, females have to cover all these parts. We had this in our *salt*, too. A long time ago, our ancestors also used to wear long coats [*chapan*] and women had scarves on their heads. It goes well with shariat [*shariatka tuura kelet*]. They also practiced this. Now people have started to wear short clothing, so we go and explain to them that a long time ago we had this other kind of clothing and now we will have it again.

In this statement, similar versions of which I also heard from other villagers in both villages, the “proper” dress code of Kyrgyz people is positioned against those who “wear short clothing.”¹⁶ At the same time, however, the imam also distanced himself from those who have recently come “close to religion” (*dinge zhakin*), meaning young men with long beards and women who had begun to wear the hijab instead of knotting their scarves behind their heads. He was thereby demonstrating his agreement with the “President’s fatwa.” Baiyz Apa, however, described the recent appearance of the hijab among women in her village (and in her family) as being in accordance with both *salt* and shariat: “During our times, we also had covering clothing when my mother was still alive. It is our *salt*. It is also correct in shariat.” We can understand this neologism of “customary shariat” as the customization of shariat or as the Islamization of *salt*, depending on the context and the person asked. In the case of Baiyz Apa, it can be both at the same time. Going back to classical scholarship on Islamic law, we learn that “custom and customary law have coexisted with the ideal theory of Islamic law, while remaining outside its system, in the whole of the Islamic world. As a point of historical fact,

custom contributed a great deal to the formation of Islamic law, but the classical theory of Islamic law was concerned not with its historical development but with the systematic foundation of law, and the consensus of the scholars denied conscious recognition to custom” (Schacht [1964] 1982, 63).

Despite previous and novel entanglements, people in contemporary Kyrgyzstan continue to exclaim that *salt* “wins” over shariat (*salt zhenget*), even if some say that it should be otherwise. “We are not letting go of *salt*” (*salty ketibeı atyrbyz biz*) is another common expression, as is “*salt* is changing with the times” (*zamanga zharasha salt özgörüp kelat*). While *salt* is thus watched over so that it remains “ours,” the maintenance of clearly separate legal repertoires is difficult. All three *salt*, shariat, and state law overlap; which is considered dominant or more legible in a given context depends on the situation and the actors involved. This kind of entwining of legal repertoires is best understood by looking at how these repertoires evolved historically. Many of the current debates go back to developments that occurred over the last three centuries, when it became advantageous to imperial and Soviet politics to postulate the separate existence of *salt*, shariat, and state law.