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Fragrant Gardens and Converging Waters:  
Ottoman Governance in Seventeenth-Century Damascus

By  
Malissa Anne Taylor

A dissertation submitted in partial satisfaction  
of the requirements for the degree of  
Doctor of Philosophy  
in  
History  
in the  
Graduate Division  
of the  
University of California, Berkeley

Committee in charge:

Professor Beshara Doumani, Chair  
Professor Leslie Peirce  
Professor Carla Hesse  
Professor Saba Mahmood



## Abstract

### Fragrant Gardens and Converging Waters: Ottoman Governance in Seventeenth-Century Damascus

By

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Doctor of Philosophy in History

University of California, Berkeley

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This dissertation investigates the governance of seventeenth-century Damascus by examining claims upon the productive capacity of land, and the collection and redistribution of agricultural taxes. The early modern Ottoman Empire—of which Damascus was a province—was a large agrarian empire wherein the interests of numerous groups and individuals converged around the land and its produce. In light of its centrality to both the subjects and the state, the management of land as a resource has much to tell us about what governance was expected to be in this period, at a time before religious, economic, political or social authority had been disembedded from one another. In this, Damascus is not much different from any other provincial town lying within the early modern empires of Asia and Europe; the issues raised here are not pertinent to the history of the Middle East alone but are relevant to other early modern states.

The inquiry into what the state governs and how it does so starts with the observation that Ottoman political literature conceives of a unified political body wherein different groups of people play different roles in allowing the state to function. Through the lens of tax assessment and collection, the first chapter examines the role within the Ottoman state body that is played by the peasant cultivators in the villages surrounding Damascus. The first half of the chapter explores how the prerogatives comparable to other fiscal military states shaped Ottoman taxation policy in the seventeenth century. The importance of obtaining cash led not only to the imposition of new taxes and updated tax registers at the Istanbul finance bureau, but to a new responsibility of the villagers for tax collection. The chapter argues that where compliance with taxation was concerned, the most important governing authority in the village was the villagers themselves. Examining the interactions between villagers, judges, muftis and tax farmers, the chapter examines how individuals and groups that are not state agents strictly speaking, become authorized to exercise state power. The chapter concludes that peasant cultivators do not merely maintain a relationship

with the Ottoman government, rather, in some sense they are the government and form an integral part of its machinery.

The question of how the governing authority of the state intersects with the authority of Islamic law has long been a question in the historiography of the Ottoman Empire and Islamic societies in general. However, the question of shifts in the configuration of religious and temporal authority in the seventeenth century is not an issue whose importance is confined to the history of the Islamic regions of the world. Rather, the question of expanding state power and the proper role of 'religion' in the body politic is a widespread concern of the early modern period. With this question in mind, the second and third chapters explore the changing legal powers of the sultan and his agents to control productive land and peasant labor. Chapter two notes a change in the meaning and scope of sultan's authority to legislate peasant access to the land in the seventeenth century. This expansion in the sultan's legislative role is absorbed into the jurisprudence of the empire's jurist-scholars, and creating a specifically 'Ottoman' practice of Islamic scholarship. Starting in the sixteenth century, the sultan's enacted laws—known as 'qanun'—regulate with far greater detail the rights and obligations of peasants and soldier-tax collectors. What emerges is a right of usufruct for the peasantry that is controlled by the dynasty's statutes rather than the interests of local military administrators or local custom. The fact that this concept of the usufruct right eventually comes to prevail in Damascene villages suggests that usufruct was an increasingly standardized right across the empire's rural communities. This is despite the fact that the Damascenes had their own local and juridical traditions that ran counter to the concept of usufruct being promulgated by the sultan. What we find in juristic discussion of usufruct is a very slowly changing idea of the boundaries of imperial authority and its legal consequences.

While the second chapter demonstrates a growing consensus that the sultan had wider authority to legislate in matters pertaining to the lands of the state treasury, the legality of some land tenure practices sanctioned by the sultan remained controversial. The third chapter examines the limits of state power to pursue its need to fill the coffers, and how it was expected to treat the village taxpayers. There was no debate among Ottoman subjects that a solvent treasury was a necessity. Without exception, we find that keeping fertile land productive and distributing the revenues in appropriate ways are shared priorities. The common reference point defining the limits of the sultan's authority over production and taxation was the shari'ah, yet there was great disagreement on what the shari'ah enjoined, and in some sense, what the shari'ah was. When it came to what means of extraction the shari'ah permitted or the extent to which the state could coerce the villagers to produce, disagreement was rampant. It was not always the ulema (religious scholars) that opposed state actions on the grounds that such actions violated the shari'ah—as this chapter shows, the views of the ulema were sometimes more cooperative with the dynasty's decisions than those held by its temporal administrators. Both chapters address the question of the shifting configuration of state and religious authority in the early modern

world, and examine its consequences on the lives and livelihoods of Damascene cultivators.

The fourth and fifth chapters investigate two groups in Damascus who were frequent beneficiaries of the revenues produced in the villages, the ulema and the soldiers based in the city. The right of these groups to receive the tax moneys of the peasant cultivators was premised on the services that each provided for the political body as a whole. There did not appear to be much dispute about the nature of the services that each was to perform, but differences did spring up when the question arose of how or whether such services had been performed in specific instances. The chapter maintains that it is these conflicting interpretations of service, status, privilege and vocational responsibility that most clearly reveal how the provincial elites did or did not take part in the exercise of Ottoman authority in Damascus. The ulema earned their access to the revenue sources through their scholarship and teaching and the general duty of providing moral guidance to other Muslims. Part of this duty was to denounce oppression, and to protect the strong from abusing the weak. An argument arose among the ulema of how much honor or revenue one could seek from the state without compromising oneself in the process. Could one covet the sultan's largess and still be adequately critical if he or his agents overstepped their authority? Other ulema found that the dignity of their profession was an asset when their management of cultivators and taxes was called into question. They deflected the accusations of greed and fraud by invoking their dedication to pious works and scholarship. In all cases, the self conception of the ulema as a group with a particular function in the political body was critical to the way they responded to opportunities for gaining wealth and power.

For the soldiers stationed in Damascus as well as the great military families of the countryside, access to rural revenues was contingent upon obedient military service. Increasingly, the entirety of the fiscal and military resources of the province of Damascus was oriented towards financing the pilgrimage to Mecca. The need for effective, reliable and obedient military leadership of the pilgrimage began to assume a higher priority for the Ottoman government. From 1660 to 1690, the Damascene janissaries dominated the office of pilgrimage leader, as they had a number of qualities to recommend them for the position: not only did they know the routes from accompanying the caravan, but their capacity to create trouble as well as their expectation of reward was modest in comparison with the great military families of the countryside. Through investigation of their economic activities, it is clear that the question of which soldiers were considered 'local' to Damascus had more to do with their involvement in the city's commerce rather than their origins or ethnicity. In turn, when the dynasty finally moved to destroy their leadership and punish them for insubordination, the question of how their 'local' sympathies had affronted imperial prerogatives played out differently than might be imagined. While the issue of what constituted obedience might be read differently in Damascus than

in Istanbul, it was clear that the Damascenes shared the belief that military men, even local military men, must be obedient to the sultan.

This dissertation argues that Damascenes from all backgrounds play an important role in Ottoman governance of the province, and one that is comparable to that of other early modern subjects. It shows people trying to locate their place within the political body as a whole, while the limits of their duties and powers associated with different groups underwent great flux and were vigorously debated. It is this uneasy integration of these various groups into the body of state which best demonstrates the relations between the subjects and the state in the early modern Middle East.

*To my husband, Andrew  
and  
my sister, Becky*



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## Note on Transliteration

The guiding principal of my transliteration has been simplicity rather than precision or consistency. In particular, I have avoided the off-putting and inelegant usage of diacritics. For that reason, I have followed the transliteration system of the Library of Congress, which omits any distinction in the Romanization of the velarized and non-velarized consonants. Additionally, the markings for ‘ayn and hamza have been eliminated altogether. The idea behind this method is that specialists will be familiar with these words and terms with or without the diacritics, while non-specialists will not recognize them in any case. In general, Arabic pronunciation guidelines have been followed rather than Turkish. However, for some words the modern Turkish spelling is the most commonly used in English language secondary literature (e.g. *avariz*), and in such cases, modern Turkish orthography has been adopted. Words that have a commonly accepted spelling in English, such as Pasha, have also been adopted. Again for the sake of simplicity, Turkish proper names have retained their modern Turkish spellings.

## List of Abbreviations

For Documents in the collection of the Başbakanlık Osmanlı Arşivleri, Istanbul, Turkey

TT      Tapu Tahrir Defterleri  
KK      Kemal Kepeci  
MAD    Maliye'den Müdevver  
A.DFE   Defterhane-i Amire Kalemi

For Documents from the collection of the Dar al-Wathaiq al-Tarikhiyah in Damascus, Syria

DSC    Damascus Shariah Court Registers

## Introduction

Historians are keenly aware that the status of land and access to its revenues is central to the organization of polities and human societies, especially prior to the industrial revolution. As anthropologist Birgit Schaebler observed in her fieldwork in the villages of Jordan, “in preindustrial agricultural societies in general, land is more than a mere means of production. Every aspect of land tenure is intricately connected with the sociopolitical life of the community. Most conflicts seem to arise over access to land or rather the abuse of perceived rights to the land.”<sup>1</sup> In a large agrarian polity such as the early modern Ottoman Empire, land, the wealth that it produced, and the division and distribution of that wealth, provide an ideal vantage point for understanding how individuals, communities and the polity fit together.

Despite a flourishing trade in textiles and other manufactured products both domestically and abroad, for most of the early modern period, the Ottoman political class looked to the countryside when they considered how to raise revenues. Indeed much of our knowledge of Ottoman transitions to the modern have come from studies of changes to the land tenure system and in patterns of landholding. The evolution of private property, the expansion of commercial production, and the rise of a fiscal military state have all been traced to such changes; this literature will be reviewed in greater detail below. Thirty years ago, it was commonplace for historians to assert that very little change had occurred in the Middle East in the seventeenth or eighteenth centuries. Or, to the extent that anything had changed, there was little progress towards capitalist relations of production, rational bureaucracy, or any of the other benchmarks by which modernity is measured. Today, very few historians would agree with such a statement, and most of them view this period as crucial to explaining the Middle East’s path to modernity. In accordance with this consensus, this dissertation describes developments that are broadly comparable to the kinds of changes happening in other early modern states. Such changes can be plotted into familiar modernization narratives charting the rise of more efficient and uniform state administration, and the development of private property in land.

However, the modernizing thrust of these changes is but one focus of this dissertation. Additionally, the dissertation asks the question of who or what governed the access to land and the distribution of its revenues, and what the answer to this question tells us about governance in the early modern period, specifically in the latter part of the seventeenth century. Put another way, the dissertation investigates how relations of governance were part of this process of change in the early modern period, despite the fact that they are often harder to

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<sup>1</sup> Birgit Schaebler, “Practicing *Musha’*: Common Lands and the Common Good in Southern Syria under the Ottomans and the French,” in Roger Owen ed. *New Perspectives on Property and Land in the Middle East* (Cambridge, Mass.: Harvard University Press, 2000), 242

put in a familiar narrative of emerging modernity. The choice of the late seventeenth century was influenced in part by the lack of studies on these years combined with the enormous amount of documentation existing for that period. While the historiography of the Middle East has increasingly focused on the dynamism of the eighteenth century and its position as a springboard for the more visible transformations of the nineteenth century, the seventeenth century, particularly the latter half, is understudied. The setting for this investigation is the province of Damascus. Damascus and its hinterland are an ideal location for this analysis because it typifies the kinds of large transformative processes of these years: the increased use of money, the reduction of the cavalry and the benefice system that sustained it, the rise of a “local” dynasty of governors, were all changes underway across the Ottoman Empire in the late seventeenth and early eighteenth centuries. The unfolding of these trends over the long term are an important part of establishing how this period fits into the narrative of a modernizing empire. The most important factor, however, is that the historiography of Damascus in the seventeenth and eighteenth centuries characterizes Ottoman governance in ways that are widely seen as typical of the early modern Ottoman Empire; this dissertation will explore and suggest amending or refining several of these widely accepted characterizations.

Three particular features often identified as central aspects of early modern governance in the Ottoman Empire will receive particular scrutiny in this dissertation. While the historiography of each of these features will be explored at greater length below, they will be briefly introduced here. The first such feature is the belief that an opposition between center and periphery, the province of Damascus and the imperial apparatus of Istanbul, plays a central role in governing relations. This dynamic is sometimes confrontational and at others accommodating, but is usually presented as a binary opposition based on conflicting priorities. The second feature is a tension between Islamic practice and the *ulama* on the one hand, and imperial practice and state bureaucrats on the other. In the case of Damascus, this second source of opposition was not entirely distinct from the first; as we will discuss further, many authors believe that the *ulama* of Damascus and the practice of Islam in Damascus was particularly adamant in opposing the state. More broadly within the field, this opposition of state and religion has led to the conclusion that Islam had an increasingly stunting effect on the Ottoman state’s development, that although contested, is still proclaimed even by young scholars in the field. The third common feature is that individuals, both elites and non-elites such as peasant cultivators, behave in ways that are not only pragmatic, but in which they take action that displays their capacity for agency. Everyone is aware of his or her proper interests, and these are protected through rational strategies deployed for that purpose. Each of these three features are discussed at length in the historiography section.

My examination of governance focuses on who makes decisions about land resources, on what basis decisions are made, and how these decisions are

enacted. It poses the question, what is relevant and what is irrelevant to how governance over land and its wealth is practiced? Examining how such decisions are made, this dissertation will argue that governance over resources or people is less characterized by binary opposition than we frequently have imagined. That is to say, we see far less of either the 'province versus the center' or 'religion versus the state' than we might expect. While each of these oppositional dynamics has a place, they have been overemphasized, and have largely obscured another very important dynamic that is crucial to understanding how peoples diverse in wealth, language, race and creed managed to live together and interact with one another. Equally important to the oppositions that drove early modern people apart were the various obligations to one another that knitted them together. These obligation might tie the people of the province to the sultan in Istanbul, but more frequently, they tied one group of Damascenes to another.

When conflict arose, the nature of the relationship and ties of obligation between the conflicting parties played a crucial role in the resolution of the conflict. Many conflicts were not between equal yet opposing parties, they were between representatives of a community and a member of the community, and hence were dialogues about the obligations that bound the individual to the community. What mediated such conflicts was the concept of the community and how it fit together. Resolutions were crafted not according to what was acceptable to the conflicting parties, but within a framework of what fit with the prevailing concept of community and individual obligation to it. Disputes over land repeatedly demonstrate that it is interpretations of service, status, privilege and vocational responsibility that most clearly reveal how Ottoman governance worked and how Damascenes were a part of it. Especially with regard to their views of the Ottoman dynasty and its demands upon them, Damascenes rarely showed hostility so much as a determination to obey or cooperate in the ways deemed appropriate for persons of their station in life. It was this sense of having a station, a place within the body politic, that determined not only what kind of governance was exercised upon Damascenes but also what kind of governance they were in turn authorized to exercise over others.

The bulk of this dissertation is concentrated upon exploring how conflicts over the land or access to its revenues reveals something about how seventeenth-century Damascenes identified themselves and their interests, and their relationships with one another. Allegiances and the sense of belonging to various different groups or communities was an important part of these relations, as membership within these groups determined a great deal about who had governing authority over what. It seldom seems appropriate to speak of conflicts between state and society or the Ottoman state and the people of Damascus in the seventeenth century. While this imagery occasionally appears in sources from that period, it is the exception rather than the norm. In terms of quotidian transactions, Damascenes generally looked to smaller and more immediate communities to identify their place with regard to those around them. While past



literature has frequently seen this tendency as evidence of the inability of Oriental societies to form a cohesive society and become a nation, it is quite clear now that such formations were typical everywhere in the early modern world, even as forces were appearing that would eventually lead to a greater social homogenization.

One reason that the early modern paradigm seems to work for the Ottoman Empire in the period under study is that the integration of state institutions in Europe and the scope of state power looks very similar. In the European early modern state, the relationship between governing powers and state power is not always so straightforward. There seem to be many bodies or individuals that govern and their relationship with the state, or how they are situated with regards to it, is sometimes unclear or ambiguous. We think of the medieval world as one of balkanized powers and complex jurisdictions, lacking a central authority that tied them altogether and gave coherence to them. The early modern period was one where more integrated political formations emerged, yet were still a far cry from resembling Foucault's panoptic juggernaut. Alexis de Tocqueville's explanation of the Ancien Regime in France was one of the first works to capture the messy layers of political power that characterized the old regime. France before the revolution had instituted most of the new policies and institutions that were to prevail after the revolution, but it was still a labyrinth of complexities wherein it could be difficult to know which court or body had jurisdiction over a conflict, or which privileges a subject might hold that could affect his responsibilities to the crown, or to a municipality or to the church and so on. What was revolutionary about the revolution was not that it cleared a new path for France so much as it moved to eliminate bureaucratic and jurisdictional overlap and sought to create rational efficiencies that aligned governing bodies in such a way that their powers were clear, direct, and not replicated.

If we look at the Ottomans, we see much that resembles France prior to the revolution. Compared to the dynastic entities that preceded it, the Ottoman Empire was a bureaucratically bulkier, better organized entity that managed its income and military to far greater effect than was previously the norm. Yet it was only efficient by previous standards. It was full of potentially conflicting jurisdictions between various authoritative persons or bodies. It replicated services. It not only countenanced but perpetuated exceptions, exemptions, and privileges that made its bureaucratic work more difficult. To examine state powers in this period is to be struck by their variations and unevenness as compared to what currently prevails. Leslie Peirce, among others, has been struck by the imagery of multiplicity employed by Sultan Suleyman I in his correspondence with Francis I of France: "I, sultan of sultans, leader of the lords, crown of the sovereigns of the earth, the shadow of God in the two worlds, sultan and padishah of the Mediterranean, Black Sea, Rumelia, Anatolia, Karaman, Dulkadir, Diyarbekir, Azerbaijan, Iran, Syria, Egypt, Mecca, Medina and all the

Arab lands.”<sup>2</sup> Here was a diversity not only of places but of titles and concepts of rule. United together by one ruler, these diverse references were not subsumed but rather preserved in their distinctness and strung together like jewels on a crown made more magnificent because of its rich display. There is not one concept of sovereignty here but many, and what ties them together is rather light: they are joined in the person of Suleyman.

In chapter three, I will dwell at length upon the image of the body politic that was a part of Ottoman political writing. But the image of that body is relevant to the thesis as a whole. Ottoman men of letters depicted the state as a body that made a unity of many parts, with the sultan, as head, taking care to see that that each part performed its task in harmony with the others and grew neither too weak nor too strong. I would like to focus on the fact that the Ottoman image of the body politic has many parts, all with different functions. Each body part or humor has its own chores and to some extent is governed by its own logic, the state merely coordinates these activities to the extent necessary to see that the entirety can function properly. This political body unites everyone, and each member is dependent on the others; however the members play different parts and each in fact depends on the other to play these different parts in order for the whole to live. The body politic, in other words, is united, but its members are not uniform in their relations with the state or one another. The state watches to see that the organs and the humors perform their functions, and intervenes if they do not, yet does not otherwise coordinate their activities, which they themselves undertook. Ideally they worked together in harmony but the image itself acknowledged that there was a potential for them to work at cross purposes, resulting in sickness. This image says much about how connectedness among diverse groups within the Ottoman polity was conceptualized, and how the maintenance of all was dependent upon the welfare of each.

One way that this dissertation is able to highlight the commonly accepted features of governance is by bringing together an unusually diverse set of sources. These sources are written in two different languages and were produced in primarily two locations, Damascus and Istanbul. Some sources were produced by the vast bureaucratic apparatus of the capital. Chapters one and two frequently refer to the land regulations issued by the sultan, and organized by his bureaucrats, commonly called *qanun*. Some of the bureaucrats, trained in the judicial and scholarly traditions of Islam, issued *fatwas*, or non-binding juridical opinions, as part of their duties, and these opinions have also been consulted. Some bureaucrats also wrote histories or political tracts, which will be discussed in chapter three principally. Orders that the sultan sent to the provinces in response to particular circumstances there, called *muhimme*, appear in chapter five. Chapters three, four and five draw upon a number of documents created by the imperial finance bureau. Most of these are registers recording the income from tax farms and the complaints and requests forwarded to the finance bureau

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<sup>2</sup> Leslie Peirce, *Morality Tales: law and gender in the Ottoman court of Aintab* (Berkeley, CA: University of California Press, 2003), 41

by villagers and tax farmers. Other documents were composed by Ottoman bureaucrats, but not in the city of Istanbul. The records of the shar'iah court of Damascus, with the Ottoman judge at its head, are heavily utilized in chapters one and four. The fatwas and other scholastic writings of the Islamic scholars of Damascus, the *ulama*, form a major portion of the sources for chapters one, two, three and four. The biographical literature composed by these same *ulama* were extremely useful in a number of chapters, though they play a particular part in chapters four and five, as do the chronicles of the seventeenth and eighteenth centuries. The point of consulting this diverse assortment is to demonstrate that even when we consider the separate places, different languages and disparate purposes incorporated in such sources, we can identify common themes and concerns. Despite their differences, these sources quite literally use the same vocabulary, and provide a good sense of what is contestable and what is not, and on what basis.

Peasants, cultivators, and villagers were known as the reaya; they were the ruled, or the governed par excellence. This was not the only role they played however. The peasants were not only those who were governed by a number of other people, but who also dwelt in groups that constituted something of a governing body in their own right, and increasingly exhibited aspects of status that belonged to other, more privileged groups. The first two chapters of this dissertation deal with an evolution in the status of the peasantry in the seventeenth century that changed their relationships with the imperial state and with other groups in the Ottoman domains. The first chapter, after relaying the general circumstances of the Ottoman Empire and the city of Damascus in the seventeenth century, deals with a character that starts to appear in many Ottoman texts in the seventeenth century as a prominent actor in rural affairs: the so-called 'people of the village.' Who were the people of the village and what were they empowered to do? Through these questions, the chapter traces how the military-fiscal transformation changed the relationship between the village cultivators and those empowered to collect their taxes. Examining the role of the people of the village in assigning tax liability and interacting with state officials in Damascus, the chapter explores the authority wielded by the people of the village, its limits and its relationship to the imperial state.

The chapter does not present the people of the village as a body that represents the autonomously determined interests of the peasantry. The people of the village do not take it upon themselves to organize and self-consciously go about effecting a transformation upon Ottoman society. Something was transformed, but no one person or group can claim authorship of it, including the people of the village. What is significant is that carrying out their duties gave them new and unexpected powers in relationship to others. Examining the interactions between villagers, judges, muftis and tax farmers, the chapter examines how individuals and groups that are not state agents strictly speaking, become authorized to exercise state power. The chapter argues that where compliance with taxation was concerned, the most important governing authority

in the village was the villagers themselves. This collective authority of the villagers captures the emergence of the village as an increasingly organized corporate entity with defined legal rights and obligations. This development, the increasingly defined corporate identity of the village and its responsibility for its members in addition to its increasing authority over its resources, is a development that would be recognizable in many early modern polities. These powers and responsibilities are demonstrated through internal struggles over how much tax each villager should pay, and the villagers' difficulties in compelling the large landowners in their midst to pay their share of village taxes.

The internal conflicts of the villagers not only illustrate the power of the villagers to represent themselves and discipline their own, but also demonstrates something more about the nature of conflict and governance. For one thing, the opposition between center and province had no discernable part in these proceedings, for the village itself had taken on the center's "extractive" task of collecting taxes. The primary responsibility of the village was to allocate its tax burden fairly among the residents, and the quarrels that erupted around the partition of the taxes showed how it was determined what each individual owed. The result was that this conversation was not about what the village owed to the empires, but about what the villagers each owed, relative to one another, for the village. Another part of what I wish to demonstrate in this chapter is that there are many aspects of governance which are not contested primarily because they fly under the radar screen. This is particularly clear in the nature of the conflicts that arise as well as in those that fail to arise: there are things that occur to people to contest, and other things that do not. Highlighting the corporate nature of social organization in the Ottoman domains, the chapter investigates the responsibilities of each person towards the village taxes. It asks what kind of governing authority is the "people of the village" and what role it plays in maintaining a balance between individual and common welfare within the village.

Chapters two and three examine the law that governs access to the land and its revenues, and what this law tells us about the relationship between religion and the state. Much of the literature presumes that these are rival powers, and there has been a longstanding argument that Islam stunted or deformed the development of the state in latter part of the early modern period. As with the opposition of center and periphery, this dissertation maintains that the opposition of state authority and religious authority has been overstated, and that while there was not complete harmony between the two, they affirmed one another more than they undermined one another. The second chapter explores the meaning of the concept of *qanun* in the context of the seventeenth century. It charts how this term, once pertaining to the privileges of the elite military class, becomes increasingly concerned with governance of the *reaya*. This marks an expansion in the sultan's authority, one that is analogous to early modern monarchs in other regions of the globe who sought, not always successfully, to expand the scope of their legal power. The particular constellation of early modern legality, with its limitations on legislative power in all directions is noted.

The chapter also focuses on the ways in which the Ottoman claim of having successfully harmonized qanun with shari'ah opened new legislative possibilities for the sultan, and the unprecedented nature of the way that Islamic and imperial institutions were enmeshed in the Ottoman Empire. It is often asked to what extent Islam played a role in shaping the Ottoman state, though it is less frequently asked how normative Islamic thought or practice changed in tandem with Ottoman state practices. This chapter will argue that the impact of Ottoman institutional and legislative practices had immense importance for the normative practices of Hanafi Islam in the early modern period, particularly for the practice of giving juris-consultative opinions, or *ifta*.

The focal point for this investigation is the emergence of a right of usufruct for the peasantry that is controlled by the dynasty's statutes rather than the interests of local military administrators or local custom, or even the learned traditions of the Hanafi rite. The fact that this concept of the usufruct right eventually comes to prevail in Damascene villages suggests that usufruct was an increasingly standardized right across the empire's rural communities. This is despite the fact that the Damascenes had their own local and juridical traditions that ran counter to the concept of usufruct being promulgated by the sultan. What we find in juristic discussion of usufruct is a very slowly changing idea of the boundaries of imperial authority and its legal consequences. Also discernible is the increasing influence of the imperial *ulama* upon the *ulama* of Damascus, and the 'mainstreaming' of imperial norms in Hanafi jurisprudence. Contrary to the frequently quoted view that the Damascene *ulama* were hostile to the qanun and that they resisted all imperial legal interventions, the Damascenes showed little to no resistance to these new trends in jurisprudence.

Again, this narrative will be a familiar one to many students of early modern history. However, both chapter two and chapter three engage with a historiographical conundrum that is specific to the Ottoman Empire, namely the relationship between Islamic and state authority. Frequently, historians try to untangle these two and to understand what was the proper domain of each, but in fact that instinct runs counter to that of the Ottoman ruling class, whose agenda was to enmesh and unite these two in ways that could not be pulled apart. Many historians are hesitant to ascribe much of a role to Islam in why Ottoman officials or subjects behaved the way they did. As noted above, most recent characterizations of both the people and the ruling institutions of the Ottoman Empire emphasize their rationality and pragmatism. This positive characterization is then contrasted with a dogmatic, ideologically rigid or religious outlook, which is not, according to historians, an accurate way to describe the Ottomans. My own view is that Islam in fact plays a very important role in the early modern Ottoman Empire, as religion does in every part of the early modern world. Religion informed the way that people understood the world, shaped their sense of their place in that world and shaped a number of their decisions and choices on a daily basis. But this did not always happen the way that we might expect. It is therefore imperative to examine how the Ottomans understood

Islam, its requirements and the ways that it shaped their lives rather than to take a reified concept of Islam, examine how much Ottoman behavior conforms to it, and from there draw a conclusion about to what extent the Ottoman Empire was Islamic.

Chapter three examines what it means to adhere to the shari'ah, and how debate over the shari'ah's meaning defined the capabilities and limitations of state power to pursue filling the coffers, and to coerce rural taxpayers. There was no debate among Ottoman subjects that a solvent treasury was a necessity. Without exception, we find that keeping fertile land productive and distributing the revenues in appropriate ways are shared priorities. The common reference point defining the limits of the sultan's authority over production and taxation was the shari'ah, yet there was great disagreement on what the shari'ah enjoined, and in some sense, what the shari'ah was. When it came to what means of extraction the shari'ah permitted or the extent to which the state could coerce the villagers to produce, disagreement was rampant. The two controversies that best illustrate this diversity of thought on shari'ah and state power are the debates framing the permissibility of tax farming, and the debate over the more extreme powers of the tax collectors. It was not always the supposedly conservative *ulama* that opposed state actions on the grounds that such actions violated the shari'ah—as this chapter shows, the views of the *ulama* were sometimes more cooperative with the dynasty's decisions than those in its financial and scribal service. The chapter seeks not only to understand what the shari'ah meant to different people but to what extent criticism of the dynasty's practices was effective at changing its behavior in the countryside.

Chapters four and five deal with the distribution of the land revenues and how this distribution was associated with different forms of allegiance. They particularly focus on the idea of 'zumre,' a group to which an individual belonged that gave some sense of a person's status, responsibilities and privileges in relation to others. In this, we return to one of the themes of chapter one, the nature of corporate social groupings in the early modern period. Because access to and management of land revenues were typically divided among military-administrative personnel and the *ulama*, the chapters will focus on these two *zumres*. Both of these chapters are also concerned with showing the limit of a center-periphery paradigm to understand why Damascenes follow particular courses of action in their interactions with Ottoman officials. Damascenes did not always relate to such officials as outsiders, but also showed a certain *esprit de corps* that meant they saw members of their own *zumre* as like themselves, while those outside it, whether local or foreign in origin, were outsiders. This view also breaks away from nation state teleologies wherein the Ottomans and Damascenes are considered to be in two separate, easily distinguishable, and generally opposed camps. Both of these groups were highly aware of the privileges that accompanied their position. They were also aware of the obligations that were incumbent upon them, and it is these obligations, which

arose from a sense of duty inculcated through the *zumre*, that took the lead in defining their relationship with the state that awarded them sustenance.

Chapter four examines the willingness of the *ulama* to accept revenues awarded by the state, and how the Damascene *ulama* regarded the ethical implications of accepting this largesse, thereby lending their support to the dynasty. Focusing primarily on the concept of *zulm* (oppression), it illuminates an internal debate among the *ulama* about the responsibilities of individuals in their *zumre* to prevent state oppression, and how they could best achieve such a goal. This chapter takes care to avoid an instrumentalist view of Islam in its analysis of the *ulama* and their relationships with state agents and revenues. The Ottoman dynasty's officials do not 'use' Islam to obtain Damascene allegiance; rather there is universal agreement that *zulm* must be prevented by all individuals in roles of authority. The question of what constituted *zulm* and how to best fight it, however, was not something that everyone could agree on, and it is these conflicting understandings and behaviors that will be investigated. As in previous chapters, the issue of harmony again arises, this time in the context of matching credible narratives of conflicts with the qualities that each *zumre* was presumed to embody. It will show that *zumres* were not only assigned social standings but were associated with moral and ethical dispositions. In the matter of a dispute, assumptions about character could and did translate into a form of privilege for the *ulama* in their management of rural resources.

The fifth and final chapter will explore the military *zumre* in Damascus and how their role in the province changed over the course of the seventeenth century. The military forces had authority in their own right, but they were to use such powers only in obedience to the orders of the dynasty, the so-called 'high *dawlah*.' It has been sometimes claimed that the Damascenes considered one of the janissary regiments to be local, and that they made common cause with it for this reason, while the imperial government punished it for being too close to the Damascenes. This chapter shows that the imperial government's view of the troops as well as those of non-combatant Damascenes were shaped by the same question; namely whether or not the actions of the military groups could be construed as obedient and within the proper limits of their authority. Tracking the evolving patterns of tax farming and leadership of the pilgrimage caravan—two activities dominated by military groups—the chapter attempts to construct how affiliation with Damascus, either the city or the province, was understood by Damascenes of the seventeenth century. Getting at this question, it attempts to give an alternate reading of what it meant to be local, and why so many studies of this period misunderstand who is considered local and who is not.

In some way, all of the chapters draw attention to the relationships between the many authoritative persons and groups that contributed to Ottoman governance and examines how they fit together. It attempts to grapple, however tentatively, with the question of how governance works in an early modern empire, where state power has neither the infrastructural wherewithal nor the desire to exert its power homogenously across a single body of undifferentiated

citizens, as will become more normative among nation states. It attempts to explore the political relations between Ottoman Damascenes through their own vocabulary, and to understand the terms upon which they governed one another and were governed. In so doing, it challenges some prevailing beliefs about the prevalence and nature of opposition within early modern polities, and highlights the ties that bound individuals to one another, and the role of group identities in resolving conflict. It furthermore explores common attitudes that underlie even the bitterest disagreements, giving some sense of how this giant state, with its multiplicity of communities and peoples, could agree on a number of priorities that allowed them to coexist together and to find their separate, unequal yet interdependent positions within that giant body.



## Historiography

Any historiography of land tenure in the Ottoman Empire must start with the Ottomans themselves. If twentieth-century historians of the Ottoman Empire have had a longstanding interest in what may appear to be the dry topic of land tenure, it is to some extent a response to the fact that the Ottomans were heavily preoccupied with the land and its revenues. An enormous amount of Ottoman bureaucratic attention was fixed on keeping land revenues at certain levels, distributing land revenues to appropriately deserving beneficiaries, and the mechanisms through which the land revenues would be collected. These issues were all central to the Ottoman conception of what a state is, and how it is to operate if it wishes to survive. There is a tendency to see the Ottoman state as a war machine. This is not entirely inaccurate, for war to a large extent determined state activities, although perhaps no more so than in any other early modern state. Nevertheless, if a sultan wished to wage war, or do anything else, he and his government had to collect taxes. There can be no question that gathering revenue from productive land was the activity that framed the relationship between the 'average' Ottoman subject and the Ottoman state.

An ordinary, unprivileged Ottoman subject was a *reaya*. This might in some circumstances mean subjects either rural or urban, cultivator, craftsman, or merchant. In the political literature, the usage of *reaya* most commonly meant a cultivator. When the political class wrote of the obligations that tied the sultan to the *reaya* and vice versa, the *reaya* they conjured up lived in villages, cultivated and paid taxes. These *reaya* cultivators, their welfare, and their place within the state structure, were the subject of a great deal of political ideology. Historians analyzed the past and the hopes for the future of the dynasty based on how closely the sultan's government could conform to the ideal norms of this relationship. Courtiers offered advice to the sultan about measures that could be taken to create the ideal harmony of relations between state and *reaya*. They also discussed how the revenues produced by the *reaya* should be spent in order to maximize the state's effectiveness in war and administration of justice. The libraries of the former Ottoman lands, as well as the great manuscript collections in libraries around the world, are full of these texts.

The government's preoccupation with the political consequences of collecting revenues from the peasants and how to allocate these revenues was coupled with an extraordinary energy for keeping records about what was collected, and in what way, and for what expense. In the Ottoman archives at Istanbul are thousands of *defters* (registers) produced by the finance ministry that record the fiscal history of productive land in all corners of the empire. Tax levels were set in survey registers of various types, and actual yields recorded on a yearly basis. Expenditures were also carefully recorded and tabulated. Hence, it is possible to examine, and many bureaucrats of the empire often did, whether the Ottomans practiced the fiscal policies that were advocated or whether they

diverged from them.<sup>1</sup> These records are not the only ones relating to the empire's management of land as a revenue source. Inscribed in the registers of the empire's regional courts throughout the former Ottoman domains are numerous orders received from Istanbul about the gathering and expending of land revenues, as well as who was to have access to these revenues. Copies of these documents were also kept in Istanbul. Disputes on these same issues were adjudicated either by the judge in these courts or referred to the finance ministry depending on the nature of the issue. Likewise, libraries across the former domains are full of texts about land tenure as a legal matter, and the legal theories underpinning the bricolage of sultanic and *shariah* law that governed it.

Land tenure and its fate has always been at the heart of every major historical narrative about the fate of the Ottoman Empire. Ottoman historians and men of letters of the seventeenth, eighteenth and nineteenth centuries all equated the general state of the empire with the condition of the land tenure system. Very early in the seventeenth century, writers such as Koci Bey argued that the empire was no longer as strong as it had been in the days of Sultan Süleyman in large part because the system of landed revenue grants, commonly known as the *timar* system, was not in order. Undeserving people now benefited from the revenue grants. Formerly, these benefices had supported soldiers on active duty. Now, they were appropriated by palace favorites, women and other non-combatants. Military morale, as well as effectiveness, had suffered accordingly, he maintained.<sup>2</sup> Later writers such as Defterdar Sarı Mehmed Pasha also deplored the corrupt assignment practices that allowed a number of individuals to hold *timars* who gave no useful military service to the state.<sup>3</sup> The interrelation between an effective military and an equitable land tenure system were always affirmed.

The need to keep the disposal of land revenues ultimately in the hands of the central government was also affirmed. If private people were allowed to corral land resources for private enjoyment without the corresponding obligation to provide service (primarily military service), then the state would suffer as would the cultivators.<sup>4</sup> State oversight of land resources was absolutely necessary both for the survival of the state and the welfare of everyone in it. In the nineteenth-century, the consensus among Ottoman statesman was that far too many land resources had made their way into holdings where the state could no longer claim ultimate responsibility for their revenue allocation. Principally, this meant that imperial domain had been endowed and its revenues assigned to a particular purpose. This status, known as *waqf*, meant that only a small portion of the land's revenues could be taxed. We will discuss these terms and the process of

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<sup>1</sup> Katib Çelebi, *Düstûr el-'Amel li-Islâh el-Halel* (Istanbul, 1280/1832-33), 131-4

<sup>2</sup> Ibid.

<sup>3</sup> Sarı Mehmed Paşa, *Ottoman Statecraft; The Book of Counsel for Vezirs and Governors (Nasa'ih ul-Vuzera ve'l-Umera) of Sari Mehmed Pasha, the Defterdar*, ed. Walter Livingston Wright, (London: H. Milford, Oxford University Press, 1935), 142-148

<sup>4</sup> Ibid.

changing tenure in great detail in the following chapters. Suffice it to say for now that many nineteenth-century bureaucrats felt that the imperial government had lost control of agrarian revenues and that its weakness relative to its foes had much to do with not having its own house in order.

The beliefs about land, statecraft, and the military of these Ottoman statesmen and historians were to have a major impact on the first generation of historians of the Turkish Republic. These (at first) men and (then a bit later) women had been schooled in the discipline of history as it was then taught at universities in Europe; French models in particular predominated. Historians such as Fuat Köprülü, Ömer Lütfi Barkan and a few years hence Halil İnalcık were greatly influenced by the Annales school. They admired Marc Bloch and were the peers of Fernand Braudel, whose second edition of *La Méditerranée* incorporated Barkan's pioneering work on Ottoman demography.<sup>5</sup> With its emphasis on geographical and demographical constraints, there emerged a movement of intense scrutiny of the many imperial records to determine price fluctuations, population, productivity levels and so on. Like their Annalist compatriots in France, the adherents of this movement known as *defterology* attempted to apply a scientific historical method of universal validity in their studies.

It is important to realize how quickly the historians of Turkey were integrated into this mainstream current within the professional discipline of history. Using the tools of the most cutting edge historical methodology, how did their view of the Ottoman past differ from those written by the Ottoman historians who had so recently preceded them, but who had belonged to the Ottoman polity themselves as opposed to the newly minted republic? As we saw above, Ottoman historians had posited for centuries that the state was no longer as robust as it had been by the end of the sixteenth century, and that a number of institutions had suffered decay by the eighteenth. This narrative was adopted wholesale by historians living in the early days of the Turkish Republic. Considering that they had been trained as historians, this is not terribly surprising. The primary task of history, in its incarnation as a modern academic discipline dating to the eighteenth century, has been and still is to explain how Old Europe had become modern Europe. How to explain its sudden rise to unequal strength that set it apart from the rest of the world? Thus was born a fateful conjunction: Ottoman dynastic history of the nineteenth century (and before) fixated on explaining weakness at just the time that the historians of Europe sought to explain strength. These two narratives appeared to fit together quite comfortably, never mind the fact that were addressing the matters of weakness and strength in some ways that differed quite a bit. If the driving question behind European history was to chart its rise, it made sense to chart the demise of other regions or states that were at times its rival. Thus Ottoman history was seamlessly integrated into a field of study dominated by the narrative

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<sup>5</sup> Halil İnalcık, "Impact of the Annales School on Ottoman Studies and New Findings" *Review, Journal of the Fernand Braudel Center* I (Binghamton, New York: 1978), 71

of the rise of Europe without unsettling narratives about either Europe or the Ottoman Empire.

This generation of Turkish historians, the founders of modern Ottoman studies, did not seek to challenge the narrative of the rise and fall of the Ottoman Empire but rather to explain its material causes. In the inter-war period and continuing into the fifties and sixties, there was no doubt in anyone's mind that the empire had in fact declined. All the major historians of the era had been born Ottoman citizens, and they had personally witnessed its collapse.<sup>6</sup> The evidence of the empire's decline and fall was thus embodied in their own experiences; they occupied themselves with the questions of how and why it had met its end. Immersing themselves not only in the mountains of revenue documentation and population registers, but also in the histories and courtier advice of the empire's political elite, they pointed to the observations of Ali Efendi and Koci Bey as evidence that decline had begun after the reign of Sultan Süleyman the Magnificent. By the end of the sixteenth century, the institutions that had previously made the military effective, the treasury able to meet its demands, and the subjects secure in their persons and possessions began to break down. These institutions were unable to cope with the demographic shifts, financial crises, and acute weather conditions that made life so difficult in the late sixteenth and seventeenth centuries. While all of the empire's ruling institutions suffered, Barkan and Inalcik's views on the decay of the *timar* system and the increasingly strong tenure rights of subjects show that for all the desire to explain Ottoman history in a new and scientific way, the narrative remained quite familiar.

Barkan's work presented the empire in its heyday as a place of unique harmony between the state and the peasants. Barkan glorified the state, its strength, its justice, its mobilization of every resource and every person for its own goals.<sup>7</sup> It should be noted that this totalitarian-friendly analysis was written in 1937, in an age where strong states and their ability to express a collective will were fetishized internationally, not only in states like Germany that had succumbed to fascism. While the peasantry of Christian Europe had suffered greatly under feudalism, Barkan maintained, the restrictions on the peasant's mobility and ability to alienate his lot in the Ottoman Empire were not terribly burdensome and in any case were reasonable demands given their necessity for success in warfare.<sup>8</sup> The ensuing price revolution at the end of the sixteenth century was the beginning of the end for this golden state of affairs.<sup>9</sup> The state's power and its domain were increasingly parcelized and the coherence of both state and society were lost as a result. Barkan pointed to the state's loss of

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<sup>6</sup> The youngest of this group, Halil Inalcik, was born in 1916.

<sup>7</sup> Halil Berktaş, "The search for the peasant in Western and Turkish history/historiography," in Halil Berktaş and Suraiya Faroqi, eds., *New Approaches to State and Peasant in Ottoman History* (London: Frank Cass, 1992), 154

<sup>8</sup> Ibid., 156

<sup>9</sup> Suraiya Faroqi, *Approaching Ottoman history: an introduction to the sources* (New York: Cambridge University Press, 1999), 97-98

control over land and the spread of freehold tenure as a sign of decay in state power, for groups of powerful individuals had successfully been able to insert themselves between the peasants and the state and to siphon off the revenues.<sup>10</sup> The state, which had given coherence to everything in Ottoman society, was now crippled, and the seeds of its demise sown.

Halil Inalcik also shared the view that it was when the state was weak that large amounts of land revenues would be diverted from state control and become endowment or freehold land. Noting something of a cyclical pattern he noted that “a strong central authority would abolish private property rights and *waqfs* and re-establish state control.”<sup>11</sup> A strong central authority benefited everyone, and like Barkan, he saw state weakness as the root of decline. As Suraiya Faroqhi and Halil Berktaş have pointed out, very little of Inalcik’s early work focused on the importance of peasant farming as the basis of the economy.<sup>12</sup> Even so, concerned as he was with the institutions of rule, Inalcik did recognize that the peasants were at the center of Ottoman political ideology, as was the question of how the surplus of their output was to be distributed. He was inclined to highlight the Ottoman commitment to treating the peasants with justice, and like Barkan, concluded that a weak state was not able to offer its protection to them effectively.<sup>13</sup> Hence, the weakening of the state and the drawing to an end of the golden age was not only detrimental to state institutions but also to the majority of the empire’s inhabitants.

Huri Islamoğlu and Çağlar Keyder would later criticize Inalcik’s characterization of the Ottoman classical age as one where the decipherment of orders, petitions and law codes were an accurate depiction of society as it actually was. That is, Inalcik’s studies presumed that “society is the ideal it holds of itself.”<sup>14</sup> Inalcik was not interested in examining how the *timar* system actually functioned or changed over time, they maintained, but rather how state ideology was reflected in it and other imperial institutions. Islamoğlu’s criticism is fair, yet let us be frank about the root of both Inalcik’s and Barkan’s romanticizing of the state and the harmony of Ottoman society. Barkan and Inalcik presented faithful replications of the views of the Ottoman elite whose writings they had read. Having steeped themselves in the literature of that group, it was as though they too had come to see the Ottoman state as its servants of old had seen it. They had adopted that group’s beliefs about the role that the state played in the lives of its subjects, and of the value of that role. Their acceptance of such views can be

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<sup>10</sup> Ömer Lütfi Barkan, *Türkiye’de Toprak Meselesi Toplu Eserler 1* (Istanbul: Gözlem Yayınları, 1960), 249-280

<sup>11</sup> Halil Inalcik, *The Ottoman Empire: the classical age 1300-1600* ([London] U.K.: Weidenfeld & Nicolson, 1973; London, U.K.: Phoenix Press, 1973), 109

<sup>12</sup> see Faroqhi, *Approaching*, 99, which cites Berktaş, “Search for the peasant,” 159

<sup>13</sup> He voices this opinion in Halil Inalcik, “Adaletnameler,” *Belgeler 2* (1965): 49-145

<sup>14</sup> Huri Islamoğlu and Çağlar Keyder, “Agenda for Ottoman history,” in Huri Islamoğlu ed., *The Ottoman Empire and the world-economy* (Cambridge; New York: Cambridge University Press, 1987), 43

fairly critiqued as naivety; they did not maintain a critical stance vis-a-vis their informants and not only accepted the veracity of their statements but embraced the world view that produced them. What I would like to suggest, is that this methodological 'error' is an easy one to commit, for the vision of the Ottoman world that the Ottoman political class created is powerful, compelling and attractive. As will become clear, this dissertation will attempt to address why this vision is so powerful, and why its appeal is so strong that it has continued to dominate analysis of the Ottoman Empire long after the empire's end.

The scholarship of Turkey from the interwar period to the sixties presents interesting points of comparison with the studies that were produced by European and American scholars of the same period. The study of the lands to the south and east of Christendom had a long history at European universities by the twentieth century, and constituted an independent discipline. This discipline was rooted in Oriental philology, the study of Eastern languages and texts, which formed the core of the scholarly studies of the Middle East in Western Europe. Few of these scholars had been trained by historians or were interested in the new directions in the field of history such as those represented by the *Annales* historians. Orientalists, as they were known, tended to work more in the vein of great men, big ideas, and important events, which were becoming passe among their colleagues in university history departments. Despite this profoundly different understanding of the causal nexus driving change, their characterizations of the Ottoman Empire did not appear terribly different than Inalcik's. This is not surprising given that they too were immersed in the Ottoman histories and advice literature that had informed Inalcik's views.

Unlike Inalcik, who preferred to focus on the golden age of Ottoman history in the sixteenth century and the centuries leading up to it, the standard textbooks produced by Orientalists such as Gibb and Bowen and Bernard Lewis in the fifties and sixties tended to focus on the age of decline, and the process of 'westernization' of the Ottoman Empire.<sup>15</sup> They argued that no new institutional or social formations appeared in the Ottoman Empire until the Middle East was transformed by the impact of the West in the eighteenth and nineteenth centuries. However, these studies were noteworthy for how little information they were able to convey about the Ottoman Empire prior to the process of westernization. The discussion of land tenure, land revenues, and the condition of the peasantry is a case in point. Gibb and Bowen were not able to cite any figures, but they stated that agriculture in Arab lands had stagnated due to primitive implements, a lack of technological improvement and the burden of terrible usury.<sup>16</sup> The inability to give more concrete details about the decline in production and peasant population was due, they argued, to the lack of sources.

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<sup>15</sup> e.g. H.A.R. Gibb and Harold Bowen, *Islamic society and the west; a study of the impact of western civilization on Moslem culture in the Near East* (New York: Oxford University Press, 1960) and Bernard Lewis, *The emergence of modern Turkey* (New York: Oxford University Press, 2002).

<sup>16</sup> Gibb and Bowen, 265

By the end of the sixteenth century, the Ottoman government no longer made detailed new survey registers (tapu tahrir *defters*) on a regular basis, making it difficult for historians to ascertain the population and taxation levels and how these had changed over time.<sup>17</sup> This in and of itself was taken to be a sign of administrative decadence, for it indicated that the central bureaucracy no longer cared to know the real size of the empire's rural population or where it resided. This was but one indication of the government's growing ineptitude and lack of control; another example was that pashas and usurers of the 18<sup>th</sup> century engaged in abuse and corruption without hindrance. In concluding these remarks about the historiography of land as a part of Ottoman institutions of rule, it is interesting to see that in the fifties and sixties, academics' views on the seventeenth and eighteenth centuries were more or less on the same page, whatever their approach or field. Both Turks and non-Turkish scholars sought to explain Ottoman weakness, and despite a marked difference in their approaches, their conclusions remained generally compatible.

The reader might here interject that this dissertation is supposed to be about Ottoman Damascus, and enquire about the historical literature of Damascus and the Arab world more widely in the wake of Ottoman dissolution. How did Syrian historians view the Ottoman management of land and agriculture in Syria? Starting again in the Ottoman period itself, we find that Damascene jurists of the seventeenth through twentieth centuries had plenty to say about the law of the land tenure system, as we will investigate in chapter 2 and 3. However, we do not find many Ottoman era Damascenes who were interested in exploring the proper 'shape' of state nor the institution of land tenure as a component in that shape. This literature, so plentiful in Ottoman Turkish, was crucial for shaping the historiography of early Turkish Republic historians like Barkan and İnalcık. In any case, the political climate meant that historians in the young successor state of Syria were not interested in understanding what had once been great about the Ottoman Empire and what had caused its downfall. Rather, it was taken as a point of departure that Ottoman rule had not been beneficial to Damascenes or Arabs, who had been denied their true identity and stunted on their path to modern nationhood by a predatory foreign power. The classic text of George Antonius from 1939 known as *The Arab Awakening* sets the tone for the era. It refers to the Ottoman conquest as 'the Turkish conquest' and summarizes Ottoman rule thus: "With varying fortunes, frequently accompanied by wars, revolts and massacres, the Ottoman dominion maintained itself in those frontiers [ie across the Arab lands] until the close of the eighteenth century."<sup>18</sup>

Most historians in the mandate and early Syrian Republic period were interested in Syria's quest for independence, the origins of nationalism, and the

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<sup>17</sup> Bernard Lewis, "Ottoman Land Tenure and Taxation in Syria," *Studia Islamica* 50 (1979): 109

<sup>18</sup> George Antonius, *The Arab Awakening: the story of the Arab National Movement* (New York: Capricorn, 1946), 20

spread of an Arab identity. The nineteenth and twentieth centuries received far more attention than the less recent Ottoman past and the subject of land tenure seldom assumed a central role in major historical works. When Syrian historians like Muhammad Kurd Ali addressed the importance of the Damascene hinterland in the history of the city, they did so largely by building on genres of literature that had impeccable ‘Arab’ credentials. Kurd Ali’s work *Ghutat Dimashq*, which focuses on the oasis called al-Ghuta that surrounds the city, was heavily influenced by an older genre known in Arabic as fad’ail—‘merits’. This genre described the merits of the natural environment that made a place fit for human habitation, and it had been part of Arabic literature for centuries. Indeed, many past works of this genre were cited by Kurd Ali. Nevertheless, the work clearly had an Annaliste bent to it, and commenced with a precise geographical description of the width and length of the oasis, the average yearly rainfall and temperature, complete with population estimate. Primarily, this work celebrated the beauty and fertility of the Ghuta and its centrality to life in Damascus. It was an important part of the heritage of Damascenes as well as the nation of Syria.

Starting in the sixties however, historians began to show an interest in the vast Ottoman documentation of the region and to write histories with wider coverage of the Ottoman past. Of significance for the history of Ottoman Damascus, Abdul-Karim Rafeq began a prolific career in the 1960’s by focusing on the records of the Ottoman courts in Damascus and Aleppo. Rafeq was one of the first historians to see the potential of this source. The field had been, and would continue for some time to remain, bifurcated. Those who examined “Ottoman” sources went to Istanbul to read chancery documents. Those who based their research on Arabic sources primarily consulted chronicles and biographical dictionaries. In this era of intense nationalist rivalry, Turkish scholars did not learn Arabic and Arab scholars did not learn Ottoman Turkish. Rafeq saw the unique potential of the court records—an Ottoman source written for the most part in the Arabic—as an important source for social history and began a trend that would gain steam considerably in the decades to come. Without consulting the central government records, he was still able to glean a number of insights into Ottoman administration and the social and economic history of Damascus and Syria. He wrote numerous books and articles about the guilds, craftsmen and merchants of the city as well as its soldiers, peasants and *ulama*.<sup>19</sup>

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<sup>19</sup> e.g. “The Law-court registers of Damascus, with special reference to craft-corporations during the first half of the eighteenth century,” in Jacques Berque and Dominique Chevallier ed., *Les Arabes par leurs archives: XVIe-XXe siècles* [colloque international du Centre national de la recherche scientifique], Paris: 9-11 avril 1974, (Paris: Centre national de la recherche scientifique, 1976), 141-159; idem, *Buhuth fi al-tarikh al-iqtisadi wa-al-ijtima’i li-bilad al-Sham fi al-‘asr al-hadith* (Dimashq [Damascus]:1985), and “Craft Organization, Work Ethics, and the Strains of Change in Ottoman Syria,” *Journal of the American Oriental Society* 11, no. 3 (Jul.-Sep., 1991): 495-511



These studies were ground breaking, but they inevitably reflected the prevailing beliefs of the time, namely that proto-nationalist aspirations of the Arabs were a defining characteristic of Ottoman-Damascene relations. In Rafeq's view, the Damascenes had always viewed the Ottomans as outsiders, and resented Turkish pretensions of ethnic superiority. The local notables of the city considered it their duty to protect their fellow residents from the predations of the military governor and the other Turkish military personnel. Ottoman rule had some cause to claim that it provided protection and ruled with justice until Süleyman I died in 1566, conceded Rafeq, but thereafter Ottoman rule was corrupt and predatory. The decline of the *timar* system not only created problems for military effectiveness and discipline, but also meant the decline of security in the countryside. Yet Rafeq admitted that the very weakness that all scholars saw in the latter half of the Ottoman Empire had led to stronger local rule in Damascus; a prominent native dynasty, the Azms, had arisen and claimed the governorship of the city for several generations. There was some ambiguity in this development as well. While the Azms had clearly invested a great deal of their personal wealth into the city, building markets and palaces and patronizing learning, it could not be said that they always ruled the city to the benefit of its inhabitants. The population was frequently incensed at their manipulation of wheat prices and various other acts of shameless profiteering. Like great families in other urban landscapes, such as the Medicis, they gave a great deal to the city while taking a great deal from it as well. While Rafeq was attracted to the idea of a strong local leadership that had developed to fill the vacuum of Ottoman weakness, he understood, far more clearly than most of his contemporaries, that the rise in stature of the provincial elite could not be easily characterized as 'good' or 'bad' for either the Damascenes or the Ottoman state. Further elaboration on this insight would come, slowly and piecemeal, in the eighties and nineties.

Arab and Turkish nationalisms were not the only nationalist agendas shaping accounts of the Ottoman past. Israeli scholars also had a part to play, and in their accounts the question as to whether the land resources were put to effective use assumed a uniquely urgent political dimension. In 1960, Uriel Heyd translated and published the sultanic orders (*mühimme defterleri*) that had been dispatched to imperial officials in Jerusalem and Nabulus in the second part of the sixteenth century.<sup>20</sup> A number of these rescripts scolded provincial officials for extorting illegal sums from the peasants and pushing villages to the verge of ruin. Although this era was just a few years beyond the reign of Süleyman I, the apex of the golden age, Heyd pointed to the existence of these rapacious officials as a decline in the empire's administration of the countryside. Likewise, Amnon Cohen utilized a variety of Ottoman archival sources for his study of Palestine in

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<sup>20</sup> Uriel Heyd, *Ottoman Documents on Palestine, 1552-1615; a study of the firman according to the Mühimme defteri* (Oxford: Clarendon Press, 1960).

the eighteenth century.<sup>21</sup> Like Rafeq, he examined the rise of provincial notables in that century. He concluded that it was they who were the primary beneficiaries of the rural economy, to the detriment of everyone else. The large profit margins of these notables, who were tax farmers collecting the rural surplus, meant that the peasants were overburdened and frequently abandoned their villages. Agricultural production, he speculated, must certainly have decreased. Meanwhile, the *timar*-holding cavaliers failed to perform the services expected of them, in part because the value of the *timars* had shrunk so much in real terms that they did little to cover the cavalier's costs. While the studies of Heyd and Cohen only corroborated what Orientalists and Ottomanists had already agreed upon, this narrative also corroborated the Zionist national narrative that prior to Jewish immigration, Palestine had been a barren land where Ottoman state authority had fairly ceased to exist. Jewish immigrants could rightly claim that they brought Palestine into the modern world, and made the land once again support a thriving agriculture.

Roughly a decade later two geographers published a study of the districts that later became the basis for mandate Palestine. Continuing the tradition of Annales inspired studies, geographers Hutteroth and Abdulfattah compiled maps using information from the sixteenth-century cadastral surveys (*tapu tahrir defters*) to compile maps that illustrated population levels, where different kinds of crops were raised, and which lands fell under the different kinds of tenure arrangements.<sup>22</sup> As was the case in much of Braudel's work, theirs was an attempt to give a sense of economic potential in large scale terms. They estimated that 18 percent of the population was urban in Palestine, and produced other estimates for how much of the agrarian produce was left after taxes had been paid. Although their own research focused on the sixteenth century they compared their results with similar studies undertaken for the nineteenth century and they too saw reason to deduce some kind of decline in productive capacity between the sixteenth century and the nineteenth. They noted that villages which had been on the peripheries of cultivable land had been abandoned and had been appropriated by the Bedouin. On the whole, the population appeared to have dropped.<sup>23</sup> In general, however, they did not use their data to support or debunk historical arguments. The comparison that they made between the sixteenth and nineteenth centuries draws attention to the fact that for the same region in the seventeenth and eighteenth centuries there was no published research whatsoever that could have shed light on what happened in the interim. This point brings us back to the observation made above by Bernard Lewis, that no such studies were possible for the seventeenth and eighteenth centuries

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<sup>21</sup> Amnon Cohen, *Palestine in the 18<sup>th</sup> century; patterns of government and administration* (Jerusalem: Magnes Press, Hebrew University, 1973).

<sup>22</sup> Wolf Dieter Hutteroth and Kamal Abdulfattah, *Historical geography of Palestine, Transjordan and Southern Syria in the late 16<sup>th</sup> [sixteenth] century* (Erlangen: Fränkische Geographische Ges.; Erlangen: Palm und Enke [in Komm.], 1977).

<sup>23</sup> *Ibid.*, 56

because of the paucity of record keeping. The question of record keeping, and what patterns of record keeping signified about the Ottoman bureaucracy, was to play a key part in the revisionist discussions of the 1990's.

#### The onset of Marxo-Weberian fatigue

By the 1970s, a number of Ottoman historians were convinced, as were their counterparts in other fields of history, that understanding the empire's economic development was the key to understanding its political and social development. Development of political economy was understood largely in a Marxist framework, wherein state formations and politics in general was largely understood as reducible to the economic interests of classes and the conflicts between them. This was not of course peculiar to the study of the Ottoman Empire, it was the state of the field of history in general. To illustrate this point, we start with a historical treatment that was written not by an Ottomanist but by a historian of Europe. In 1974, Perry Anderson published a book called *Lineages of the Absolutist State* that focused primarily on non-Ottoman Europe but which also included a chapter on the Ottoman Empire. Despite the title, Anderson argued that the Ottoman Empire had never become an absolutist state. The defining features of absolutism were found only in Western and Eastern Christendom. The absolutist state was primarily the expression of the aristocracy's class interests. The central state became more powerful politically, but the nobility gained greater control over their estates. Many of the new structures associated with the absolutist state supported the development of capitalism, but they were in their essence about maintaining some semblance of a feudal order in a vastly changed landscape. The Ottoman Empire, lacking both a hereditary class of nobles and failing to move convincingly towards private property in land, stayed mired in a situation where the state overpowered all civic institutions and class interests that might have contributed to capitalist development—a situation that Max Weber deemed 'sultanism'. As its classical institutions broke down, they were not replaced by a rising bourgeois state structure as happened in Western Europe, nor did it give rise to a powerful class of large landholders as happened in Eastern Europe.

According to Anderson, the Ottoman Empire's failure to become an absolutist state was largely a result of land tenure relations. He stated, not quite correctly, that the sultan was the owner of most of the empire's productive land. The fact that the sultan or his government had the power to allocate the revenues of the land to one person and then revoke the grant and give it to another meant that wealth derived from the land was not secure. Additionally, elites could not be sure of passing on their land holdings to their children. In the years prior to Anderson's study, Inalcik and other historians had remarked on the increasing presence of large farms owned by local military elites in the Ottoman provinces. Anderson noted the importance of these farms, called chiftliks, but maintained that because they never attained a recognized legal status they never became truly feudalistic. Peasants were never bound to the soil. Even on these large

estates, production remained petty, and directed by peasants rather than the landlord. In any case, most holdings small and directed by peasants. No accumulation of capital resulted. Those larger holdings that did arise were insecure because they could be confiscated in the lifetime of the holder or upon his death. There was no legal security of landed property.<sup>24</sup>

There are many aspects of this analysis that would haunt the field for decades. Was the Ottoman Empire's political economic constellation as radically different from Christian Europe's as Anderson claimed? If the Ottoman Empire had failed to develop both feudalism and absolutism, then what were the implications for its historical development? Did it mean that Europe's political and economic development was so peculiar (or conversely, that Ottoman political economic development was so peculiar) that it could not be profitably compared with developments elsewhere? If there were to arise an alternative model to explain the passage to capitalism in countries that did not experience feudalism and absolutism, what would it look like? If a country was a latecomer to capitalist production, what impact would its lateness have on its future development? What features of political economy were requisite in order to produce capitalism and how and when had they materialized in the Ottoman Empire?

As Suraiya Faroqhi notes, Turkish historians prior to the second World War had been inclined to view the Ottoman Empire of the seventeenth century and prior as feudal.<sup>25</sup> Fernand Braudel had also given them a reason to see the Ottoman Empire as a land defined by the commonalities of the Mediterranean that were shared in the east and west. By the dawn of the seventies however, some Marxist historians had become interested in understanding the Ottoman economy as the Asiatic mode of production, accentuating its status outside Europe and as part of the Third World.<sup>26</sup> Although Marx never developed the theory of a specifically Asiatic mode beyond a series of broad general characteristics, these were found to fit with many prevailing beliefs about the Ottoman peasantry, namely that a strong and centralized state was able to protect the free status of peasants because they primarily cultivated state land. While this strong state prevented the exploitation of the peasantry, it quashed any capitalist tendencies among the elites and kept the economy stagnant.<sup>27</sup>

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<sup>24</sup> Incidentally, Anderson's views on the Ottoman Empire's inadequacies, both in the early modern period and thereafter, are still firmly fixed after thirty-five years. His newest work, *The New Old World* maintains that the Ottoman reforms of the nineteenth century failed to sufficiently transform the empire's fundamentally religious character. Turkey, having inherited the baggage of this Ottoman past, is therefore unfit for membership in the EU. See review by Mark Mazower, *The Nation*, April 7, 2010.

<sup>25</sup> Suraiya Faroqhi, "Introduction," in Halil Berktaý and Suraiya Faroqhi, eds., *New Approaches to State and Peasant in Ottoman History* (London: Frank Cass, 1992), 5

<sup>26</sup> Faroqhi, *Approaching*, 16-18 and idem, "Introduction," 5-8

<sup>27</sup> Marx himself made only brief allusions to the concept of the Asiatic Mode of Production in works dating to the 1850's, and may have abandoned it entirely as it is not a part of his later work. The theorizing of the Asiatic Mode of Production was developed by various followers, although some Marxists have objected to it from the early twentieth

Not all historians embraced this view. Halil Berktaý was one of its most outspoken critics. In an important article, he maintained that feudalism was the dominant mode of production of pre-industrial economies across the world and that the differences between them were simply variations on a theme.<sup>28</sup> He found the argument that the Ottomans did not have 'real' feudalism because the peasants paid taxes instead of rent to be unconvincing. This was a misunderstanding of what feudalism was, in essence. He argued that the real definition of feudalism is dependent cultivation, a kind of rent-extractive relationship. The peculiarities of demesne and corvée labor that characterized some, but by no means all, feudal relations in Europe were simply a peculiarity of the European variant of feudalism, not its defining characteristics. In this debate, which may seem quaint in light of today's research agendas, enduring issues were nevertheless hashed out: how different were the historical trajectories of Christian Europe and the Ottoman Empire? Did the same concept apply? If the same concept did apply, how then to account for a different outcome? Was the model able to address what relevant differences there were? And did the model provide a compelling narrative as to why it was the relevant differences between Christian Europe and the Ottoman Empire that were most relevant, rather than those between the states oriented towards the Mediterranean versus those oriented towards the Atlantic?

Whether they characterized the Ottoman economy with the Asiatic mode of production or feudalism, Ottoman historians typically identified the breakdown of this 'traditional' mode of production as beginning in the late sixteenth century. The rise of world systems theory in the 1970's seemed to many historians to offer an explanation of why the Ottoman economy had begun to falter at precisely this moment. World systems theory was the brainchild of Immanuel Wallerstein and Andre Gunder Frank. Adherents of the theory argued that the contemporary world economy was rooted in the rise of European hegemony in the sixteenth century. It was then that an economy began to emerge in which Europe was the center—increasingly the activity and demand of Europe shaped the developments in economies that later came to be described as underdeveloped. Previous social scientists, those who subscribed to modernization theory, had maintained that economies of the 'third world' did not become like Europe's for cultural reasons, and that third world citizens would eventually enjoy the economic progress of Europeans once they learned to behave like modern Europeans.<sup>29</sup> Frank and Wallerstein argued just the opposite—that a world system by nature had a center and a periphery and that the progress of the

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century. See Stephen P. Dunn, *The Fall and Rise of the Asiatic Mode of Production* (London; Boston: Routledge & Kegan Paul, 1982).

<sup>28</sup> Halil Berktaý, "The Feudalism Debate: The End: Is 'Tax vs. Rent' Necessarily the Product and Sign of a Modal Difference?" *Journal of Peasant Studies* 14 (1987): 291-333.

<sup>29</sup> Daniel Lerner, *The Passing of Traditional Society: Modernizing the Middle East* (Glencoe Ill.: Free Press, 1958).

former was predicated upon the underdevelopment of the latter. The third world economies had not maintained archaic, out-dated features because capitalism had passed them by. On the contrary, their underdevelopment was a uniquely modern phenomenon that had been produced by a global capitalism with Europe at its core.

The fact that Wallerstein located the origins of a Western dominated global capitalism in the sixteenth century seemed to supply a ready-made answer to why the Ottoman Empire's decline dated to the second half of that century. In fact, the world systems theory approach seemed to integrate quite well with a trend that Inalcik had noted in the early seventies: the fact that larger pieces of land seemed to be falling into private hands. If these large farms, known as chiftliks, were formed in response to European demand for Ottoman grains and other unprocessed food items, it would cohere well with the Wallersteinian theory. Furthermore, other studies in the seventies, and even the work of Fernand Braudel, had hypothesized that the emergence of such large farms in the Ottoman Empire mirrored the refeudalization of the peasantry that was underway in Eastern Europe.

While at first glance world systems theory seemed to offer a number of explanatory narratives to Ottoman historians, many scholars were not satisfied with this picture. The older generation of historians, Barkan and Inalcik, were still very dominant voices in the field and they were unconvinced. Omer Lutfi Barkan, now in the winter of his career, claimed that the Ottoman situation was *sui generis* because of its internal harmonies. Similarly, Inalcik expressed skepticism about all the models being bandied about—feudalism, the Asiatic mode of production, a capitalist world system and so on. None of it seemed to capture what he saw. While Inalcik thought that the increased number of chiftliks did have some impact on the economy he did not believe that anything so drastic as a refeudalization of the peasantry nor an integration into a European dominated market economy were underway in the late sixteenth century.<sup>30</sup> Bruce McGowan produced two studies in the 1980's that confirmed that while chiftliks may have been more widespread, small holdings continued to dominate agricultural production in the Ottoman Balkans. Even on the chiftliks, he maintained, the owner or holder did not play the role of the capitalist manager who intervened in production to profit from market trends. Production was left in the hands of the peasantry.<sup>31</sup> Peter Gran also had objections to the model that were shared by a number of scholars.<sup>32</sup> The first of these was that Wallerstein

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<sup>30</sup> Inalcik, "Impact of the Annales School," 84-86

<sup>31</sup> Bruce McGowan, *Economic Life in Ottoman Europe: taxation, trade, and the struggle for land, 1600-1800* (New York: Cambridge University Press, 1981) and idem, "The middle Danube cul-de-sac," in Huri Islamoğlu-Inan ed., *The Ottoman Empire and the world-economy* (Cambridge; New York: Cambridge University Press, 1987), 170-177.

<sup>32</sup> Peter Gran, "Late-eighteenth- early-nineteenth-century Egypt: merchant capitalism or modern capitalism?" in Islamoğlu-Inan ed., *The Ottoman Empire and the world-economy*, 27-41

projected Western economic dominance too far back in time. While nineteenth-century Egyptian economic development did orient itself towards supplying raw cotton for European demand, an earlier current of commercialism in the eighteenth century had been more clearly beneficial to merchants in both Europe and Egypt. Additionally, Gran did not like Frank's thesis that capitalism changed peripheral economies and reoriented them towards its demands without the peripheral economies changing anything about the operations of capitalism or the center. It seemed to him merely another way of saying, as the Orientalists did, that all change in the Middle East had its origin in actions taken by Europeans. There was an inherent question of agency; had Egyptians played no role in the development of the Egyptian economy other than a few futile acts of resistance against Western domination?

Although acknowledging these criticisms, Huri Islamoğlu throughout the 1980's remained one of the chief proponents of world systems theory. In her edited volume *The Ottoman Empire and the World Economy*, she noted that it was an excellent riposte to the conventional wisdom of the fifties and sixties that if Orientals just learned to behave like westerners they would achieve the same economic success. While she was equivocal about whether to characterize the Ottoman economy through the Asiatic mode of production prior to its integration and peripheralization in the world economy, she was clear that the economy could not be described as feudal. She argued that the paths of economies are different, and to argue that feudalism characterizes every pre-modern economy obscures the relevant differences to such an extent that meaningful analysis is no longer possible with that terminology. In the volume, both she and Wallerstein contributed essays that demonstrated how Ottoman economic development from the sixteenth through nineteenth centuries conformed to the world system narrative. It was undeniable that some features fit the narrative handily. In the sixteenth century, the empire was an economic and military giant, but by the end of the nineteenth century, it had defaulted on its sovereign debt to European banks. Thereafter, it lost control over its own economic policy as the Debt Administration founded by the banks took over a number of economic sectors and structured the economy to meet the needs of its creditors.

Once again, the 'fuzziness' of the middle centuries was the weak link in these explanations of how integration into the world economy had progressed. There was again discussion of large farms and enserfment—or something very much like it—taking place in the countryside, though such a development was contested by other essays appearing in the same volume. The Ottoman economy of the 1890's may have looked every bit the model of a peripheral economy, but the question of how this situation was related to fiscal policy or economic realities in the seventeenth or eighteenth centuries was still not very clear.

By the early nineties a number of new studies addressed the subject, and presented something of a final word on the usefulness and limitations of the model. A consensus had been reached that linkages with the economy of

Western Europe did have some role in the Middle Eastern economic development, but even in the nineteenth century, its impact had been overstated in a number of areas. The economies of the Ottoman Empire had not been steam rolled by demand for raw goods or supply of cheap manufactured items. Sherry Vatter showed that new textiles arose were invented by tradesmen in Damascus precisely in order to compete with cheap imports. Hala Fattah showed a similar adaptability among craftsmen and traders in the Persian Gulf. In terms of agriculture, the studies of Dina Rizk Khoury and Linda Schilcher suggested that commercialization of agriculture in the late eighteenth and nineteenth centuries did owe something to global demand. However, they also agreed that production remained in the hands of peasants and primarily on small holdings. In conjunction with the earlier studies of Bruce McGowan and others, these contributions put to rest once and for all the claim that the conditions of the peasantry had become considerably more precarious and oppressive since the sixteenth century.

Huri Islamoğlu noted that this particular pattern of production, dominated by a free peasantry and on small holdings, was not in and of itself an impediment to commercialization or economic growth. Her discussion profited greatly from the conversation among European historians known as the Brenner debate. Like Brenner, she was opposed to explanations of economic development that did not take political factors into account, although she saw the relevant political factor as state action rather than the class conflict that Brenner identified. She joined some of Brenner's critics in noting that he gave too much emphasis to the idea that for commercialization of agriculture to take place, small producers had to be squeezed out of production and reduced to serfs or sharecroppers.<sup>33</sup> In the Ottoman Empire, she contended, demand and production had both increased during the course of the sixteenth century without disenfranchising the peasants or enserfing them. In her view, it was the state, not the market, that had stimulated the economy through its increased tax demands, yet it had provided the political and social stability to peasants that prevented their production rights from being undermined. Her findings suggested, like those of Patricia Croot and David Parked in "Agrarian Class Structure and the Development of Capitalism: France and England Compared", that there was more than one path to growing an economy.<sup>34</sup>

As the debate wound down, the ironies began to mount. Islamoğlu's emphasis on the Ottoman state and the starring role it had played in the sixteenth-century economy seemed oddly close to Barkan and Inalcik's long held

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<sup>33</sup> Huri Islamoğlu-Inan, *State and Peasant in the Ottoman Empire: Agrarian power relations and regional economic development in Ottoman Anatolia during the sixteenth century*, The Ottoman Empire and its Heritage, v. 1, (Leiden; New York: Brill, 1994).

<sup>34</sup> Patricia Croot and David Parked, "Agrarian Class Structure and the Development of Capitalism: France and England Compared," in T.H. Aston and C.H.E. Philpin eds., *The Brenner Debate: agrarian class structure and economic development in pre-industrial Europe* (Cambridge; New York: Cambridge University Press, 1985), 79-90



views about Ottoman exceptionalism. Çağlar Keyder, who edited one of the last volumes addressing the chiftlik debate, seemed palpably frustrated by the fact that if anything, more evidence rather than less seemed to be in evidence for Ottoman exceptionalism. The irony of the conclusions of the early nineties was that its authors by and large agreed on the facts as summarized by Perry Anderson twenty years prior. The quandary was still in essence the same: what did it mean? What did it say about Ottoman history or development, economic or otherwise, that small peasant holdings tended to predominate and that elites extracted surplus, but with a grip far more tenuous than that of their counterparts in Christian Europe? Given Islamoğlu's research coupled with other studies inspired by the Brenner debate, the argument that this form of tenure and revenue extraction prevented capitalism from developing did not seem to hold water any longer. Noting that fatigue had set in among those who had gone in search of the roots of Ottoman capitalism, Suraiya Faroqhi called for more comparative work so that the Ottoman experience could be properly contextualized.

In some sense, this conversation ground to a halt because the categories themselves had been shown wanting. The terms and theories handed down or based on Marx worked best in a small minority of European cases. The Ottoman Empire's exceptionalism to the Marxist model was in fact quite unexceptional. In Europe as in the Ottoman Empire, everyone could see that the world of the nineteenth century was a very different one than that of the eighteenth, but in Europe as in the Ottoman Empire, there were still some questions about how that transformation had come about, and an awareness that it was a process that differed widely from one place to another began to gain ground. Marxist orthodoxies, many scholars felt, had been applied overly schematically. Rather than trying to find some sign of rational capitalism or its antecedents, scholars have in recent years been able to focus more fully on simply studying the Ottoman economy from the ground up and trying to understand how it worked without feeling the need to demonstrate where it fit within a Marxist or Weberian scheme. We will discuss some of these studies below.

The field underwent tremendous change in the late 1970's and early 1980's. The watershed event of 1978 was the publication of Edward Said's *Orientalism*, which brought the obscure field of Middle Eastern Studies, or Oriental studies, to the center of a debate that had wide repercussions for the humanities as a whole. Inspired by Michel Foucault, Said drew attention to the way that power and knowledge were deeply intertwined in scholarly production. Orientalism, he maintained, was a hegemonic discourse that represented the Orient as the West's 'other'. Orientalism was knowledge predicated upon the existence of a fundamental difference between Westerners and Orientals, and which justified the domination of the former over the latter through its proof of the inferiority of the Orient. It was not that Orientalism was an inaccurate representation of the Orient that Said was most intent on demonstrating. Rather, Said sought to draw attention to how the superiority of Western power enabled

Orientalism as a form of knowledge while Orientalism in turn justified and naturalized the superiority of Western power. Essentially, Said argued that no knowledge was innocent, that all knowledge was produced by and underwritten by structures of power. Said challenged scholars to think about how their work was shaped by and in turn propagated particular constellations of power and authority. He criticized the relentless hostility and condescension that characterized so much of the literature of the field. Portraying Arabs as fanatical or backwards, and deficient in reasoning justified their domination. Ultimately, Said's criticism impacted many scholars in a diverse number of fields.

While it made a sensational debut, the book's impact on the field took nearly a decade to materialize. The first scholastic generation that was to be profoundly influenced by its criticisms were those who encountered it as college or graduate students in the 1980's, and this generation—the scholastic parent generation to most graduate students today—would not begin to publish until the late 80's and early 90's. It had several important legacies for the study of the seventeenth and eighteenth centuries. The most important is that it challenged the usefulness of a literature whose overriding concern was to explain what *had not happened* in the Middle East rather than what had happened. For years, many historians had been caught up trying to explain why capitalism had not developed in the Middle East, or why a modern bureaucracy had not appeared prior to a certain date, or why, in general that things had not developed the way they had in Europe. Although he was not a historian, Said objected to the frequently a-historical depiction of the peoples of the Middle East, who were characterized as having not changed in any appreciable way for hundreds of years. Islam in particular came in for this kind of description, and Said particularly objected to the representations of Islam that were so common then in academic literature and which have not entirely disappeared. Said defined what was to be a cardinal rule for all those scholars who read him and embraced his critique: the duty to avoid essentializing Islam or Muslims. Said claimed that Bernard Lewis in particular argued that everything that Muslims did could be attributed to Islam, which he treated as a timeless, ideal and stable concept. Said felt that the soundest work on the history of the Middle East was produced by those who applied the tools of their discipline to the concrete situation of a specific time and place, and he expressed the hope that the Middle East would be studied not as a 'civilization' unto itself but in through the rubric of the disciplines. The study of Middle Eastern history has in fact absorbed more of the disciplinary apparatus of history since the 1970's, although it frequently is still housed in a Middle East or Near East Studies department.

Said had primarily targeted those who saw the history and destiny of the Middle East as reducible to the fact that its populations were predominantly Muslim. All of their shortcomings and dilemmas could be explained thus, because Islam compelled its adherents to behave in ways that had not changed over time and were therefore incompatible with modernity. Its criticisms spoke more directly to the concerns of historians of the Arab world and Iran, for as

Suraiya Faroqhi has noted, Ottomanists—those who worked primarily on the imperial institutions and the history of what would become Turkey—had used the same concepts and paradigms to study the Ottoman empire as historians of Europe used for Europe since the 1920s.<sup>35</sup> The intense interest in world systems theory among Ottoman historians and their ensuing stake in the Brenner debate detailed above had already begun before the publication of *Orientalism*. While Barkan and Inalcik did write of an Islamic mentality or the influence of Islam as having a decaying effect upon the empire in its latter half, most of the younger generation of Turkish historians felt that Islam explained nothing.<sup>36</sup> Throughout the empire's life time, its fate was guided by material factors and secular concerns. Nevertheless, we have seen that even though their approach was fundamentally different to that of the Orientalists, they still arrived at fairly similar conclusions. That is, they agreed with the Orientalists that the Ottoman Empire had become militarily, economically and politically weak, thoroughly dominated by Western capital, and seemingly without agency in the processes that transformed it. They simply disagreed on why it had become that way.

It is questionable as to whether the influence of Said was at work in the unraveling of a key orthodoxy in the 1980's that opened the way for a wholesale reevaluation of the seventeenth and eighteenth centuries. In the field of European history, the centralization of power into the hands of monarchs and their bureaucrats had been studied for some time under the rubric of the 'new monarchies' of the later middle ages and the rise of absolutism, with distinguished contributions from the likes of Henri Pirenne and Roland Mousnier. The eighties and nineties brought a shift that emphasized the increasing power of military and fiscal organs of state rather than those of the monarch per se; monarchs, it was noted, might be quite weak actors within states that enjoyed strong militaries and wide powers of taxation.<sup>37</sup> In place of absolutism, historians began to chart the rise of the fiscal-military state, a trend that became increasingly important to Ottoman history as interest in world systems theory subsided. In 1980, Halil Inalcik noted the "government's increasing demand for mercenary military men" to supplement the regular infantry units composed of

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<sup>35</sup> Suraiya Faroqhi, "In search of Ottoman History," in Halil Bertay and Suraiya Faroqhi, eds., *New Approaches to State and Peasant in Ottoman History* (London: Frank Cass, 1992), 211

<sup>36</sup> By younger generation I mean Huri Islamoğlu, Çağlar Keyder, Halil Bertay, Faruk Tabak, and Suraiya Faroqhi, who is not Turkish but who, having trained as Barkan's student at Istanbul University was a product of the Turkish academic tradition rather than the Orientalist.

<sup>37</sup> Nicholas Henshall, *The myth of absolutism: change and continuity in early modern European monarchy* (New York: Longman, 1992); Charles Tilly, *Coercion, Capital and European States AD 990-1992* (Oxford, U.K.: Blackwell Publishers, 2002), John Brewer, *The sinews of power: war, money, and the English state, 1688-1783* (Cambridge, Mass.: Harvard University Press, 1990).

janissaries.<sup>38</sup> Particularly on the battlefields of Central Europe, battle tactics increasingly favored larger numbers of infantry with firearms, while the role of mounted warriors diminished proportionally. Inalcik suddenly realized that this need explained the vast expansion of the janissaries from 13,000 in the 1550s to 38,000 in the 1600s.<sup>39</sup> Simultaneously, the government recruited peasants into expanded and formalized mercenary companies known as *sekban* units. Both the regular infantry and the mercenaries were paid in cash rather than benefice and hence the Ottoman Empire found itself in a fiscal crunch. To cope, it reduced the amount of land held as *timar* (benefice) as well as the number of cavaliers. Land was converted into tax farms whose taxes were paid in cash to the treasury. In addition, irregular taxes collected in cash became regularized and became a more important source of funding for the treasury. What Inalcik was saying was that the reduced numbers of *timars* and increased numbers of tax farms made fiscal sense. It was the first time that anyone had suggested that the shrinkage of the *timar* system was on the whole a sign of prudent management rather than decline, and a response to the changing realities of warfare.

The new realities of warfare in the seventeenth century and Ottoman fiscal-military adjustment to it produced a number of studies in the eighties and nineties. Linda Darling investigated the imperial finance bureau and was able to document the extent to which cash taxes and tax farms dominated the treasury records.<sup>40</sup> Her work shed light on why the cadastral surveys associated with *timars* were no longer made: it was not that the finance ministry had grown careless, but rather that its efforts to document available resources were channeled into tracking the newly important cash revenues. More work was forthcoming that explained early seventeenth-century fiscal policy as a matter of exiGençy or even reform rather than bureaucratic incompetence or corruption. Continuing to address the fate of the *timar* system, Douglas Howard's dissertation on the reforms undertaken for the awarding of *timars* in the 1630's concluded that the government placed a new emphasis upon merit: *timars* should be awarded on the basis of service rendered rather than rank and file promotion.<sup>41</sup> Moving on to look at the eighteenth century, Mehmed Genç produced a study arguing that the invention in 1695 of the life-time tenure tax farm, a tax farm known as a *malikane*, was an innovation that proved crucial to

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<sup>38</sup> Halil Inalcik, "Military and Fiscal Transformation in the Ottoman Empire, 1600-1700," *Archivum Ottomanicum* VI (Louvain: 1980), 287

<sup>39</sup> Ibid., 289

<sup>40</sup> Linda Darling, *Revenue-raising and legitimacy: tax collection and finance administration in the Ottoman Empire, 1560-1660* (Leiden; New York: E.J. Brill, 1996).

<sup>41</sup> Douglas A. Howard, "The Ottoman *Timar* system and its transformation, 1563-1656" (dissertation submitted to the Department of Uralic and Altaic Studies, Indiana University, Bloomington, Ind., 1987).

the health of the fisc.<sup>42</sup> While the tax farms of the seventeenth century were for three year terms that frequently were resold before the term was completed, the *malikane* was a tax farm guaranteed to remain under the purchaser's control for life. This transition to long-term tax farms was the primary reason that the treasury remained in the black for the vast majority of the eighteenth century.

Parallel to the fiscal reorganization were changes in provincial administration, some of which were consequences of the new fiscal realities and others the result of institutional evolution. Metin Kunt noted that by the first part of the seventeenth century, rising to the lucrative post of provincial governor was no longer possible for officials who had no prior experience serving in the central government in the capital.<sup>43</sup> The result was that provincial administrators had closer ties to the imperial government, and that subordinate provincial officials required the governor's patronage in order for their careers to advance. While this development put a pinch on the lower ranking provincial officials, it tended to increase the power of the provincial governor. In return for this greater power, wrote Karl Barbir, the governor might also shoulder new burdens. Barbir's study of Damascus in the eighteenth century suggested that what he deemed 'provincial centralization' had taken place.<sup>44</sup> That is, the Damascus governors now held responsibilities that earlier governors had not: they were expected to lead the pilgrimage to Mecca every year and personally see to tax collection in secluded and potentially rebellious areas outside the city. The new job description reflected that the position had been redefined to reflect Ottoman priorities that were specific to the province of Damascus. On the other hand, Damascene governors were no longer rotated in and out every year. If an occupant performed well, he could expect to remain in office, thus increasing the security of his access to wealth and opportunities for personal enrichment that were part of such an exalted office. On the whole, the picture that emerged demonstrated that the Ottomans had abandoned the schedules of promotions and formal requirements for promotions to office and focused instead on the requirements of the job, and who could best fill them.

The potential of the Ottoman elite military class to siphon off revenues bound for the central treasury and to rebel against the sultan's orders had long been a key part of seventeenth and eighteenth-century historiography. This era was frequently characterized as years of disorder and chaos in the provinces, as opposed to earlier centuries when the sultan's orders were obeyed. A new paradigm began to emerge linking fiscal realities with provincial receptivity to complying with the Ottoman administration's directives. Karen Barkey built upon the studies above for her 1994 study, claiming that the Ottomans had embarked

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<sup>42</sup> Mehmed Genç, "Osmanlı Maliyesinde *Malikane* Sistemi," *Osmanlı İmparatorluğunda Devlet ve Ekonomi* (Istanbul: Ötüken 2000), 99-152.

<sup>43</sup> Metin Kunt, *The Sultan's Servants: the transformation of Ottoman provincial government, 1550-1650* (New York: Columbia University Press, 1983)

<sup>44</sup> Karl Barbir, *Ottoman Rule in Damascus, 1708-1758* (Princeton, N.J.: Princeton University Press, 1980).

on an alternative route to centralization in the seventeenth century by co-opting its elites rather than confronting them.<sup>45</sup> The dynasty's bureaucrats worked to identify effective and talented leaders and then when such leaders threatened to rebel, coaxed them back into obedience through appeasement—generally of a financial nature—that was distasteful to the them but nevertheless largely effective. Building on the work of Mehmed Genç, Ariel Salzmänn argued that the *malikane* offered a newly stable opportunity to the provincial elites to access state resources, yet at the same time it allowed the state to benefit from their investment in it. With their financial interests newly and more securely aligned, the provincial elites became increasingly Ottomanized.<sup>46</sup> Salzmänn and Dina Rizk Khoury demonstrated, for the provincial cities of Diyarbakir and Mosul respectively, that the prospect of acquiring and maintaining a *malikane* proved an effective incentive to the local elites to provide services that were most crucial to the center, such as troop provisioning.<sup>47</sup> Rather than giving up control and influence in the provinces, historians were concluding, the Ottomans had learned how to govern the provinces through the notables.

These studies touched on what might be called integration paradigms, the question of how to characterize provincial Ottoman administration and the effectiveness of rule in the provinces. What all the studies above suggested is that what the central government needed and wanted from the provinces changed quite a bit between the sixteenth and eighteenth centuries and hence it dealt differently with provincial elites. Nevertheless, studies of imperial-provincial relations in Greater Syria challenged the view that eighteenth-century tactics of Ottoman provincial rule were substantially different that what they had been earlier. If we look in Damascus, as this study does, it was noted above that a strongly nationalist current of historiography presumed that Ottoman rule was foreign and predatory. Even studies such as Karl Barbir's presumed a wide gap between the ruling and the ruled, wherein interests were largely opposed to one another. Local populations, these studies suggested, were not favorably disposed towards the Ottomans and had to be won over, pacified, and convinced to accept Ottoman rule. Salzmänn and Khoury had pointed to the role of the *malikane* tax farms in cementing the cooperation of the elite families of Diyarbakir and Mosul. Nevertheless, this was not the first time that tax farming had appeared to be the means by which the dynasty co-opted local elites. As Abdul-

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<sup>45</sup> Karen Barkey, *Bandits and bureaucrats: the Ottoman route to state centralization* (Ithaca, N.Y.: Cornell University Press, 1994); and a similar argument appeared in her recent work *Empire of Difference: the Ottomans in Comparative Perspective* (Cambridge, U.K.; New York: Cambridge University Press, 2008).

<sup>46</sup> Ariel Salzmänn, "An *Ancien Régime* revisited: 'Privatization' and Political Economy in the eighteenth-century Ottoman Empire," *Politics and Society* 21, no. 4 (1993): 393-423

<sup>47</sup> Dina Rizk Khoury, *State and Provincial Society in the Ottoman Empire, Mosul, 1540-1834* (Cambridge, U.K.: Cambridge University Press, 1998); Ariel Salzmänn, *Tocqueville in the Ottoman Empire: Rival Paths to the Modern State* (Leiden, The Netherlands: E. J. Brill, 2004).

Rahim Abu-Husayn noted, from the sixteenth century tax farming had been a sort of outreach program to the powerful local families who dwelt in the coastal regions of Greater Syria.<sup>48</sup> The Ottoman administration used the lure of large rural tax collection rights to do precisely what Salzmann and Khoury identified in the eighteenth century: to reward those who were cooperative and to foment competition and rivalry among the provincial elites.

The Lebanese historian Faruk Hublus has even claimed that tax farming practices were responsible for the rise of sectarianism in Lebanon, because tax farms were awarded to families of different sects who then promoted the fortunes of their co-religionists within certain areas.<sup>49</sup> These great families and their followers vied with one another for control of the tax farms, and the longstanding rivalries that emerged between them increasingly took on a sectarian tone. Like Salzmann and Khoury, Shimizu Yasuhisa has also emphasized the element of mutual benefit that characterized the tax farming contracts between the sometime rebellious, sometimes dependable Ottoman vassal, Fakhr al-Din Ma'ani.<sup>50</sup> All of these descriptions are very close to Barkey's characterization of the central-peripheral dynamic as one of 'bargaining' that had potential to fulfill the needs of both parties. To put all the pieces together, we might conclude that tax farms were already among the primary spoils of the central-peripheral power struggle no later than the sixteenth century, and that this trend simply reached new levels of significance in the eighteenth century with the advent of the *malikane*. Hence, the fiscal-military reorganization looks less like the decline of the *timar* and more like the institutionalization of tax farming to address internal cohesion as the need for a cavalry waned.

By the early nineties, the field of Ottoman and Middle Eastern history was a different world. The first generation of students to be deeply impacted by *Orientalism* had come of age and begun their scholarly careers. The agenda for the next decades was outlined by Rifaat Abou-El-Haj in 1991 in a book that functioned something like a call to arms.<sup>51</sup> If history was a science, he maintained, then it should be subject to the same methodology everywhere. History's being a science was less of an iffy proposition for Abou-El-Haj than

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<sup>48</sup> Abdul-Rahim Abu-Husayn, "The *Itizam* of Mansur Furaykh: A Case Study of *Itizam* in Sixteenth-Century Syria," in Tarif Khalidi, ed., *Land Tenure and Social Transformation in the Middle East* ([Beirut]: American University of Beirut, 1984), 249-256; and idem, *Provincial Leaderships in Syria, 1575-1650* ([Beirut]: American University of Beirut, 1985).

<sup>49</sup> Faruk Hublus, "Nizam al-*iltizam* wa ishkalayah al-ta'ifiyah al-siyasiyah," in Mohammad Afifi et al. eds., *Sociétés rurales ottomanes/ Ottoman Rural Societies* (Le Caire [Cairo]: Institut Français d'Archéologie Orientale, 2005), 39-55

<sup>50</sup> Shimizu Yasuhisa, "Practices of Tax Farming under the Ottoman Empire in Damascus Province," in Nagata Yuzo et al. eds., *Tax Farm Register of Damascus Province in the Seventeenth Century: Archival and Historical Studies* (Tokyo: The Toyo Bunko, 2006).

<sup>51</sup> Rifa'at 'Ali Abou-El-Haj, *Formation of the Modern State: The Ottoman Empire Sixteenth to Eighteenth Centuries* (Albany, New York: State University of New York Press, 1991).

many, as he had a fairly straightforward adherence to Marxism, which he and others believed was a scientific mode of analysis for history just as Newton's law was in physics. In any case, the Ottoman Empire should be understood as a state that was broadly comparable to other early modern states, he proclaimed. Historians had shown too much interest in the empire's oddities and particularities: insane sultans, harem intrigue, and eccentric dervishes had been too often the focal point. The similarities between the Ottoman Empire and the early modern states of Europe were far more numerous and of greater weight than the differences. He dispensed with any talk of the Asiatic Mode of Production, stating starkly that *timars* were fiefs and that the fiscal shift from fief holding to tax farming of agrarian revenues was a momentous step away from a feudal economy towards a capitalistic one. He poured scorn on the previously held belief that tax farming was evidence of decline in the Ottoman Empire. He noted that few Ottomanists embracing this position seemed to be aware that tax farming was widespread in the early modern world, and that the experiences of other countries might shed some light on the role of tax farming in Ottoman economic and fiscal development. He called for historians to focus on exploring the Ottoman Empire with the same questions and methods that prevailed for the exploration of European history; the results, he predicted, would be broadly similar.

The mood of the early nineties was one of wholesale revisionism, and it extended to nearly every kind of inquiry in the historiography of the seventeenth and eighteenth centuries. Decline was decidedly out, considered to be discredited more or less along with Orientalism. Suddenly, everything was open to re-examination, and there was no preconception that everything would or could be explained by a blanket assertion of decline. Many developments that were previously central to showing the empire's decadence were substantially revised. Leslie Pierce's work on the women who dominated the sultanate in the seventeenth century identified these women as crucial for the dynasty's perpetuation in these years.<sup>52</sup> Madeline Zilfi entered the world of the *kadizadelis*, a group of low level clerics who preached a return to 'pure' Islam, and examined the appeal of the doctrine in light of thwarted ambitions and the tensions between those in the learned professions.<sup>53</sup> Other historians found that standard accounts of the Ottomans after the sixteenth century had often exaggerated the gap between the empire and its European opponents on the battlefield. Rhoads Murphey and Gabor Agoston both pointed out that the Ottomans remained competitive on the field throughout the seventeenth century.<sup>54</sup> One focused on

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<sup>52</sup> Leslie Peirce, *The imperial harem: women and sovereignty in the Ottoman Empire* (New York: Oxford University Press, 1993).

<sup>53</sup> Madeline Zilfi, *The Politics of Piety: the Ottoman ulema in the postclassical age, 1600-1800* (Minneapolis, Mn.: Bibliotheca Islamica, 1988).

<sup>54</sup> Rhoads Murphey, *Ottoman warfare, 1500-1700* (New Brunswick, N.J.: Rutgers University Press, 1999); Gabor Agoston, *Guns for the sultan: military power and the weapons industry in the Ottoman Empire* (Cambridge, U.K.: New York, 2005).



provisioning, the other on artillery and armaments. Works on Levantine trade now focused on the staying power and resilience of the Ottoman economy in the face of increasing competition from the Atlantic economies and alternate long distance trade routes.<sup>55</sup> Other scholars drew parallels with European early modern economic developments through studies that focused on consumption.<sup>56</sup> In brief, scholarship had moved away from explaining the ultimate and inevitable demise of the Ottoman Empire towards a desire to account for its extraordinary longevity. Picking up the thread where Islamoğlu and Keyder had left off the world systems theory, state institutions and policies, rather than hampering economic development, were now found to be a critical part of their enduring vitality.<sup>57</sup> Furthermore, it was no longer a special case. In general, as Abou-El-Haj predicted, the empire was found to have features that greatly resembled those of other early modern empires.

The quest to understand land tenure developments within a narrative of the development of capitalism was still ongoing, but it increasingly shifted away from modes of production towards examining the legal infrastructure of the empire. This shift reflected the conclusion of both Islamoğlu and Keyder that the state and its structures had played a seminal role in allowing capitalism to emerge. Islamoğlu in fact critiqued the standard liberal narrative that saw private forces of production as the founders of capitalism, be it in Europe, China or the Ottoman Empire.<sup>58</sup> Everywhere, she concluded, it was the state, not the private commercial sector, that did most to provide the apparatus necessary for capitalism to work. Increasingly, inquiries into Ottoman political economy investigated the genesis of private property in land. As we saw above, Perry Anderson had stated that lack of private property in land was a decisive difference between the Ottoman Empire and Christian European states, and the issue of private property had never completely receded from scholarly view.

A study by Baber Johansen that aimed to refute the Orientalist thesis of the immutable nature of Islamic law rather than to address the concerns of

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<sup>55</sup> Daniel Goffman, *Izmir and the Levantine World, 1550-1650* (Seattle: University of Washington Press, 1990); Palmira Brummett, *Ottoman seapower and Levantine diplomacy in the age of discovery* (Albany, N.Y.: State University of New York Press, 1994); Edhem Eldem, *French Trade in Istanbul in the eighteenth century* (Leiden; Boston: Brill, 1999) and Faruk Tabak, *The waning of the Mediterranean, 1550-1870: a geohistorical approach* (Baltimore, Md.: Johns Hopkins University Press, 2008).

<sup>56</sup> Donald Quataert, ed. *Consumption Studies and the history of the Ottoman Empire, 1550-1922: an introduction* (Albany, N.Y.: State university of New York Press, 2000) and James Grehan, *Everyday life and consumer culture in 18<sup>th</sup>-century Damascus* (Seattle: University of Washington Press, 2007).

<sup>57</sup> e.g. Şevket Pamuk, *The Ottoman Economy and its Institutions*, Variorum Collected Studies Series, (Burlington, Vermont: Ashgate Publishing Co., 2009)

<sup>58</sup> Huri Islamoğlu, "Property as a contested domain: a reevaluation of the Ottoman Land Code of 1858," in Roger Owen, ed., *New Perspectives on Property and Land in the Middle East*, Harvard Middle Eastern Monographs XXXIV, (Cambridge, Mass.: Harvard University Press, 2000), 3-62.

Ottoman history per se nevertheless had a great influence on the field.<sup>59</sup> Johansen traced the dominant Hanafi juridical idea of land tenure from one wherein the cultivators were tax-paying owners of the land they tilled, to one wherein a good deal of land belonged to the state treasury and the peasants paid rent in lieu of taxes to the state. This study enforced the consensus that legal control of most productive land lay ultimately in the hands of the Ottoman state. Nevertheless, in several works, Kenneth Cuno argued that de facto private property in land existed in eighteenth century Egypt because those who controlled land managed to endow and alienate it and submit it to virtually any commercial transaction through legal fictions.<sup>60</sup> On the other hand, he agreed with the mounting opinion of the majority of historians that these de facto landlords did not interfere with their peasants' tenure or seek to manage production. Cuno was not alone in feeling that the transactions he witnessed certainly looked like private property rights. Beshara Doumani and Peter Sluglett with Marion Farouk-Sluglett also noted that before the 1858 land Code, even the peasants were engaging in transactions that suggested that they treated the land as their freehold property.<sup>61</sup>

By 1992, Faroqhi was able to state with confidence that even before the 1858 land code, something much closer to private property right existed in the eighteenth century than had in the sixteenth.<sup>62</sup> Martha Mundy critiqued this position that private property practically existed prior to its legal appearance. In a number of different works, she examined the legal notions of property, usufruct and tenure rights in jurisprudence from the middle ages onward. She was interested in how private property was introduced into the concepts that Ottoman bureaucrats and jurists were working with. This approach has been very valuable, and in a study co-authored with Richard Saumarez Smith, she offered the only study of jurisprudence from 16<sup>th</sup> to 19<sup>th</sup> centuries to date, offering a narrative of the evolution in how tenure questions were dealt with.<sup>63</sup> This narrative emphasized the continuity of the preceding juristic tradition with the 1858 Land Law. Since the seventeenth century, Ottoman law had been

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<sup>59</sup> Baber Johansen, *The Islamic law on land tax and rent: the peasants' loss of property rights as interpreted in the Hanafite legal literature of the Mamluk and Ottoman periods* (New York: Croom Helm; New York: Methuen, 1988).

<sup>60</sup> Kenneth Cuno, "The Origins of Private Ownership of Land in Egypt: A Reappraisal." *International Journal of Middle East Studies* 12 (1980): 245-75; and *The Pasha's Peasants: Land, society and economy in Lower Egypt, 1740-1858* (Cambridge, U.K.: Cambridge University Press, 1992).

<sup>61</sup> Beshara Doumani, *Rediscovering Palestine: Merchants and Peasants in Jabal Nablus, 1700-1900* (Berkeley, Cal.: University of California Press, 1995) and Peter Sluglett and Marion Farouk-Sluglett, "The Application of the 1858 Land Code in Greater Syria: Some Preliminary Observations," in Tarif Khalidi, ed., *Land Tenure and Social Transformation in the Middle East* ([Beirut]: American University of Beirut, 1984), 409-421.

<sup>62</sup> Faroqhi, "In Search of Ottoman History," 217

<sup>63</sup> Martha Mundy and Richard Saumarez Smith, *Governing property, making the modern state: law, administration and production in Ottoman Syria* (New York: I.B. Tauris, 2007).

enhancing the legal responsibility of the peasant cultivators over the land, and slowly eating away at the legal powers of the landlord figures. The result was an increasingly direct relationship between the treasury and the peasant, a trend that was further enshrined in the 1858 Code.

In contrast, Huri Islamoğlu characterized Ottoman land law prior to the nineteenth century as notable for enabling multiple claims and “bundles” of rights that were accommodating to special cases.<sup>64</sup> What was notable thereafter, she claimed, was the absolute and exclusionary nature of the relation between the person (the owner) and the thing (property). She argued that the increasingly inviolate nature of this relationship was endemic to the modern state, and is coupled with a correspondingly absolute state claim upon tax liability of the owner. Both Mundy and Islamoğlu saw individuation of responsibility for land rather than multiple claims as being the key development, but while Mundy posited a long running process of change in this direction which culminated in the 19<sup>th</sup> century reforms, Islamoğlu emphasized the dimension of political intervention that significantly broke with a number of precedents and which were intended to create new realities on the ground—primarily to reduce the power of the ‘pseudo’ landlords that Kenneth Cuno and Bruce McGowan had identified.

In many studies of the nineties and first decade of the 2000’s, there was a noticeable shift towards studies with a more empirical approach, presumably a response to the difficulty of working with schematic Marxism as much as Orientalism. Historians focused on particular communities and established detailed information about the relationships between its various members before making some attempt to connect it to a larger early modern narrative. In particular, the study of court records facilitated this sort of intimately detailed study, and the number of studies based on court records exploded. The trend towards court records brought with it a new perspective on land and social relations that were indicative of broader currents within the discipline of history. Some of the first court record studies appeared at precisely the time that the South Asian ‘subaltern’ historians had burst into the mainstream of the field’s consciousness. These historians were reacting against what they called the ‘elitist’ bent of nationalist historiography as much as the degradations of Orientalist historiography.<sup>65</sup> Peasants, workers, women, and the poor could also claim responsibility for the changes that had shaped the modern states and societies that arisen on the subcontinent, these studies emphasized.

Like the subalternists, Ottoman historians also wanted to move away from history wherein the only agent who appeared to be changing anything was global capitalism rather than normal people making everyday decisions. The focus on the non-elite populations that inhabited the court records opened new windows onto the experiences of the peasant cultivators and their disputes over land revenues and access. One of the earliest advocates of the court records was

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<sup>64</sup> Islamoğlu, “Property as a Contested Domain”

<sup>65</sup> e.g. Partha Chatterjee, *Nationalist Thought and the Colonial World: A Derivative Discourse* (Minneapolis, Mn.: University of Minnesota Press, 1998)

Abdul-Karim Rafeq, who was mentioned above. In the last twenty years some of the major studies based on the court records of Greater Syria have been published by Beshara Doumani, Jean Paul Pascual and Colette Estabiet, Dror Ze'evi, Brigitte Marino and Elyse Semerdjian.<sup>66</sup> Those in Anatolia and the Balkans include Molly Greene, Rositsa Gradeva, Hülya Canbakal, Boğaç Ergene, Leslie Peirce, Suraiya Faroqhi and Haim Gerber to name only a few.<sup>67</sup> This new current was particularly beneficial to rural history, for the opening of the court records to the public was followed by an upswing in books by amateur historians who discovered enough material to write a book about specific rural areas or villages. Although these seldom reached back as far as the seventeenth or eighteenth centuries, many such works presented an array of useful and detailed information about rural life in places that received little attention from professional historians.<sup>68</sup>

Developments in the study of Ottoman peasants were particularly affected by the court record studies. While previous studies had investigated whether oppression of peasants was necessary for economic development, or to what extent the peasants actually had been oppressed and exploited, the new literature focused on the specificities of particular peasant communities and their relationships with state authorities and townsmen. Amy Singer's work on the peasant cultivators of the villages surrounding sixteenth-century Jerusalem was particularly notable, for she paired the information available in the court records with that in the sultan's orders (*mühimme*) and land registers (*tapu*

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<sup>66</sup> Doumani, *Rediscovering Palestine*; Colette Estabiet and Jean-Paul Pascual, *Des tissus et des hommes: Damas, vers 1700* (Damas [Damascus]: Institut français du proche-orient, 2005); Dror Ze'evi, *An Ottoman Century: the district of Jerusalem in the 1600s* (Albany, N.Y.: State University of New York Press, 1996); Brigitte Marino, *Le Faubourg du Midan à Damas à l'époque Ottomane: espace urbain, société et habitat (1742-1830)* (Damas [Damascus]: l'Institut Français d'Études Arabes de Damas, 1997); and Elyse Semerdjian, *Off the Straight Path: illicit sex, law and community in Ottoman Aleppo* (Syracuse, N.Y.: Syracuse University Press, 2008).

<sup>67</sup> Molly Greene, *A Shared World: Christians and Muslims in the early modern Mediterranean* (Princeton, N.J.: Princeton University Press, 2000); Rositsa Gradeva, *Rumeli under the Ottomans, 15<sup>th</sup>-18<sup>th</sup> centuries: institutions and communities*, Analecta Isisiana, 76, (Istanbul: Isis Press, 2004); Hülya Canbakal, *Society and politics in an Ottoman town: 'Ayntab in the 17<sup>th</sup> century*, The Ottoman Empire and its Heritage, v. 36, (Leiden; Boston: Brill, 2007); Boğaç Ergene, "Social Identity and Patterns of Interaction in the Sharia Court of Kastamonu (1740-44)," *Islamic Law and Society* 15, no. 1 (2008): 20-54; Leslie Peirce, *Morality Tales: law and gender in the Ottoman court of Aintab* (Berkeley, CA: University of California Press, 2003); e.g. Suraiya Faroqhi, *Artisans of empire: crafts and craftspeople under the Ottomans* (London: I.B. Tauris, 2009); Haim Gerber, "Social and Economic Position of Women in an Ottoman City, Bursa, 1600-1700," *International Journal of Middle East Studies* 12, no. 3 (1980): 231-244.

<sup>68</sup> e.g. Abd Allah Hanna, *Dayr 'Atiyah: al-tarikh wa-al-'umran: min al-waqf al-dharri ilâ al-mujtama' al-madani, awakhir al-qarn al-thalith 'ashar-muntasaf al-qarn al-'ishrin* (Dimashq [Damascus]: al-Ma'had al-Faransi lil-Dirasat al-'Arabiyah bi-Dimashq, 2002).

tahrirnames).<sup>69</sup> She focused on the competition between state actors and peasants for possession of the rural surplus. Singer's work emphasized that while the interests of the Ottoman state and its peasantry might intersect on some matters, their agendas were quite divergent. She sought primarily to give some nuance to Inalcik's sometimes overly sunny characterization of the state-peasant relationship. This was not to say that the peasants were in continuous conflict with Ottoman officials, but that the former disliked the latter and were suspicious of them, with good reason. Their support for the state was largely inferred from the lack of open rebellion, but it was tacit and lukewarm. The peasantry was not passive in accepting its lot nor convinced of the magnanimity of the Ottoman state, but rather impeded Ottoman officials when they could to the extent that they could in order to avoid taxes and fees.

The relationship between the city and its hinterland got a new lease on life in Beshara Doumani's *Rediscovering Palestine*.<sup>70</sup> The topic of the 'Islamic city' and/or the urban economy had long been of interest to scholars. A number of prominent names both from the Orientalist generations and afterwards were associated with it.<sup>71</sup> Ira Lapidus was one of a generation of scholars who sought to distinguish the specificities of an Islamic city from a Western city. Among other things, he found the former to be largely devoid of 'associational life'. The majority of his conclusions about these differences need not detain us, but Lapidus was one of few to address the topic of how cities and their hinterlands fit together. He noted that Islamic cities, contra popular belief, were not cut off and fully separate from the rural areas. Unfortunately, he sought to demonstrate this point solely by noting that many rural residents were affiliated with one of the four Sunni law schools. He concluded ultimately that urban and rural areas were not

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<sup>69</sup> Amy Singer, *Palestinian peasants and Ottoman officials: rural administration around sixteenth-century Jerusalem* (Cambridge; New York: Cambridge University Press).

<sup>70</sup> See note 61

<sup>71</sup> See classic works such as were those of Claude Cahen and Robert Mantran and Andre Raymond. Claude Cahen, *Mouvements populaires et autonomisme urbain dans l'Asie musulmane du moyen âge* (Leiden: Brill, 1959); Robert Mantran, *Istanbul dans la seconde moitié du XVII<sup>e</sup> siècle; essai d'histoire institutionnelle, économique et sociale* (Paris: A. Maisonneuve, 1962); André Raymond, *The Great Arab Cities in the 16<sup>th</sup>-18<sup>th</sup> centuries: an introduction* (New York: New York University Press, 1984); and more recently, Salma Khadra Jayyusi et al. eds., *The city in the Islamic World* (Leiden; Boston: Brill, 2008). For Damascus in particular, see Ira Lapidus, *Muslim Cities in the Later Middle Ages* (Cambridge, Mass.: Harvard University Press, 1967) for the Mamluk period and Linda Schatkowski Schilcher, *Families in Politics: Damascene factions and estates of the 18<sup>th</sup> and 19<sup>th</sup> centuries* (Wiesbaden: F. Steiner, 1985) and Antoine Abdel Nour, *Introduction à l'histoire urbaine de la Syrie ottomane (XVI<sup>e</sup>-XVIII<sup>e</sup> siècle)*, Publications de l'Université libanaise, Section des études historiques, 25 (Beyrouth: Université libanaise: Distribution, Libr. Orientale, 1982) for the Ottoman period.

in fact well defined in the Islamic world.<sup>72</sup> By contrast, Beshara Doumani showed that Lapidus was right that the hinterland and the city were intimately linked together. The connection between the two, Doumani maintained, could be seen primarily through relations of credit.<sup>73</sup> Examining the hinterland of Nablus, Doumani demonstrated that the peasantry took calculated risks, borrowing the cash they needed from urban merchants while offering future harvests as collateral. Life in the villages was increasingly financed, Doumani shows, through a credit nexus that linked the city of Nablus and its surrounding villages with a world of finance that was transnational. Although they frequently were forced to borrow at high rates of interest, Doumani emphasized that they were active partners in the credit relationship, and not merely its victims. Although taking money on credit had the potential to ruin them, the peasants themselves sought to enter such contracts.

For the historians who have been working in the field since the 1990's, there are many ways in which the early modern paradigm appears to work well. Many aspects of the military-fiscal changes in the Ottoman Empire represent substantial breaks with past practice and are quite convincing in their comparability to similar changes elsewhere. Nevertheless, this rehabilitation of the era that had formerly been described as the empire's darkest age has given rise to a new set of controversies. The Ottoman state, which only twenty years previously had been described as stagnant, decadent, dogmatic, wedded to tradition and so many other adjectives in that vein, was now found to be flexible, pragmatic, dynamic, innovative and prudent.<sup>74</sup> The eighteenth-century Ottoman Empire has come to be increasingly presented as superior to the centralizing juggernaut it became in the nineteenth century, or the system of nation states that it became in the twentieth because of its flexibility. The Ottoman Empire in the eighteenth century was a political formation that accepted differences between its subjects and different conditions of rule based on the particular needs of its many territories. It was, so to speak, comfortable with diversity.<sup>75</sup> The new exuberance for empire did not originate in Ottoman revisionism, but was part of a wider trend in the disciplines of history and the social sciences that came to influence a number of Ottoman historians. Its genesis was a disenchantment with the nation state and the strife associated with nation building and national rivalry. Empire, it seemed, might be a more benign form of government than their more powerful and more oppressive successor states.

However, not all scholars were convinced that empires deserved such praise. Rashid Khalidi has written with alarm of the growing nostalgia for empire,

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<sup>72</sup> Ira Lapidus, "Muslim Cities and Islamic Societies," in idem, ed., *Middle Eastern cities; a symposium on ancient, Islamic, and contemporary Middle Eastern urbanism* (Berkeley, Cal.: University of California Press, 1969), 47-79.

<sup>73</sup> Doumani, *Rediscovering Palestine*, see particularly chapters 2 and 4.

<sup>74</sup> I thank my colleague Murat Dağlı for his presentation on the proliferation of the concept of Ottoman pragmatism.

<sup>75</sup> Barkey, *Empire of Difference* makes the strongest claim for this interpretation.

and its implications for the Middle East in contemporary politics.<sup>76</sup> For him, the glorification of empire could easily translate into support of American military missions in the Middle East, all in the belief that if an appropriately flexible rule sensitive to the peculiarities of the region could be established in Middle Eastern countries, then it would be benign. Additionally, Huri Islamoğlu and Peter Purdue felt that enthusiasts of empire made too much of the “rigidity” of the nation state and its contrast with the “flexibility” of empire.<sup>77</sup> Both political formations had elements of rigidity and flexibility, and could not be juxtaposed in a simplistic way. Islamoğlu also was at loggerheads with some of the empire enthusiasts over their reification of the Ottoman state. For Islamoğlu, treating the state as a rational being with the power to behave pragmatically or any other way did not make sense. She saw the state as a ‘field of power’ in which Ottoman administrators and subjects negotiated the limits of the state’s might and capabilities.

The terminology of pragmatism and rationality are not solely reserved for the state in revisionist literature, however. Many of the studies mentioned above sought to demonstrate that the people of the Middle East, both elites and peasants, behaved in ways that were pragmatic, dynamic, and materially and rationally self-interested. This development is understandable; the previous generation maintained that the state was sclerotic and the people inward-looking and traditionalistic, revisionists have sought to portray the opposite. However, if anything is striking about these adjectives, it is how much they are underwritten by the belief that human beings (whether in the Middle East or elsewhere) are autonomous agents who weigh all their options and strategies for action, then plot a course that is rationally the most efficient for effecting the desired outcome. A new consensus has emerged within the social sciences that this is not perhaps the most accurate model of understanding why people make the choices they do. As the anthropologist Talal Asad has noted, “Choices and desires make actions before actions can ‘make history.’ But predefined social relations and language forms, as well as the body’s materiality, shape the person to whom ‘normal’ desires and choices can be attributed. That is why questions about what it is possible for agents to do must address the process by which ‘normal persons’ are constituted.”<sup>78</sup> This dissertation seeks to ‘normalize’ the people and historical processes of the Middle East rather than to exoticize them; it also attempts to be sensitive to how possibilities for action and choice are constituted in the seventeenth-century Middle East in the seventeenth century.

This dissertation works within the early modern paradigm, although it understands that paradigm within a particular spirit. There are extremely important parallels between what is happening in the Ottoman Empire and what

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<sup>76</sup> Rashid Khalidi, *Resurrecting Empire: western footprints and America’s perilous path in the Middle East* (Boston: Beacon Press, 2004)

<sup>77</sup> Huri Islamoğlu and Peter Purdue, “Introduction” in idem eds., *Shared Histories of Modernity: China, India, and the Ottoman Empire* (New Delhi: Routledge, 2009), 9

<sup>78</sup> Talal Asad, *Genealogies of religion: discipline and reasons of power in Christianity and Islam* (Baltimore: Johns Hopkins University Press, 1993), 13

is happening elsewhere in the seventeenth and eighteenth centuries, particularly in Europe. It is not surprising that this should be the case. All of these states were engaged with one another in the networks of commerce and warfare that shaped many state institutions and policies. One cannot read Ebu Suud Efendi's legal treatises or fatwas without being struck by the fact that any monarch in Europe would have been enthused to have such a person in his employ. There was once talk of multiple modernities, now there is talk of indigenous modernities.<sup>79</sup> However, if all of these variations-on-modernity paradigms exist only to show that Middle Eastern history too is progressing inexorably and organically towards capitalism, rational autonomy, secularity, the nation state or any of the other familiar teleologies of modernity, then their usefulness is somewhat limited. There is of course another way to look at it, which is that the early modern period is a time not only when the practices, institutions, and notions of self associated with modernity are taking shape, but also a time when ways of existing in the world, thinking about it and interacting with it that are now marginal, displaced or altogether extinct played a central role in organizing human activity. If we can locate not only what is integral to laying the groundwork for the world we inhabit today, but also understand what integral parts of the past ceased to exist over time, we can make a great contribution not only to the field of Middle Eastern history or Middle East Studies, but also to the discipline of history.

The mainstream fields of the discipline of history, which for the early modern period is that of early modern Europe, have made only modest inroads into the kind of inquiry to which I refer. A fact that escapes many Middle East historians is how much of Europe's own past has been 'otherized' in a way very reminiscent of how Said described *Orientalism*. Ever since Francis Bacon excoriated the scholastics as a horde of spiders cobbling together concepts to produce a web of absurdities, the progressive, increasingly enlightened voice of European scholarship identified a number of obstacles that had attempted to arrest the light of knowledge and civilization and that had been or needed to be overcome. For years, one of the most frequently identified obstacles has been the Catholic Church, its theology and its clergy. One might argue that the field of history has changed quite a bit since the advent of critical theory; historians recognize in the post-Foucault world that modernity is not a better condition than those preceding it, and that all sense of 'progress' has therefore dropped out of history. Yet I would like to use an example from the historiography of the Catholic Church to challenge that the field has in fact abandoned a narrative of progress: it is simply that the narrative of progress has changed. When we consider revisionist literature about the Catholic Church, such work nearly always identifies the ways in which the Church, contrary to previous belief, has made a positive contribution towards some element of modernity. Harold Berman has argued that the Catholic Church was the prototype of the modern state, and

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<sup>79</sup> e.g. David D. Gow, *Countering Development: indigenous modernity and the moral imagination* (Durham: Duke University Press, 2008)



Paolo Prodi has argued somewhat similarly.<sup>80</sup> The Council of Trent is now seen as a move to modernize the structures of the Church and bring it closer to being a rational bureaucracy.<sup>81</sup> The laity, it has been shown, became more familiar with the basic tenets of correct doctrine after the educational initiatives of the sixteenth century were launched. All of these examples indicate some key new historical goal posts: rational bureaucracies, centralized authority, and greater emphasis on personal responsibility. The Catholic Church can be seen to embody such aspects of modernity, and hence has been rehabilitated from its previous 'obstacle to modernity' status.<sup>82</sup> In this sense, there is more than a little resemblance between the historiography of the Middle East and Catholic Europe. Both can be shown to be on the right path, getting to the right place, if we look at the right things.

There is, admittedly, such a narrative that emerges in several of my dissertation chapters, particularly in chapters one and two. The first chapter builds on Martha Mundy's insight that village and its population have gained a corporate legal identity with greater control over its resources and its members. This development is, as she has shown, a part of the story of how private property emerged in the Ottoman Empire. Chapter two also speaks to developments familiar to the process of modernization. Namely, it deals with the widening jurisdiction of sultanic, or state law over land and suggests that there was an increasing consensus among jurists that the state had power to make binding its legislation on land issues. There is no doubt that such developments are important, and conform fairly easily to our expectations of the sort of transformations that take place in the early modern period. However, such developments are only part of the story of the dissertation, just as they are only part of the story of the early modern period itself. Equally important to the study of the early modern period is the investigation of those attitudes, customs, or institutions that were an integral part of life, yet whose importance can be hard to fathom because they are no longer part of the world we live in.

Increasingly, in the attempt to capture the less accessible parts of the early modern experience in European experience, historians have turned to cultural and intellectual history. Such studies, if not challenging the major narratives of modernity, enrich our understanding of how the process of change unfolds, and the many surprises and incongruities that it contains. In the words of Keith Thomas, "Now that both Marxism and Namierism have lost their appeal,

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<sup>80</sup> Paolo Prodi, *The papal prince: one body and two souls: the papal monarchy in early modern Europe* (Cambridge; New York: Cambridge University Press, 1987).

<sup>81</sup> John O'Malley, *Trent and all that: renaming Catholicism in the early modern era* (Cambridge, Mass.: Harvard University Press, 2000).

<sup>82</sup> This description only does justice to the general thrust of the field, there are notable exceptions, and it is through these that we see what possibilities lie in store. Premier among them is Joseph Leo Koerner, *The Reformation of the Image* (Chicago: University of Chicago Press, 2004), which explores how sixteenth-century Christians, both Catholic and Protestant, understood icons, images, and how to relate to them correctly.

there is an enhanced preoccupation with the mental processes of the people of the past, a new concern to reconstruct the ways in which they viewed the world, and a greater readiness to take at face value the reasons they gave for their actions. For some historians, such as Natalie Zemon Davis or Carlo Ginzburg, this means exploring the values and unstated assumptions of the inarticulate. For others, such as Ian Maclean or Anthony Grafton, it involves close attention to the intellectual traditions which shaped the thinking of the sophisticated.”<sup>83</sup> It should be noted that these remarks were made in an article reviewing several works of Quentin Skinner, and taking note of the surge of interest in the history of political thought as a genre for explaining radical transformations in political concepts that appeared, on the surface, to be quite familiar to everyone: liberty, republicanism, and virtue. One could also look to the numerous works of Robert Darnton, whose fascination with the strangeness of his subject matter is palpable: “Visit the eighteenth century and you will return with your head spinning, for it is endlessly surprising, inexhaustibly interesting, irresistibly strange.”<sup>84</sup>

Historians of the Middle East also understand the power that concepts have in shaping the possibilities for action; in particular they have long been aware of and sensitive to Ottoman idioms of rule. The Ottoman political class who first warned of decline also had a very coherent explanation for what statecraft should accomplish and how it was supposed to do it. Barkan and Inalcik, we may recall, were fascinated by Ottoman ideologies of rule and how these ideologies were embodied in institutions. Like the Ottoman courtiers, they believed that so long as institutions functioned the way they were supposed to, realities on the ground corresponded to the ideals of the political tracts: justice was dispensed to the peasants, abuses remedied, and soldiers turned up for military campaign with the proper retinue and equipment. Huri Islamoğlu, as was mentioned above, criticized Inalcik for confusing Ottoman society with its ideals. While Islamoğlu had a point, Inalcik and Barkan were not wrong to emphasize the importance of the concepts in the political literature, for this literature indicated a number of foundational assumptions about the nature of power and the correct ordering of relations of power that underwrote not only Ottoman institutions but the general fabric of social and political existence. In other words, the concepts of authority, justice, and obedience called up in that ideology are relevant to understanding what people could and could not do and how they conceptualized the possibilities for action. One could just as well point out that contemporary beliefs about ourselves as enlightened, autonomous subjects is factually inaccurate or at best an inadequate way of explaining why we behave

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<sup>83</sup> Keith Thomas, “Politics: Looking for Liberty,” in *The New York Review of Books*, (May 26<sup>th</sup>, 2005) online at <http://www.nybooks.com/articles/archives/2005/may/26/politics-looking-for-liberty/>, accessed March 20<sup>th</sup>, 2011

<sup>84</sup> Gordon S. Wood “The Hidden France,” *New York Review of Books* (March 11, 2004), online at <http://www.nybooks.com/articles/archives/2004/mar/11/the-hidden-france/>, quoting from Robert Darnton’s *George Washington’s False Teeth: An unconventional guide to the eighteenth century* (New York: W.W. Norton, 2003).

the way we do. Nevertheless, the idea of the autonomous subject is not only omnipresent in our society as a social model, but critical for understanding the contemporary world. It is a normative ideal that undergirds our laws, our prison system, our government, our economic institutions, our social and family relations. Our society is not the ideal it proclaims, we are not the ideal subject we admire. But those ideals are quite relevant for understanding the basis upon which we engage with one another, frequently without giving it any conscious thought.

There are a number of scholars working in related fields who have seen the need to explore the connection between ideas and action in the Middle East. Anthropologists focusing on Islam and modernity have contributed a great deal to thinking about how we might do this. Talal Asad, Brinkley Messick and Saba Mahmood have all emphasized the need to pay attention to the language and terms in which people consider their conditions, the way that the world works, and where and how they locate themselves in this world.<sup>85</sup> Historians, following a Marxist tendency, often operate with the belief that there is a fairly firm divide between 'discourse' and reality. That is, what a society writes about, the values it claims to adhere to, the concerns of its learned and literate elite, are one thing. The struggles for power, wealth, and resources on the other hand are independent of the former, they have to do with material reality and the rational calculation of material interest, not the niceties of political ideals. The anthropologists have rejected this dichotomy between 'how we think about things' and 'what we do' and have shown rather that the way we think about things gives definition to power, and shapes what it is possible to consider doing or not doing. Talal Asad has called attention to the productive, rather than repressive, nature of hegemony. His work on religion and the secular have examined the way in which thoughts become thinkable, and open new possibilities for action. He has traced for instance the rise of a new concept of 'family' in nineteenth century Egypt, and how this concept became a focus for the reorganization of the court system and a number of other reform projects.<sup>86</sup> Both Messick and Mahmood examined how the mores described in texts were embodied in the relationships between people and the ways in which they conduct themselves.

There have been other contributions to the study of the Middle East specifically that have shown how the potential of a similar kind of approach. Given the field's disdain for philology, it is interesting to note that scholars of literature have produced some of the most illuminating studies to date on how early modern conceptions of the world are not like our own and how recognizing these differences can contribute to understanding early modern behavior and action. Perhaps the best studies of sexuality and views of the body have been Khalid al-Rouayheb's *Before Homosexuality in the Arab-Islamic World and*

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<sup>85</sup> Saba Mahmood, *The Politics of Piety: the Islamic revival and the feminist subject* (Princeton, N.J.: Princeton University Press, 2005).

<sup>86</sup> Talal Asad, *Genealogies of Religion*, and idem, *Formations of the Secular: Christianity, Islam, modernity* (Stanford, Calif.: Stanford University Press, 2003).

Walter Andrews and Mehmed Kalpaklı's *The Age of the Beloveds*.<sup>87</sup> Both studies were based primarily on biographical literature and poetry, the former in Arabic and the latter in Ottoman Turkish. Both studies examined sexual activity and romantic imagery that strikes us today as homoerotic, and their authors admirably placed the sexual mores and practices of the age within the relevant aesthetic, ethical, legal, medical and social contexts. The Andrews and Kalpaklı study was also a survey of sexual mores and activity in early modern Europe, and struck a careful balance between drawing parallels among the examples taken from numerous cities and making distinctions between them. Although the sexual landscape of the early modern Ottoman Empire had some unique qualities, the authors demonstrated that in all the locations they examined, the behavior and attitudes were quite distant from contemporary notions of desire, conduct and its social significance. Gottfried Hagen has also published a number of works examining the various lenses through which the Ottomans perceived the world, sometimes the physical world of travel and geographical literature, and sometimes the terrain of politics, such as the concept of the 'order of the world'.<sup>88</sup> In all cases, he has sought to flesh out the meaning of specific concepts and their transformation over time by establishing a wide-ranging context of their usage in a manner reminiscent of Quentin Skinner.

Inalcik and Barkan were not the last scholars to be interested in how Ottoman political concepts and the practice of politics intersected. Linda Darling has long noted the relationship between the concept of justice and Ottoman taxation practices. Similarly, Douglas Howard examined the question—one frequently addressed in the political literature—of who deserved a *timar* and how this quality of 'deservingness' informed the reforms of the *timar* system under Murat IV.<sup>89</sup> There are others, but these studies highlight the fact that Ottoman political writing is saturated with concerns of rural taxation and land tenure. As a result, scholarship on these subjects has been more likely to engage with how political ideals played out in Ottoman society. This dissertation aspires to the same goal, but in a slightly different way. It looks to land revenues and the numerous sources that deal with land revenues to examine how it is that people's relationships with one another and obligations to one another are part of the process of determining who had access to what. In a sense, it is a study of moral economy.

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<sup>87</sup> Khalid al-Rouayheb, *Before homosexuality in the Arab-Islamic world, 1500-1800* (Chicago: University of Chicago Press, 2005); Walter Andrews and Mehmed Kalpaklı, *The age of the beloveds: love and the beloved in early-modern Ottoman and European culture and society* (Durham: Duke University Press, 2005).

<sup>88</sup> Gottfried Hagen, "Legitimacy and World Order," in H. Karateke and M. Reinkowski eds., *Legitimizing the Order: the Ottoman rhetoric of state power*, The Ottoman Empire and its heritage, v. 34, (Leiden; Boston: Brill, 2005), 55-83

<sup>89</sup> See Linda Darling, *Revenue-Raising* and Douglas A. Howard "The Ottoman *Timar* system."

The search for these connections, and their role in land tenure relations, owes much to the histories of the Middle East and early modern Europe that have acknowledged conceptual language as a constitutive part of the reality that people live. Much of this dissertation explores the governance of land by investigating the concepts that are ubiquitous to the process of governance. These concepts include that of the body politic, *ahl al-qariyah* (the people of the village), *zulm* (oppression), *zumre* (professional or confessional group), *qanun*, *shariah*, and *devlet* (dynasty, state, or simply dominance, depending on the context). A very important part of this investigation will be the highlighting of how difficult it is to classify any of these concepts as being primarily political, social or religious, and that attempts to define them in such a way are bound to miss the very dynamics that need to be explored in the early modern period. While it is common today to characterize relationships as falling primarily into one of these categories, this was not the case in the period under study. The exploration of these concepts is the very way to try to capture how it is that people thought about their relations with others differently than the ways that are currently familiar to us. I contend that these concepts connect groups or classes of people to one another, and provide a sense of the possibility for action and the priorities of different individuals involved in agriculture and land transactions. The dissertation also argues that these concepts and the relationships that are predicated upon them can provide a better guide to prevailing political dynamics than some of the paradigms in current use. The presumption of a binary opposition inherent in the center-periphery paradigm is, I maintain, bound to color our perception of events in particular ways, not all of them accurate. It is better perhaps to return to the insights of Inalcik and Barkan about Ottoman harmonies, but rather than to take them as accurate representations of facts on the ground, to inquire how facts on the ground invoke these visions of harmony, and to what end.

The significance of land tenure has been at the center of Ottoman history ever since the first Ottoman writers put pen to paper to record the history of the dynasty. For literally hundreds of years, the downscaling of the *timar* system and the rise of tax farming rural revenues was the evidence par excellence of the dynasty's decline in the seventeenth and eighteenth centuries. Later, historians felt that it also explained the disadvantageous footing upon which the Ottoman domains had been integrated into the world economy. Changes in tenure have therefore been central to the investigation of the empire's experience with capitalism. But the pursuit of the roots of capitalist transformation have led to the currently dominant paradigm, that of military-fiscal transformation that is not drastically different from that of Europe, but rather broadly resembles it. This dissertation points to transformations that concur with this assessment but also attempts to look at land tenure relations that emphasizes some of the less familiar aspects of the early modern period, in particular the nature of obligation, and the role of group and community identity in determining relationships that are economic, political, social and religious all at the same time. In an agrarian

empire, nothing is more revealing of politics in either the great or small meaning of that term, than the relations between people over the earth and its fruits.

## Chapter One

At the close of the seventeenth century, Damascus was more than seven thousand years old. The city itself was a small island of wood and stone structures afloat in a lush sea of green countryside. A system of rivers irrigated the latter, and it was this fertile hinterland that travelers to the city first encountered as they entered it. Rising out of the flat, arid plains to the south and east, the picturesque orchards and gardens moved those entering the city to compose enthusiastic verses of poetry in praise of what they saw. Damascus was a fragrant paradise on earth, giving the believers a glimpse of the landscape they would encounter in the hereafter. The Ottoman dynasty was proud to claim the province of Damascus as part of the sultan's protected domains. Possession of the city carried enormous prestige in the Islamic world; many of the prophet's family and companions were buried there and it was the traditional embarking point for the yearly pilgrimage. But for the dynasty's bureaucrats, the richness of this land of plenty presented a challenge: how to organize a taxation apparatus that effectively extracted tax monies from this richly productive land?

This chapter introduces the landscape of Ottoman Damascus in the late seventeenth and early eighteenth centuries. It will also present the larger political picture of which Damascus was a part, the Ottoman Empire, whose wars and leadership crises form an important context for understanding what took place in Damascus province, even at the village level. Center stage in this brief summary of Ottoman circumstances is the military-fiscal crisis which gripped the empire and many other contemporary states in the seventeenth century. Out of the transformations that resulted from this baptism by fire arose a new and voracious need for cash payments to the treasury. With the borders no longer constantly expanding through imperial warfare, the empire had only one place to look for these revenues: the tax remittance of towns and villages across its domains. With the rise of the new taxation registers and increased demands upon the empire's subjects arose a new collecting authority in the countryside: the people of the village. The empire's villagers—in some ways supplanting, in other ways complementing the efforts of tax collecting authorities like cavalymen and tax farmers—came to be the primary entity for enforcing that cultivators and even rural grandees paid their allocated share of the sultan's taxes. Neither the sultan nor the villagers made the rules for deciding what was 'a fair share' however. A mix of custom and religious principle dictated the terms of tax allocation, and negotiation over the amounts owed was fairly conscribed. In the end, the question of what kind of authority the people of the village represented remains a sticky one, and one that highlights the ambiguity of state power in early modern polities.



The antiquity of the city's origins and its continuous habitation thereafter indicate that Damascus has topographical features that allow human settlements to thrive. The nucleus of the city lay just southwest to the base of Mount Qassiyun, though by the seventeenth century a major section of the city lying

outside the city wall, that of Salihya, had climbed a considerable way up the mountain's slope.<sup>90</sup> At the base of the mountain lies a massive oasis known as the Ghuta, the fertile hollow that is created by the Barada river system. As it winds its way past the western flank of Mount Qassiyun, the Barada splits into seven separate rivers that provide irrigation for orchards, gardens and vineyards. The rich farmland of the Ghuta spreads out for miles around the city, with some of the villages considered to be on its outer borders lying ten kilometers away from the city itself.<sup>91</sup> The early twentieth-century writer Muhammad Kurd Ali estimated the length of the oasis as 20 kilometers and its width as 10 to 15 kilometers, or about 30,000 hectares altogether.<sup>92</sup> At some point east of the city (and Damascenes disagreed about where exactly) the irrigation dependent agriculture of the Ghuta gave way to rain fed crops such as wheat, barley, chickpeas and lentils that were rotated with sorghum, millet, sesame, rice, safflower, cotton and hemp.<sup>93</sup> This large plain to the east was called the Marj, and it was said to be three times the size of the Ghuta.<sup>94</sup> Due south lay another vast grain producing plain, the Hauran. To the northeast was the Barada river valley, containing a number of villages that, like those in the Ghuta, supported a wide variety of irrigated agriculture.<sup>95</sup> Further east was the Biqa' valley, part of the modern state of Lebanon today but an integral part of the province of Damascus in the Ottoman era, and another region supplying wheat and barley to the urban areas.

The villages that I will be discussing in the greatest detail are all relatively close to the city itself—those lying in the Ghuta or on its border. For Damascenes, two words were frequently invoked in connection with such villages: “*inshirah*”, meaning a state of peaceful happiness, and ‘*nuzha*’, meaning an outing for pleasure. On a beautiful October day in 1693, an *alim* named Ismail Mahasini was on such an excursion in the villages of Mnin and Tall, located due north of mount Qassiyun. After remarking on the hospitality of the villagers who hosted him and his companions, he remarked, “And for each of us the peaceful

<sup>90</sup> According to Ibn Jumahh, this quarter was had an established population by the time of Sultan Selim I, and was the scene of a battle between the Ottoman forces and the followers of Muhammad al-Ghazali who rebelled against Ottoman rule after Selim's death. Ruslān ibn Yahyā Qārī, and Muhammad Ibn Jum'ah, *Wulāt Dimashq fī al-'ahd al-'Uthmānī wa-huwa yataḍammana: al-Bāshāt wa-al-quḍāh, lil-Ibn Jum'ah, wa-al-Wuzarā' alladhīna ḥakamū Dimashq, li-Ibn al-Qārī, wa-maṣādir 'an tārikh Dimashq ayyām al-'Uthmānīyīn*, ed. Salah al-Dīn al-Munajjid, (Damascus, 1949), 3-4

<sup>91</sup> 'Abd al-Qādir ibn Muammad al-Nu'aymī, *al-Dāris fī tārikh al-madāris*, Matbū'āt al-Majma' al-'Ilmī al-'Arabī bi-Dimashq, (Dimashq: Matba'at al-Taraqqī, 1948), 1: 427

<sup>92</sup> Muhammad Kurd Ali, *Ghutat Dimashq*, Matbū'āt al-Majma' al-'Ilmī al-'Arabī bi-Dimashq, (Dimashq: Matba'at al-Taraqqī, 1952), 15

<sup>93</sup> Muhammad 'Adnān Bakhit, *The Ottoman Province of Damascus in the Sixteenth Century* (Beirut: Librairie du Liban, 1982), 149

<sup>94</sup> Kurd Ali, 15

<sup>95</sup> Hanna Batatu, *Syria's Peasantry, the Descendants of Its Lesser Rural Notables, and Their Politics* (Princeton, N.J.: Princeton University Press, 1999), 11



happiness was limitless, when we saw in these two villages the trees with various fruits and their abundance and the vineyards, and the quality of the air and the sweetness of the waters.”<sup>96</sup> Images of trees heavy with fruit, masses of grapes and vines, and everywhere growing things, greenery and sweet water, abounded in memoirs and poems.

When the Ottoman Sultan Selim the Grim arrived in the area in 1516, his bureaucracy was faced with the task of converting this abundant wealth of produce into the revenues that would finance and provision one of the world’s largest and most successful militaries. The cities of the Ottoman Empire did not receive charters as did those of Europe, but they did receive *qanunnames*, law books which explained the tax liability of the inhabitants of the city and the province. The Damascus *qanunname* opened with a discussion of rural taxation and the local terminology for measurements and taxes that the law book used. It explained how taxes were to be assessed, when they were to be collected, and what kinds of produce were subject to particular taxes. It also explained market fees and imposts on a number of other goods.<sup>97</sup> The law book was usually attached to a survey register called a *tapu tahrir defter*, which surveyed the revenue sources of the province to aid in taxation. These revenue surveys included sources that were both rural and urban. They named the various taxes levied on the urban markets, as well as the taxes upon the land and villages surrounding the city, and decreed the amounts that were due for each tax. Above all, these registers reflected the fact that population is the primary tax resource for governments. Hence, the registers counted both the rural and the urban population by household, breaking urban residents into neighborhoods and rural residents into village units. For every village in the province, the number of households were counted, and the head of each household was recorded by name. The amount of land that the villagers cultivated (as a whole, not individually) was noted, and then the full amounts for the taxes on the wheat, barley, and trees and vines in each village was assessed. Amounts levied in cash and miscellaneous fees were also recorded. Ottoman political thinkers frequently asserted the necessity of updating these registers every thirty years in order to accurately record the population figures and coordinate the budget estimations accordingly.<sup>98</sup> Such attitudes reflect the centrality of these registers

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<sup>96</sup> Ismā‘īl ibn Tāj al-Dīn al-Mahasini, *Kunnāsh Ismā‘īl al-Mahasinī: safahāt min tārikh Dimashq fī al-qarn al-hādī ‘ashr*, ed. Salāh al-Dīn Munajjid, ([Bayrūt]: Dār al-Kitāb al-Jadīd, 1965), 86

<sup>97</sup> for a critical edition of the Damascene *qanunname* see Robert Mantran, and Jean Sauvaget. eds., *Règlements fiscaux ottomans; les provinces syriennes* (Beyrouth: Institut Français de Damas, 1951).

<sup>98</sup> e.g. “It is necessary that the roll of rayas [sic] be registered in the record office of the exalted Divan. Every thirty years a census must be taken, the dead and ill must be separated off, and those not on the rolls must be newly recorded.” Sarı Mehmed Paşa, *Ottoman Statecraft; The Book of Counsel for Vezirs and Governors (Nasā’ih Ül-Vüzera Ve’l-Ümera) of Sarı Mehmed Pasha, the Defterdār*, ed. and tr. Walter Livingston Wright, (Westport, Conn: Greenwood Press, 1971), 119

and the taxes inscribed in them for state finances in the sixteenth century.

These *qanuns* then accounted for all the rural assets of the province and allotted them to beneficiaries. In Damascus, much of the countryside was held in *waqfs* of every size, benefiting charities, institutions and families. But the primary designation of village lands in the Ghuta was the sultan's domain, which meant that the treasury was the beneficiary of the village taxes. Otherwise, Damascus was like the other Ottoman provinces, its revenues supporting a number of benefices, known in Ottoman as '*dirlik*', that were bestowed upon those who provided service to the dynasty, most often of a military character. A standard *dirlik* was known as a *timar*, and a larger one was known as a *zeamet*. The name of the *timar* holder benefiting from the revenue was also to be found, as were the names of any *waqfs* that shared in the revenues. If the revenues were shared between a *timar* and a *waqf* or *waqfs*, the exact amount that each was entitled to was set forth. We should not presume that the information is entirely accurate, as the peasant cultivators whose villages were being surveyed did not always offer their cooperation during the process of compilation. Amy Singer recounts how an imperial scribe went to the peasants in the villages outside of Jerusalem and queried them about their numbers and resources. The villagers mocked the scribe, mocked the authority of the sultan, and informed the former that the writing in his account book was nothing more than "wind from a donkey."<sup>99</sup>

Damascus was incorporated into the Ottoman Empire during a time of a rapid territorial expansion. The middle of the sixteenth century would find the empire at its territorial zenith, but after the death of Sultan Süleyman I (the Magnificent) in 1566, Ottoman troops no longer enjoyed the overwhelming military successes to which they had grown accustomed. War with the Safavids to the east (1579-1590) and the Hapsburgs in the west (1593-1606) ended in success, but only after years of stalemate and expense.<sup>100</sup> To make matters worse, the late sixteenth century and first decades of the seventeenth saw unusually high incidence of fiscal crisis, insubordination among officials, bad weather and peasant flight. The province of Damascus and its environs underwent many of the same political and economic dislocations that were so noticeable in other parts of the empire: spiraling inflation, frequent rebellion among the provincial notables, and restless movements of unruly troops and irregular fighters that plagued the countryside. However, the disruptions of this era fomented the transformation of many institutions in ways that would deeply impact the future and contribute to the empire's longevity.

In the case of Damascus, Karl Barbir has argued that the province was reorganized in the eighteenth century around one major imperial priority:

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<sup>99</sup> Amy Singer, *Palestinian peasants and Ottoman officials: rural administration around sixteenth-century Jerusalem* (Cambridge: Cambridge University Press, 1994), 127

<sup>100</sup> Stanford J. Shaw, *History of the Ottoman Empire and Modern Turkey*, vol. 1, *Empire of the Gazis: the rise and decline of the Ottoman Empire, 1280-1808* (Cambridge: Cambridge University Press, 1976), 183-185

conducting the pilgrimage smoothly.<sup>101</sup> Everything from the governor's powers to the responsibilities of troops to the allocation of and collection of taxes was altered in order to give the governor the tools to bring thousands of people safely from Damascus to Mecca and back again every year. But the tax farming records from a hundred years prior to this reorganization show that the central finance bureau had already begun to orient the revenues of Damascus away from expenses associated with imperial campaign and towards the needs of the pilgrimage in the first half of the seventeenth century. The spread of tax farming in the countryside was a widespread phenomenon throughout the Ottoman domains in the early seventeenth century. Whereas the right to collect urban taxes such as fees in the markets had been sold to tax farmers—private contractors who bid for the collection rights—on a frequent basis before the seventeenth century, the rural revenues had not. In the late sixteenth and early seventeenth centuries, a number of village taxes that had previously been appointed to support military benefices such as *timars* and *zeamets* were reallocated to the provincial treasuries and their collection rights sold to tax farmers.<sup>102</sup> This development was largely a response to the treasury's need for cash with which to pay the increasing number of janissary and irregular troops that were needed in battle. In Damascus, however, the village revenues that had previously supported the military benefices for officers who went on imperial campaign were frequently reallocated to the annual Muslim pilgrimage expenses.

A typical example is the case of the village of Sahnaya, located about 10 kilometers to the south of the city. In 1627, an order was issued by imperial writ that the tax revenue of Sahnaya, which had been in the *zeamet* of Ali Agha, was henceforth appointed to the costs of the pilgrimage and was under contract [for collection] to the scribe Husayn Efendi.<sup>103</sup> In addition, eleven other villages that

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<sup>101</sup> Karl K. Barbir, *Ottoman Rule in Damascus, 1708-1758*, Princeton studies on the Near East, (Princeton, N.J.: Princeton University Press, 1980), 109

<sup>102</sup> This fiscal-military shift has been much commented upon, and as was noted in the introduction, is at the heart of the revisionist analysis that has swept the field since the 1990's. The classic view that the transition to tax farming was a hallmark of Ottoman decline, was based on the reading of the Ottoman advice literature rather than an economic analysis. See for instance Bernard Lewis, "Ottoman Observers of Ottoman Decline" in *Islamic Studies* I (1962): 71-87. For the emergence of the revisionist view, see Halil İnalcik, "Military and Fiscal Transformation in the Ottoman Empire, 1600-1700," *Archivum Ottomanicum* VI (Louvain, 1980), p. 283-337; Linda Darling, *Revenue-raising and legitimacy: tax collection and finance administration in the Ottoman Empire, 1560-1660* (New York: E.J. Brill, 1996); Mehmed Genç, *Osmanlı İmparatorluğunda devlet ve ekonomi* (Beyoğlu, İstanbul : Ötüken, 2000); Ariel Salzmann, *Tocqueville in the Ottoman Empire: rival paths to the modern state* (Boston: Brill, 2004); Dina Khoury, *State and provincial society in the Ottoman empire: Mosul, 1540-1834* (New York: Cambridge University Press, 1997)

<sup>103</sup> Nagata Yuzo, Miura Tōru, and Shimizu Yasuhisa, *Tax farm register of Damascus Province in the seventeenth century: archival and historical studies* (Tokyo: Toyo Bunko, 2006), 257

appeared in the 1569 Damascus survey register as benefices appear as tax farms in a register from 1687, and their remittances are designated for the pilgrimage.<sup>104</sup> An even larger number of villages in the sultan's domain were sold as tax farms with proceeds earmarked for the pilgrimage—overall, 90 of the 175 rural tax farms sold in 1687 were recorded as part of the pilgrimage receipts.<sup>105</sup> The conclusion can only be that Barbir's insight into the reorganization of the eighteenth century province was the culmination of a process that had begun as financial innovations during the fiscal crises of the seventeenth century to streamline imperial expenses. The difficulties that administrators faced in the early years of the seventeenth century begat numerous changes—some practical, some controversial—but many with wide ranging consequences.

In 1644 the Ottomans began a war with Venice for control over the island of Crete, which was then an Venetian possession. When a Venetian fleet blockaded the Dardanelles in 1656 and destroyed an Ottoman fleet, the crisis precipitated the rise to power of Köprülü Mehmed Pasha, who accepted the position of grand vezir only on the condition that he would have free rein to do as he saw fit with interference from no one.<sup>106</sup> Thereafter, the Köprülü family and their protégés dominated the position of grand vezir for nearly half a century: Fazil Ahmed, Köprülü Mehmed's son, served as grand vezir from his father's death in 1661 until his own death in 1676. Fazil Ahmad's foster brother Kara Mustafa served as grand vezir from 1676 until 1683, followed by the former's younger brother Fazil Mustafa from 1689 to 1691. In 1699, the son of Köprülü Mehmed's older brother, Amcazade Hüseyin Pasha, was appointed grand vezir, resigning shortly before his death in 1702.

What the Köprülüs sought to achieve generally was an age of Ottoman renewal, which in their view, as well as that of many others, meant restoring obedience to rightful authority. The efforts of Mehmed and Ahmad in particular focused on restoring obedience in the provinces. For many years, provincial governors and powerful local notables had defied orders from Istanbul, rebelled against its ministers, or ceaselessly argued with their superiors about what they were willing or not willing to do. Mehmed Pasha quickly let it be known that he would not tolerate any defiance of his orders. He executed or exiled anyone he suspected of obstructing him, and anyone who protested these decisions met with execution as well. Rabble rousing clerics, unruly janissaries and cavalry officers, discontented petty officers in Anatolia and disloyal Balkan vassals were all punished without hesitation or mercy. While Mehmed Pasha is consistently portrayed as ruthless and intransigent, he was seldom criticized for anything beyond over zealousness. Despite the many numbers of people that he executed, historians both Ottoman and contemporary have generally been kind to him and judged his measures as necessary for sustaining the empire.

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<sup>104</sup> c.f. TT 474 and MAD 9866: Alawiyeh, Ghuzlaniya, Nashabiyeh, Qasimiyeh, Hush al-Ash'ari, Rihan, Utaya, Majadiya, May'da, Sbene, and Majdaliya

<sup>105</sup> MAD 9866, 16-80

<sup>106</sup> Shaw, 209

Damascus proved the venue for a crucial moment early in Köprülü Mehmed Pasha's vezirate. His attention turned to Damascus in 1657, when he ordered the dismissal of the city's governor, Siyavuş Pasha—himself a former grand vezir.<sup>107</sup> When the news reached him, Siyavuş Pasha fomented a local rebellion in an attempt to resist the order. After witnessing this insubordination the grand vezir ordered the pasha's execution, which was prevented by the friends of Siyavuş Pasha in the palace who prevailed upon Sultan Mehmed IV and his mother, the powerful Turhan Sultan, not to sign the order. Encountering the very obstructions that he had warned the sultan he would not accept, Köprülü threatened to resign his office. Mehmed IV and Turhan, who believed that Köprülü must be retained at all costs, backed down and executed the governor, renewing their pledge to support the grand vezir's decisions.<sup>108</sup>

In many ways, the measures that the Köprülüs carried out in Damascus were a microcosm of their program across the empire, for no effort was spared to bring provincial office holders and military units into conformity. The efforts of the grand vezir to ensure compliance in Damascus did not stop at punishing the governor's insurrection. He sought to institute a new military force that could be relied upon to carry out his orders. Damascus had had a regiment of janissaries since the sixteenth century, but the grand vezir thought that they were no longer reliable in serving the dynasty's interests, for they frequently interfered with governors who crossed them, and supported the rebellions of governors who appeased them.<sup>109</sup> Hence Mehmed Pasha dispatched from Istanbul in 1658 a new troop of janissaries, which Damascenes called the '*qapiqulu*', the servants of the Port.<sup>110</sup> They arrived in Damascus and set up their garrison in the citadel while also policing the gates of the city. The old janissary order, thereafter called the '*yerliya*', or local forces, was not abolished, but continued on, with violent factional quarrels sometimes erupting between the two. Both groups could be querulous and given to harassment, but the leadership of the *qapiqulus* clearly enjoyed more support in Istanbul. The continuing question of how the imperial administration would deal with the demands of the janissaries, and the integration of local people into the military units, will be discussed at length in chapter 5.

Having dealt with securing the city itself, the Köprülüs used Damascus as a base for securing the regions to the west and south. To the south lay Palestine, with the commercial stronghold of Nablus supplying money for the pilgrimage and local military men, with their knowledge of the terrain and the Arab tribes, as leaders of the pilgrimage caravan. In 1657, an expedition to break the power of rural chiefs was undertaken with the participation of the local branch of the

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<sup>107</sup> Ibid.

<sup>108</sup> Ibid.

<sup>109</sup> Abdul-Karim Rafeq, *The Province of Damascus, 1723-1783* (Beirut: Khayats, 1966), 31

<sup>110</sup> Abdul Karim Rafeq, "The Local Forces in Syria in the seventeenth and eighteenth centuries," in V.J. Parry and M.E. Yapp ed., *War, Technology and Society in the Middle East* (Oxford University Press, 1975 ), 278

Damascus janissaries.<sup>111</sup> West of Damascus lay the mountains of Lebanon, whose topography gave shelter to the kind of disobedient chiefs and notables that Mehmed Pasha would not suffer. He sent his son Fazil Ahmad Pasha to Damascus as governor shortly after sending the new janissaries. According to the chroniclers, Ahmad Pasha did not actually spend much time in the city during his tenure as governor, for he took his troops and marched to Biqa' valley and the mountains of Lebanon to punish the Ma'an and Shihab emirs, who had not paid their taxes in full and had destroyed lives and property in their ongoing rivalry with one another, a strife referred to as 'fitna' or threat to public safety and peace.<sup>112</sup> As he left Damascus in 1661 to take up a new governorship in Aleppo, Ahmad Pasha received word that his father had died and that he had been awarded the office of grand vezir.<sup>113</sup> Upon taking up the office, he continued his campaign against disobedient provincial notables in the region of Greater Syria, continuing his efforts to break the power of local dynasties in Palestine like the Turabays.<sup>114</sup>

The Ottoman sources maintain that Ahmad Köprülü was popular in Damascus during his governorship, a result of his abolishing illegal taxes and impositions that had become standard under the governors preceding him.<sup>115</sup> The Damascene sources corroborate his popularity, with the biographer Muhibbi praising him in glowing terms. Ahmad Pasha, he wrote, was "first among the vezirs, the pride of the dynasty," and that there had been none like him for "preserving the order of religion (*nizam al-din*) and regulation according to the *shariah* (*qanun al-shariah*)."<sup>116</sup> He described Ahmad Pasha as having put the city in order in a number of ways, ending corruption in the management of *waqfs*, and building a storehouse and securing grains from Egypt so that in times of famine Damascus would be sufficiently provisioned.<sup>117</sup>

The famous Damascene *alim* and mystic Abd al-Ghani al-Nabulusi also had a high regard for the Köprülü family, and accorded them a special place in the history of the Ottoman dynasty. In a poem that he wrote in praise of the Ottoman dynasty and its service to the community of Muslims, he wrote of the accomplishments of each of the sultans until he reached the current sovereign, Mehmed IV. Nabulusi not only praised Mehmed IV, but added, "and his vezir al-Kopru (Köprülü), a great guiding light unto him, made glorious his kingship in the

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<sup>111</sup> Beshara Doumani, *Rediscovering Palestine: Merchants and Peasants in Jabal Nablus, 1700-1900* (Berkeley: University of California Press, 1995), 36

<sup>112</sup> Muhammad Amīn ibn Fadl Allāh al-Muhibbi, *Khulāsat al-athar*, Rawā'i' al-turāth al-'Arabī, (Bayrūt: Maktabat Khayyāt, 1966), 1: 353

<sup>113</sup> *ibid.*

<sup>114</sup> Dror Ze'evi, *An Ottoman Century: the district of Jerusalem in the 1600's* (Albany, N.Y.: The State University of New York Press, 1996), 59

<sup>115</sup> Ahmed Refik Altınay, *Köprülüler*, Tarih Vakfı Yurt Yayınları n. 120, (Istanbul: Türkiye Ekonomik ve Toplumsal Tarih Vakfı, 2001), 96

<sup>116</sup> Muhibbi, 1:352

<sup>117</sup> *Ibid.*, 1:353

state.”<sup>118</sup> He also had praising remarks for Ahmad Pasha and his brother Mustafa. These three are the only vezirs mentioned in the poem, which is ostensibly only concerned with the dynasty, and otherwise, mentions only the sultans rather than those who served them. It was as though Nabulusi had realized that the state and the sultan were no longer synonymous and that the process of governing had become, no later than the time of Mehmed IV, a business that was run primarily by the sultan’s appointees rather than the sultan himself. The result was clearly to his liking. It was apparent that the Köprülüs, whatever feathers they ruffled through the reassertion of ‘central’ authority, were well-liked by the Damascene *ulama*. This should come as no surprise, for the Damascene *ulama* were proponents of obedience as well as just rule—above all they feared the damage of civil strife and disorder that the Köprülüs were determined to vanquish.

The Köprülüs had at their disposal a vast array of literature that claimed to have the old Ottoman recipe for success. This ‘advice to sultans’ literature had been produced during the turbulent years following the reign of Süleyman I and contained a number of recommendations about how sultans and ministers could return the state to the superpower status it had achieved in the sixteenth century. In a number of ways the Köprülüs seemed to be heeding the recommendations, for the draconian order of obedience that they imposed upon the provincial leadership reflected seventeenth-century ideas of how the empire had functioned in the time of Süleyman the Magnificent. The provincial governorship of Damascus ran like clockwork under Köprülü leadership. The governors were rotated in and out on a yearly basis and in an orderly fashion, as were the imperial judges. Even Richard Van Leeuwen’s observation that after 1609 no Damascene governors were able to endow enough resources to build a large mosque complex in the city only confirms the intense regulation of provincial leadership and access to revenues in the Köprülü years.<sup>119</sup> Damascene governors were unable to alienate and endow any local revenue sources, hence it became more difficult for them to establish *waqfs* (foundations). This changed considerably after the local Azm dynasty rose to dominate the governor’s office in the 1720s, and new *waqfs* led to a building boom in Damascus.<sup>120</sup> Reflecting the advice manuals’ insistence that all those of the military class that held *timar* or *zeamet* benefices participate in imperial campaign, this era also represented the last years that the cavalymen and governor of Damascus served regularly in the empire’s wars, fighting in the campaign to finish the invasion of Crete, and on the western front.<sup>121</sup>

While the Köprülüs kept one eye fixed on quashing internal rebellion, the

<sup>118</sup> Abd al-Ghani al-Nabulusi, “al-Abyat al-Nuraniyah fi Muluk al-Dawlah,” *Zahiriyyah* MS 6742, f. 57

<sup>119</sup> Richard van Leeuwen, *Waqfs and Urban Structures: The Case of Ottoman Damascus*, *Studies in Islamic law and society*, v. 11, (Leiden: Brill, 1999), 192

<sup>120</sup> *Ibid.*, 193

<sup>121</sup> *Barbir*, 34-7

policy of peace at home was a means to an end; civil peace meant that the energies of the military forces could be concentrated fully on external warfare. The Köprülü desire to retake the position of offense in the European theater was broadly shared not only by the ruling elite, but by other Ottoman subjects. The renewed emphasis on success in war pleased Abd al-Ghani al-Nabulusi, for instance, whose poem lauding Ottoman achievements focused almost exclusively on the capture of fortresses, the conquering of new lands and the ability to bring the fight to the enemy. Moreover, the same peasant cultivator in the hinterland of Jerusalem who had derided the sultan's scribe asserted that the sultan had no business taxing his village unless he won a war against seven infidel kings.<sup>122</sup> Indeed, Ottoman sultans could forfeit the allegiance of their subjects if they did not do well on campaign: success in warfare was, as Baki Tezcan has shown, crucial for a sultan to prove that he was '*devletlü*', literally in possession of rule, although in common speech it meant possessing fortune, the favor of God.<sup>123</sup> Ottoman history shows time and again that in return for paying taxes, townspeople and cultivators alike expected not only justice, but victory in war. Sultans who were unable to deliver victory and unable to blame someone else for the failure risked losing the throne.

The Ottoman preoccupation with warfare should not lead us to the conclusion that the Ottoman state was uncommonly martial in its outlook or ideology, for the neighboring states were equally obsessed with it. Keeping abreast of the newest technologies and battle tactics and finding the funds to stay the course in long conflicts such as the Thirty Years War preoccupied the monarchs of France, Holland, the Holy Roman Empire, the Hapsburg Domains and Sweden.<sup>124</sup> It was in the final years of the seventeenth century that Peter the Great became determined to transform Russia into a major military power and ruthlessly cut down anyone who opposed his methods. When European states were not at war in the seventeenth century, they were carefully preparing for the next conflict and warily observing their enemies' tactics and preparations. The wars of this age were crucial for drawing the boundaries that would give rise to the nation states of the future. For the Ottomans, the definition of success in war in the late seventeenth-century—acquiring new territory while losing none of their own—had to do with the state elites' memory of the sixteenth century and earlier, when the borders had expanded rapidly. Nevertheless, this attitude would change in the eighteenth century to one focused more on maintaining the borders and sparing the population the hardship of war, as Virginia Aksan has shown.<sup>125</sup>

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<sup>122</sup> Singer, 127

<sup>123</sup> Baki Tezcan, *The second Ottoman Empire: political and social transformation in the early modern world* (New York: Cambridge University Press, 2010), 108

<sup>124</sup> see William H. McNeill, "Age of Gunpowder Empires, 1450-1800", in Michael Adas ed., *Islamic & European Expansion: The Forging of a Global Order*, Critical perspectives on the past, (Philadelphia: Temple University Press, 1993), 103-140

<sup>125</sup> Virginia H. Aksan, "Ottoman Political Writing, 1768-1808", *International Journal of Middle East Studies*, Vol. 25, no. 1 (Feb. 1993): 53-69



The Köprülü era was one of nearly constant warfare. Mehmed Köprülü had come to power in a moment of crisis during war with Venice, and his first task was breaking the blockade on the Dardanelles, which he accomplished in 1657.<sup>126</sup> The war was nevertheless to continue for years, ending in victory only under the long and tireless assault of Ahmad Pasha in 1669. But this did not end war with Venice for long. The empire fought a number of short conflicts in Europe in the Köprülü years, with Hapsburg Austria (1663-4), the Poles (1672-1677) and Russia (1677-81). Then, from 1683 to 1699, the Ottomans fought the Habsburgs, Venetians, Poles, Russians and the papal states together in a conflict known as the War of the Holy League. This conflict, fought on multiple European fronts, put acute financial and military pressure upon the empire. Kara Mustafa, Ahmad Köprülü's foster brother, was executed when he failed to take Vienna in 1683. Mehmed IV was dethroned in 1687 due to Ottoman losses in Serbia. After the war was concluded, the Ottoman state was at peace for more than a decade; when Peter the Great of Russia initiated hostilities in 1710, the rejuvenated Ottoman forces decisively defeated him in Moldavia in 1711. While the empire fared better in these wars than has been traditionally acknowledged, it did not win the crushing victories of the earlier years and was unable to add large new territories at the end of these wars. The finances of war thereby became a particular concern; if war no longer paid for itself (by adding new territory whose revenues would add to the coffers), then where was the money to come from?

Stanford Shaw concluded that the Köprülüs were mere "traditionalist reformers" who sought to return to a model of order no longer fit to cope with the changed world of their era.<sup>127</sup> However, few would make such an argument now. The Köprülüs were men of their time, and like their peers were surely influenced by the idealized portraits of the sixteenth century. But they could not be described as adhering to every recommendation within the advice literature about how to return to that golden time. For instance, despite the advice literature's emphasis on the need to re-institute the *timar* system of benefices as the centerpiece of the Ottoman military-fiscal system, the Köprülüs and their successors realized that the new system of tax farming brought in cash payments that could not be dispensed with. Tax farm records indicate that while they did not continue the trend of expanding the number of villages held as tax farms, they made no attempt to reverse the transition that had already taken place in the province of Damascus.<sup>128</sup> With success in warfare as the top priority of imperial government, the question of raising sufficient funds for the troops, equipment, provisions, fortifications and so on was a matter of crucial importance.

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<sup>126</sup> Shaw, 210

<sup>127</sup> *ibid.*, 175

<sup>128</sup> The extent of rural tax farming will be discussed in chapter five at length, those wishing to compare the state of tax farming under the Köprülüs with the expansion of tax farming in the earlier part of the seventeenth century should compare Nagata ed. with MAD 4181, 9486 and 9866.

At the heart of the Köprülüs' efforts to reestablish internal order was the desire for the revenue necessary to wage war. While the constant expansion of the state's frontiers in the sixteenth century had allowed the bureaucracy to increase the budget without instituting new taxes, the relative stability of the borders after 1566 meant that the existing resources had to yield more.<sup>129</sup> This predicament was widespread among early modern states and higher taxes to support unending wars are considered the underlying reason for peasant revolts in a number of European states in the sixteenth and seventeenth centuries, most notably, the *fronde* in France.<sup>130</sup> The Ottoman empire had a number of resources to draw upon in its search for revenues that had not been sufficiently tapped in the sixteenth century. According to Linda Darling, three categories of state revenue became the dynasty's mainstay during the first half of the seventeenth century.<sup>131</sup> The increasing importance of these sources reflected the treasury's need for cash with which to pay the infantry. One of these was the poll tax on Christians and Jews, called the *jiziyah*. Although the limits on this tax were set by Islamic law, they could be raised to reflect inflation and more importantly they were levied in cash. More important still was the poll tax called *avariz*, which hitherto had been an irregular tax in times of need, but which became a regularized, yearly imposition in the early decades of the seventeenth century.<sup>132</sup> It was levied in cash and the rates could be (and were) raised to meet budgetary demands. Similarly, the tax known as the *takalif urfiyah* (extraordinary taxes and imperial and customary levies) was fairly flexible and could be adapted to financial need. Together, the *jiziyah* and the *avariz* constituted the largest sources of central government income by the middle of the seventeenth century.<sup>133</sup> Given that these two sources of income had become so important to the bottom line, it should come as no surprise that when a new series of extraordinarily detailed taxation documents were created in the 1670s, they were made to calculate liability for the *avariz* and *jiziyah* taxes.

On Tuesday July 8<sup>th</sup>, 1675 the Damascene *alim* Ismail Mahasini entertained an unusual group of guests at his home on the alley of Shaykh Abdallah al-Salami. He reports that on that day, a certain Sayyid Mustafa appeared on the street with a large entourage of a mostly military character. This Sayyid Mustafa he describes as the head qalqa of the head treasurer, who is "charged with recording the houses of Damascus and classifying them and the names of their owners for the purpose of assigning the *avariz*."<sup>134</sup> Traveling with him were two

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<sup>129</sup> Linda Darling documents this drive for more revenue in "Ottoman Provincial Treasuries: the case of Syria," *Mélanges Halil Sahillioğlu* (Zaghouan: Fondation Temimi pour la Recherche Scientifique et l'Information, 1997) 2:103-110

<sup>130</sup> For a masterful study of this event, see Orest A. Ranum's *The Fronde: A French Revolution, 1648-1652* (New York: W.W. Norton, 1993).

<sup>131</sup> Darling, *Revenue Raising*, 82

<sup>132</sup> *ibid.*, 47, 93

<sup>133</sup> *ibid.*, 118

<sup>134</sup> Mahasini, 108-9

well known and high ranking military men, one of whom would rise to the rank of the leader of the pilgrimage four years hence.<sup>135</sup> There were in addition a number of other military men from the divan and the imperial janissaries, as well as a representative of the city's imperial judge. Considering the resistance that the imperial scribe had encountered from the peasants of Jerusalem, it is likely that the company of military men had been sent with Sayyid Mustafa in order to protect him. Ismail Efendi continues, "They wrote down our house and toured the rest of the alley, but our alley has never been subject to *avariz* or *takalif*. Nevertheless, we welcomed them warmly and showed them the heights of hospitality."<sup>136</sup> Although the alley had not paid *avariz* previously, on the 189<sup>th</sup> folio of the 314 folio register produced by Sayyid Mustafa, the alley and its thirteen houses are all accounted for. It is noted in the register that Mahasini is the Friday preacher at the Ummayad Mosque, and as a member of the *ulama*, his household was one of five that were accounted 'military' or tax exempt.<sup>137</sup> The treasury, on the other hand, gained eight new *avariz* paying households.

Sayyid Mustafa's register is very close to being a census: it records every house in the city of Damascus, neighborhood by neighborhood and street by street. The households were sorted into tax paying and non-tax paying groups, with the head of household recorded by name. Ownerless and ruined houses were duly noted. Those that belonged to *waqfs* that funded schools and mosques were properly designated. The finance department had made *avariz* registers for Damascus before, but never one with this amount of detail.<sup>138</sup> Damascus was not the only city to receive such treatment: similar registers can be found for several cities in the Anatolian and Balkan provinces of the empire, while registers of equal comprehensiveness for the *jizyah* also date to the 1670s.<sup>139</sup> The format of all this information is familiar yet innovative, as if the finance ministry scribes had combined the meticulousness of the sixteenth-century tapu tahrir survey registers and adapted it for use with the *avariz* and *jizyah*, which had turned into their new main revenue sources. While the detailed *avariz* registers were an innovation first found in the 1620s, the finance ministry under the Köprülüs clearly embraced them and sought to make new and updated

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<sup>135</sup> Khalil Agha bin al-Kaywan, see Muhibbi 2:133-4 for his career. He also served for a time as the *mutawalli* of the Madrasah Farisiyah and the tax farmer for the village of Sahnaya, whose relationship with his successor will be documented in detail in chapter 4.

<sup>136</sup> Mahasini, 109

<sup>137</sup> see Halil Sahillioğlu ed., *Şam Şehirinin XVII. Asırda Sosyal ve Ekonomik Yapısı 1977 Numarlı 'Avârız Defteri'ne Göre* (İstanbul: IRCICA, 2005), 205

<sup>138</sup> e.g. MAD 6640 from the year 1068 (October 9, 1657-September 26, 1658) and MAD 14709 from the year 1083 (April 29, 1672-April 16, 1673).

<sup>139</sup> Mehmed Öz, "XVII. Yüzyılda Anadolu'nun Demografi Tarihi: Kaynaklar ve Problemler" and Grigor Boykov "Notes on the Reliability of Detailed *Avariz* and *Cizye* Records for Ottoman Demographic History" Unpublished papers delivered 18<sup>th</sup> June 2008, Bilkent University, Ankara, Turkey. XI International Congress of Social and Economic History of Turkey.

copies.<sup>140</sup>

Such registers represent a regime of more aggressive taxation of urban wealth. This development reflected the new awareness that existing revenue sources needed to be taxed more efficiently, and that urban taxpayers were a resource whose potential had not been systematically exploited hitherto. What then of rural revenues? Had the focus of the treasury and the finance ministry shifted away the villages, which had been the primary focus of the sixteenth century revenue surveys? In addition to the agricultural taxes that the peasants paid, they too were liable for *avariz* and *takalif*, while the rural communities of Christians were additionally liable for the *jiziyah*. There is no question that rural taxpayers were harder to assess than urban ones. Sayyid Mustafa's register of the city clearly took some time and organization to compile, but the city and its neighborhoods was a fairly compact space. To register the villagers would mean traveling greater distances, which would require more time and a means of transport.

Nevertheless, in the Islamic year 1086 (March 28, 1675-March 16, 1676), the same year as Sayyid Mustafa was making the register for the city, a very similar *avariz* register appeared for the countryside.<sup>141</sup> Unfortunately, the register has not survived in its entirety, but the first page of the register indicates that this section, if not the entire register, documents the *reaya* of the '*qaza*' of Damascus, that is not the entire province, but the areas for which the imperial judge had jurisdiction. Areas further a field from the city, like Nabulus, had their own judges who oversaw the hinterland and were responsible, incidentally, for seeing that the *avariz* was collected in the right amount by the right person.<sup>142</sup> The register for the Damascus hinterland was another marvel of specificity and detail. The names of the householders were recorded, along with the number of villagers liable for the tax, and the number of large landholders with their shares of the village resources. Interestingly, another register very much like this one was made in the year 1106 H/ 1694-5 M, only twenty years later.<sup>143</sup> It too exists only in fragment. These attempts to stay abreast of the rural population can lead only to the conclusion that rural tax payers were still a major target for the imperial tax collectors. The numbers and whereabouts of the villagers and the productive resources of the village remained a continuous concern for the finance ministry.

The new *avariz* registers did not replace the earlier *tapu tahrir* surveys, but were rather a comprehensive addendum to them. While the fisc still relied on the taxes on urban and rural production detailed in the earlier surveys, the *avariz* and *jiziyah* had become so significant that they deserved registers of their own that

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<sup>140</sup> Linda Darling has found early examples of such detailed *avariz* registers dating as early as the 1620s, although the majority, as she notes, were not this detailed but rather summaries showing only the number of taxed households in an area and the amount to be collected. *Revenue*, 92

<sup>141</sup> see A. DFE 143

<sup>142</sup> Darling, *Revenue*, 165

<sup>143</sup> A. DFE 186

were equal to the tapu tahrirs in thoroughness and detail. No detailed tapu tahrir survey was made for Damascus after the year 977/1569-70; indeed, in most parts of the empire, they were no longer being updated, despite the 30-year rule. Nevertheless, as subsequent chapters will demonstrate, the fact that the register was not frequently updated did not mean that it ceased to have authority among administrators, tax payers and tax collectors. In fact, when disputes over village tax liability arose in the context of the Islamic court, it was frequently evidence produced from the “the sultan’s *defter*” (the tapu tahrir register) that decided the case, even in the eighteenth century. Hence, even while new registers were made to assist with the *avariz* and *jiziyah*, the old taxation surveys retained their relevance. In both kinds of registers, the basic unit for rural tax collection remained the village.



The finance bureau and the grand vezir’s office showed a great zeal for creating new, extremely thorough tax resource surveys in the 1670’s. What collection procedures did it put into place for obtaining the revenues that were so carefully documented and so desperately needed? For instance, what imperial official was responsible for collecting taxes in a typical Damascene village? Who saw to it that the tax burden was divided and each household paid its fair share?

There were a number of people who had explicit imperial consent to take tax revenues from villages in the Damascene countryside, and for the sake of simplicity, I will refer to all of them as ‘collection authorities.’ These could be tax farmers who had contracted for the right to collect the taxes and remit them to the treasury, or they could be people who were themselves entitled to the revenues. Most frequently, these latter included the executive officer (*mutawalli*) or oversight officer (*nazir*) of an endowment, known as a *waqf*, or a cavalry officer (*timariot* or *zaim*) who received tax remittances as part of a benefice awarded by the dynasty for military service.

Whether they were entitled to keep the peasant taxes or pass them on to the treasury, all of these people had the right to collect revenues—the question is, how did they do it? Did any of them actually organize the village tax roll and see to it that each villager paid the proper amount? The experience of the village of Sbene sheds some surprising light on the subject. In November of 1689, some villagers from Sbene accused a janissary from Damascus of collecting their taxes without authorization and without delivering them to the rightful recipient, the tax farmer of the village, Mustafa Agha bin Jirkis.<sup>144</sup> These villagers testified that the village had paid the janissary, Murad Beshe, 600 qurush for imperial taxes (*mal-i sultan*) and assorted other imposts, but that he failed to deliver it to Mustafa Agha and now they demanded to have it back. Murad Beshe responded that the villagers had *chosen* him (*ikhtaruhu*) to gather the required sum for the Islamic calendar year 1099 (November 7, 1687-October 26, 1688) which he had done according to a register with the names of all of the villagers inscribed in it. The people of the village permitted him to turn the money over to Mustafa Agha,

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<sup>144</sup> DSC v. 18, p. 75-6, no. 114

which he did, as per his explicit agreement with the people of Sbene. The group of villagers continued to insist otherwise, so Murad Beshe then challenged them to take the oath (to put their right hands upon the Quran and swear by it that they what they said was true) if they denied the veracity of his statements. When the judge ordered them to do so in order for the case to proceed, every single one of them declined.

Whatever the truth in the case above, the statements of the participants are enlightening. They show that, at least in some villages, the collection authority had little to do with the actual collection of taxes. The tax farmer Mustafa Agha did not go from house to house collecting taxes, and he did not appoint someone else to do the collecting for him, rather, it was the villagers who had selected Murad Beshe to do their tax collecting. Although it is unclear who provided him with the *defter* with the names of the villagers, the fact that, as we will see below, the villagers were responsible for dividing the tax burden suggests that it was they who organized the information in the *defter* and gave it to Murad Beshe. This record is particularly valuable because so few records of any kind discuss who actually collected taxes and how it was done. By the late seventeenth century, it was common for the collection authority to subcontract the job of obtaining the goods or money to yet another party, but how these agents knew what to take from whom has not been clear. The case above suggests that the villagers took responsibility for the apportioning and the gathering of the revenues, and the tax collector or his agent had little to do beyond accepting receipt so long as the final amount was not in dispute.

### **It takes a village to raise the revenues of empire**

The point is not to say that the arrangement of Sbene was typical of the late 17<sup>th</sup> century or of tax farming, for we have no way of knowing what was typical given the paucity of such records. Rather, the point is to realize that the villagers frequently played the principal role in tax collection, even though the role may not have been the same from one village to the next. In taxation, the responsibility of organizing the taxpayers, apportioning the revenues and collecting the money was frequently carried out by the village itself, or rather, by the villagers under the aegis of ‘the people of the village’ as they are referred to in court documents, sultanic writs, and financial documents. By the late seventeenth century, the ‘people of the village’ were discursively ubiquitous. It was clear that the villagers, as a corporate body, had come to have a well recognized legal personhood, with defined responsibilities and rights.<sup>145</sup> Yet it is quite difficult to trace how exactly this situation had come about. The Damascene villagers may have had the responsibility for dividing the village tax burden equitably and seeing that each

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<sup>145</sup> The details of these responsibilities and rights will be spelled out below, but I am not the first to note this development—Martha Mundy and Richard Saumarez Smith refer to the people of the village as shareholders in an ‘estate of production’ that frequently manages the distribution of taxation. See *Governing Property, Making the Modern State* (New York: I.B. Tauris, 2007), p. 38

individual paid his proper share for centuries prior to the arrival of the Ottomans. Nevertheless, the authority of the people of the village clearly enjoyed a new legal standing by the middle of the seventeenth century.

The Ottoman finance bureau's cadastral survey registers assessed both the resources and the tax liability of villages collectively. There was no instruction of how the village liability was to break down at the household or individual level. The sultanic law (*qanun*) also had little to say about how the tax burden was to be divided within the village. In fact, the 'classic' versions of the Ottoman *Qanun* produced in the time of Süleyman the Magnificent (1520-1566), rarely mention either villages or villagers; rather, the dominant idiom of rural taxation is what the *timariot* may legally take from the *reaya* (taxpayers) of his *timar*. However, there are a few injunctions that suggest that the *timariot* was expected to be personally involved in the process of determining liability and collecting. For instance, the *timar* holder is told not to take the 'farm fee' (the *resm-i chift*) from indigent *reaya*.<sup>146</sup> Such regulations implied that the *timariot* was expected to know something about the circumstances of the cultivators on the *timar* and would oversee what individual cultivators were contributing to his fees. In general, the *qanun* identified the tax payers as the *reaya*, and the relevant unit of collection as the *timar*, which may or may not have been coterminous with a particular village.

The direct involvement of the *timariot* in collecting taxes that was assumed in the *qanun* also seemed to be a part of facts on the ground in the sixteenth century. Amy Singer's work shows that *timariots* were present at the harvest in the villages around the city of Jerusalem because they were paid in kind and wanted to make sure that the amount they received was the correct proportion of what was harvested.<sup>147</sup> In the late seventeenth century by contrast, many Damascene *timariots* seemed little more involved in the affairs of their villages than Mustafa Agha the tax farmer of Sbene. In December 1689, a *timariot* named Shahin Agha complained that the peasants of the village of Danha had not paid the wheat that they owed him for the previous year.<sup>148</sup> The peasants maintained that they had given the wheat to their *timariot's* agent (*wakil*), Ahmad Agha. The *timariot* acknowledged that Ahmad Agha had indeed been his agent but disputed that the people of the village had given him the wheat. It is difficult to tell from the record whether Shahin Agha actually thought the peasants of the *timar* were cheating him or if his agent had cheated him and blamed the peasants. His predicament was in any case linked to the fact that he had placed the responsibility in the hands of an agent rather than dealing with it himself. The case of Shahin Agha suggests that the intimate relationships between the *timariot* and his *reaya* and the oversight of taxation may well have been a thing of

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<sup>146</sup> "Kanun-ı Osmanîler," in Ahmet Akgündüz ed., *Kanuni Sultan Süleyman devri Kanunnameleri*, vol. 4 of *Osmanlı kanunnâmeleri ve hukukî tahlilleri* (İstanbul, Turkey: FEY Vakfı, 1992), 1:306

<sup>147</sup> Amy Singer, *Palestinian peasants and Ottoman officials* (Cambridge: Cambridge University Press, 1994), 96-97

<sup>148</sup> DSC v. 18, p. 132-3, no. 204

the past.

Realities on the ground had changed since the sixteenth century, and so had the law. By the middle of the seventeenth century, the sultan's *qanuns* not only began to speak about the people of the village, but to address their priority over outsiders to the taxable resources of the village. Several injunctions in the *Qanun* of Süleyman had dealt with the tax status of 'outsiders' (*haric reayet*): peasants who lived outside the *timar* but farmed its lands or sought to farm them. This definition of the sixteenth-century 'outsider' is a point of reference for understanding the changes that lay ahead. The relevant distinction in the mid-sixteenth century between insiders and outsiders was those who lived on the *timar*'s lands and those who did not. By 1622, however, an imperial *firman* (order) had been issued that if a plot among the village lands fell vacant, then any person among the villagers who wished to cultivate that plot had priority over those who were not village residents.<sup>149</sup> The vocabulary had changed; no longer was there discussion of *reaya* inside or outside the *timar*; rather the law distinguished between the people of the village and those who were 'foreign' (*ajnabi/ ajanib*) to it in order to determine who had priority upon village lands.

On a *timar*, the *timariot* was responsible for delegating vacant land to a new cultivator, and he was forbidden to give it to an outsider if someone from the village requested it. On plough land, the people of the village could not only stop the *timariot* from giving cultivation rights to an outsider, they could also stop one of their own cultivators from bestowing his cultivation right upon someone from the outside. A fatwa from the mid-seventeenth century states, "Zaid cultivates fields that are part of the land of the village where he lives. If, with the consent of the *timariot*, he transfers his right to cultivate these fields to Amr, who lives in a different village, can the people of Zaid's village—saying, "The right of [cultivation] transfer is ours!"—take the fields [for themselves] by paying Zaid whatever Amr paid him [for the cultivation right]?" The mufti, Shaykh al-Islam Yahya Efendi (d. 1644) responded that "since there is an order to this effect, they [the people of the village] can do it."<sup>150</sup> The muftis of Damascus concurred with this priority. In the middle of the eighteenth century, a group of villagers went to the mufti Ali Efendi al-Muradi and asked him if it was lawful for the supervisor of the *waqf* that owned the land they worked to give it to cultivators from another village.<sup>151</sup> Ali Efendi answered that it was not.

The right of the people of the village to preserve cultivatable land for their own residents was well established in imperial and Damascene sources by the late seventeenth century. Villages and their people were more frequently referenced in *qanuns* describing other legally valid or proscribed actions.<sup>152</sup> The people of the village also assumed collective responsibility for the village taxes. For instance, when the people of the village found that they could not muster the

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<sup>149</sup> MTM 79, see chapter two for more on this development.

<sup>150</sup> MTM, 79

<sup>151</sup> Ali Efendi al-Muradi, "Majmu' al-fatawi al-Muradiyah," Zahiriyah MS. 2642, f. 325

<sup>152</sup> e.g. MTM, 305-6



resources to pay the taxes, the entire village went into debt, borrowing money not in the name of individuals within the village, but in the name of the 'people of the village.' The probate inventory of an extremely wealthy man named Qasim Agha, drawn up on the 18<sup>th</sup> of November, 1689, showed that he had lent money to a number of villages, sometimes in large sums. The people of Habras owed him 1,616.5 qurush, the people of Bayt Sayir 200 qurush, the people of Samiya 109, the people of Judaydat al-Marj, 634 and the people of Rihan, 360.<sup>153</sup> Qasim Agha had been careful in each case to secure documentation from the court that the loan had been legally made and that repayment was expected.

The higher profile of the people of the village within Ottoman legal sources coincided with the production of a number of other documents testifying to the acute anxiety over the "ruining" of individual villages throughout the empire. The early seventeenth century was a time of widespread unrest, armed bands of demobilized irregular troops and provincial strongmen turned bandits roamed the countryside. Peasant populations were hard hit by the violence and the additional strain of bad weather; many villages were abandoned as a result. The emergence of laws in this period that strengthened the powers of the peasantry over the village lands may have been related to the concerns voiced by imperial bureaucrats like Katib Çelebi, who warned that the state could not survive unless it ensured that its villages remain populated and productive.<sup>154</sup> This conviction that the villages were the fiscal bedrock of the empire even extended to the finance bureau's tax farming contracts. In the first half of the seventeenth century, it was extremely common to find that the collection of revenues from Damascene villages had been awarded on the condition that the tax farmer see that the village was repopulated, that seed was provided to the villagers, and that the land was cultivated.<sup>155</sup>

The importance of the corporate character of 'the people of the village' has been seldom remarked hitherto, with the prominent exception of Martha Mundy and Richard Saumarez Smith, who noted that the people of the village played an important role in tax collection and discipline of the villagers.<sup>156</sup> Anyone familiar with the institutions of early modern European peasantry will find their powers over the administration of the village and its taxpayers to be a relatively familiar phenomenon. The rural assemblies of the peasants of seventeenth-century France not only performed similar functions of tax collecting and assessment among themselves, they even had a similar name: "*la communauté villageoise* (village community), *la communauté des habitants* (community of residents), or

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<sup>153</sup> DSC v. 10, p. 4, no. 1

<sup>154</sup> Katib Çelebi, *Düstûr el-'Amel li-Islâh el-Halel* (Istanbul, 1280/1832-33), 126-128

<sup>155</sup> see examples in Nagata Yuzo ed., *Tax Farm Register of Damascus Province in the Seventeenth Century* (Tokyo: The Toyo Bunko, 2006), 95, 96 and 98

<sup>156</sup> Mundy and Smith, 26-27. See also notes 56 and 96 in this chapter on the roles and importance that Mundy and Smith ascribe to the people of the village.

simply *le commun*.”<sup>157</sup> One could just as easily remark upon the emergence of the peasant communes of Russia in the sixteenth century, charged with the same duties of collection and assessment.<sup>158</sup> The people of the village did not possess all the powers of a *concejo* of a Castilian village or the *sockenstäma* of the Swedish peasantry, for they did not have the authority to punish crimes, they merely reported wrongdoers and brought them before the authorities.<sup>159</sup> Nevertheless, the organization of rural communities into a body that organized taxation and showed some ability to administer the resources of the village was everywhere ubiquitous, and a testament, in the eyes of many historians, to a relationship of compromise and negotiation between the early modern state and its peasantry rather than a coercive one. We will return to the question of how to characterize this relationship below.

### **Power to the People? The Principle of Proportionality**

As noted, the imperial *qanun* offered no advice on how to divide the collective burden. Nor did the *qanun* explicitly bestow the duties of tax division and collection upon the people of the village. Nevertheless, both fatwas and court records from Damascus indicate that the people of the village were the chief authority over these matters in that province, but that they did not have the authority to do so in any manner that they saw fit. In the late seventeenth or early eighteenth century, a group of villagers went before the mufti of Damascus Ali al-Imadi. They informed the mufti that each person who cultivated upon the village lands paid what was required according to the amount of feddans that he cultivated. However, it had come to light that one cultivator had more land than what he paid for, while another had less. They asked Ali al-Imadi if it was appropriate to even out the amounts of feddans according to what is paid, and the mufti responded in the affirmative.<sup>160</sup>

This principle, that everyone must pay in proportion to what he owned or cultivated, was the primary basis for the village's individuation of tax liability. Cultivation taxes were apportioned according to the amount of land or trees or

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<sup>157</sup> Pierre Goubert, *The French Peasantry in the Seventeenth Century*, tr. Ian Patterson, (New York: Cambridge University Press, 1986), 179.

<sup>158</sup> Edgar Melton, “The Russian Peasantries 1450-1860” in Tom Scott ed., *The Peasantries of Europe from the Fourteenth to the Eighteenth Centuries* (New York: Longman, 1998), 262

<sup>159</sup> On the *concejo* see Víctor Pérez-Díaz, *The Politics of Accommodation: Peasant Politics in Historical Perspective* (Madrid: Centro de Estudios Avanzados en Ciencias Sociales, Instituto Juan March de Estudios e Investigaciones, 1991), 12. On the *sockenstäma* see Eva Österberg, “Compromise Instead of Conflict? Patterns of contact between local peasant communities and the early modern state: Sweden in the sixteenth to eighteenth centuries,” in Mats Lundahl and Thommy Svensson ed., *Agrarian Society in History: Essays in Honour of Magnus Mörner* (London: Routledge, 1990), 266-74

<sup>160</sup> Ali Efendi al-Imadi, “Al-Nur al-Mubayn”, Zahiriya MS. 7508 f. 70a, the following case is similar.

vines that each person possessed or had under cultivation.<sup>161</sup> The *magharim* and *takalif*—taxes for the protection of property on the one hand, and life and limb on the other—were administered similarly in the village. As was the case with the cultivation taxes, the general rule for dividing the liability among the villagers was that it should be apportioned according to the individual’s wealth and property. A further extension of the principle was that the *jiziyah* poll tax on Christians and Jews was also tied to each individual’s capacity to pay it. One Christian man obtained a fatwa saying he should be excused from the *jiziyah* because of his poverty.<sup>162</sup>

The people of the village did not have the authority to assign taxation in such a way that this principle was violated; all undue burdens upon individuals were rejected by the mufti, and if the villagers failed to heed the mufti’s advice, disgruntled taxpayers could (and did) challenge the assessments of the people of the village in court. A fatwa from the turn of the eighteenth century addresses a situation where the people of a village agreed to divide their *magharim* and *takalif* equally between them. However, not all of the people acquiesced to this arrangement, because the village contained both rich and poor. The questioner asked if the people of the village should abolish this system of equal shares and distribute the liability according to the situation of the individual, and the answer was yes.<sup>163</sup>

Like all those who had a hand in levying taxes—including the sultan and his agents—the people of the village were subject to the prevailing ethical norms that determined how to equitably divide the tax burden. The standard manuals of Islamic jurisprudence did not specify how these particular taxes were to be collected, but they did set out general guidelines for taxation that affirmed that a person’s means had to be taken into consideration.<sup>164</sup> While the mufti’s sense of equitable distribution in the cases cited above was grounded in the precedents of Hanafi jurisprudence, jurisprudence was here supported by the moral and political literature of the Middle Eastern state. In some sense, the village administration was a microcosm of the general political ethos prevailing in the Ottoman domains. When it came to taxes, both the literature of state and Islamic jurisprudence insisted on the need to keep the weak and poor from being overburdened. It goes without saying that the weak and the poor were frequently exploited in matters of taxation, yet the need of those in authority to protect them was everywhere loudly proclaimed. Both the jurists and the political moralists warned that leaders would be answerable to God if they reduced any taxpayers

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<sup>161</sup> Ibid., f. 70b

<sup>162</sup> Abd al-Ghani al-Nabulusi, “Fatawi al-Nabulusi”, *Zahiriyah* MS 2684 f. 175

<sup>163</sup> Ismail al-Hayik, “Fatawi al-Shaykh Ismail al-Hayik”, *Zahiriyah* MS 5677, f. 10b

<sup>164</sup> In the fatwa cited in note 16, Ali Efendi al-Imadi adapts a general jurisprudential principle about fees to the taxes at hand, saying that each man should work the amount of land according to what he pays in terms of expenditures so that “the fee is according to the (number of) sheep.”

to poverty because of taxes.<sup>165</sup> The moralists further warned that the earthly consequences would also be dire, for a dynasty that allowed its tax base to deteriorate into poverty would be ruined by such policies eventually.

The arrangements of the people of the village therefore had to conform to the widely accepted stipulation that each person contribute in proportion to the amount of land cultivated or property owned. The people of the village were not always pleased with this doctrine, for those who had no property still benefited from the village resources. While those who were poor or in ill health might seek relief from taxes under this doctrine, the rich and powerful might also seek to limit their contributions by insisting on strict adherence to it.

The fatwa above stated that the village with equal tax shares contained both rich and poor; other evidence also indicates that the villages of Damascus were not places where everyone had more or less the same resources. While the tax liability was shared, the villagers did not contribute equally. Apparently, there could be quite a bit of difference in wealth among the villagers. Below we will meet a man who was so poor he had neither freehold (*emlak*) nor immovable property (*akkar*) in his village of residence. Frequently, freehold property in the village translated into fruit, nut, or olive trees, a private garden, or a vineyard. Hence, some villagers were so poor that they possessed none of these, nor their own abode. On the other hand, a fatwa given by Abd al-Ghani al-Nabulusi records that at his death, one village resident had owned a house in the village, a share of a vineyard, a herd of cattle and a cow path, and a share in half of the usufruct on all the village plough lands.<sup>166</sup> Needless to say, some could afford more than others.

In many documents that refer to them, the people of the village spoke with one voice or took action with one will, as in the fatwa cited above where the people of the village exclaimed, “the right of transfer is ours!” But the concept of the people of the village acting in unison obscured the diversity within the village. How was a decision adopted in order that it would, in legal texts, be identified as the unified, collective will of the villagers? It can be difficult to guess at how this process worked, although clearly there were some in the village whose opinions carried more weight than others. Amy Singer writes of a village leader called the ‘*rais al-fallahin*’, the head of the village, playing a significant role in sixteenth-century Palestinian villages.<sup>167</sup> Seventeenth-century Damascene villages did have shaykhs, and these do appear to have had a leading role in representing the village interests. However, the tax disputes between villagers and collection authorities recorded in the court registers suggest that when the village shaykh spoke for the village, he did so with the weight of other prominent villagers behind him.

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<sup>165</sup> For an instance of the former see Abd al-Ghani al-Nabulusi, “*Ishraq al-ma’alim fi ahkam al-mazalim*,” Süleymaniye MS Çelebi Abdullah 385, f. 181a-184a. For the second see Sarı Mehmed Paşa, 116-8

<sup>166</sup> “*Fatawi al-Nabulusi*,” f. 102a

<sup>167</sup> Singer, 32-45

About 1690, three men from the village of Sahnaya, one of them the village shaykh, made allegations against the superintendent of the *waqf* that benefited from their tax revenues.<sup>168</sup> These three men presented themselves as *wakils* (agents who are deputized by someone to represent his or her interests) for seventeen other residents in the village, suggesting that this group of 20 men were the core of decision makers for the village as a whole. Just 15 years previously, the survey register of 1675 had recorded that 80 adult men resided in the village, so it would seem that roughly a quarter of the adult male population of the village took the dominant role in asserting the collective will.<sup>169</sup> Such a group was likely composed of the more affluent and powerful among the villagers, who could also expect to have loud voices in how the tax liability was to be divided.

Quite frequently, we find fatwas wherein the hegemonic voice or demand of the people of the village is confronted by an individual villager who rejects the tax burden the village has assigned him. One such complaint concerned a man who had no freehold or immovable property in the village where he resided, but the people of his village insisted that he pay the *gharamat* (another name for *magharim*) that were for preservation of life and limb. The mufti agreed with the man that he was not liable because he did not own any property.<sup>170</sup> This situation is interesting primarily because it hints at lack of consensus between the villagers and the mufti about whom among them had the responsibility to share the tax burden. The villagers felt that since the tax was for preservation of life and limb, and the villager was in possession of both, that the villager should pay the tax. He lived in the village and benefited from the protection provided to all, hence he was responsible for his share in maintaining it. The mufti, on the other hand, ruled that a person without property was without means to contribute to the taxes and hence was not liable, no matter the fact that he enjoyed the security for which the taxes paid.

In another related case, a man who was blind but who had freehold property in his village paid the *magharim* for preserving property but protested when the people of the village insisted that he pay the *magharim* for preserving life and limb. The mufti also agreed with him and ruled that because of his impairment he was liable only for the protection of property tax, but not for life and limb.<sup>171</sup> In this case, the man's not being of sound body exempted him from the life and limb taxes, not because he lacked the means to pay, as in the previous case, but because he was not able bodied.

A similar question about an individual's responsibilities to the village and its collective welfare arose among Muslims who lived in predominantly Christian villages and who did not expect to pay the same amount of *magharim* as their Christian neighbors. The Christian and Jewish communities were supposed to finance their own physical protection, this was the basis for the *jiziyah* poll tax

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<sup>168</sup> DSC v. 18, p. 124, no. 192

<sup>169</sup> A.DFE 143, f. 16-17

<sup>170</sup> Ismail al-Hayik, "Fatawi al-Shaykh Ismail al-Hayik", f. 10b

<sup>171</sup> Ali al-Imadi, "al-Nur al-Mubayn," Zahiriyah MS. 7508, f. 69b

upon them. Hence, some Muslims protested that they should pay the *magharim* for protecting the life and limb of a Christian village community, even if they lived in it. A convert to Islam named Yusuf b. Said and his son complained to the city's chief judge that the collection authority for his village, the *mutawalli* of the *waqf* of Süleyman the Magnificent, had taken money from him in both the current and previous year for the *magharim* and *takalif* of the village, and that as a Muslim he should be exempt from the taxes.<sup>172</sup> The father and son were both living in the village of Saydnaya, which was home to an almost exclusively Christian population. They brought with them not only Sayyid Muhammad Agha, the *mutawalli* of the *waqf*, but several of the people of the village of Saydnaya, and claimed that they should have returned to them the 30 qurush that they had paid this year as well as the 21 qurush that they paid the previous year.

Although the *mutawalli* was present at the proceedings, it was to the people of Saydnaya that the judge turned for an explanation of why the plaintiffs had been charged what they had. The villagers replied that Yusuf and his son are resident in the village and that they have both freehold and immoveable property in the village and that they were told to pay the *magharim* that were allocated upon these properties. In fact, the villagers added, the amounts that Yusuf paid were lower than what had been assessed. They presented the judge with a fatwa from Ismail Efendi al-Hayik, the mufti of Damascus, saying that in a Christian village that supports a *waqf*, it is known that the village obligations are the *takalif* that are paid by each person and the taxes upon the village lands. The mufti answers in the affirmative that since Yusuf is a resident among them in the village then he is obligated to pay what is due the *waqf*, and the judge ruled in accordance with the mufti's opinion in the matter.

In this case, first the mufti and then the judge ruled that a Muslim who was a resident of the village had to pay his obligations along with the Christians. However, the fatwa made clear that an important feature in this situation was that the village belonged to a *waqf*, and hence its revenues ultimately benefited the mosque complex of Süleyman the Magnificent. The question put to the mufti noted that the *waqf* would ultimately suffer as a result of Yusuf's failure to pay taxes, not the villagers per se. This final point appears to have been key to the mufti and the judge's decision: in another fatwa where the village did not belong to a *waqf*, the outcome was the opposite. An fatwa from roughly the same period concerning a Muslim who had a vineyard in a Christian village confirmed the distinction between Muslim and Christian villagers and the disparity in their *magharim* liability.<sup>173</sup> The Muslim, clearly a resident of the village, asks if he is liable for *magharim*, or if his only obligation is to pay the cultivation tax on the vineyard. The mufti replies that the Muslim is liable for any *magharim* collected to protect property; the Muslim should pay according to how much property he owns. Nevertheless, he affirms that the man is not liable for any *magharim* that are for the protection of life and limb. The mufti's opinion compels the man to

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<sup>172</sup> DSC v. 20, f. 261, no. 828

<sup>173</sup> Ali Efendi al-Imadi, "al-Nur al-Mubayn," Zahiriyyah MS. 7508, f. 70a

share some amount of the village *magharim*, where previously, according to the fatwa, he had not participated at all. While he is responsible for paying for the protection of property in the village where he lives and owns property, he is exempted from the responsibility for financing the physical safety of Christians.

The examples above all involved people who lived together in the same village, although they felt they should not have to contribute as much to the village taxes as their neighbors. However, anyone who cultivated or possessed village land under cultivation was liable to participate in the cultivation taxes, whether or not they lived in the village. On December 6<sup>th</sup>, 1689, the most powerful man in the city of Damascus disputed the amount of his share in the village of Daraya's taxes that were allocated to the provincial treasury and the *waqf* of Nur al-Din.<sup>174</sup> Asad Efendi bin Ahmad al-Bakri al-Siddiq belonged to a family of Damascene *ulama* who had sought to join the ranks of the state's *ulama* bureaucracy, the legion of imperial judges headed by the mufti of Istanbul and known as the *ilmiye*.<sup>175</sup> While Asad's father Ahmad and his son Khalil would succeed in becoming imperial judges, Asad Efendi's ambitions ran more to becoming the largest fish in a smaller pond; he never became an imperial judge himself, but instead became something akin to the unofficial mayor of the city of Damascus.<sup>176</sup> Bureaucrats, court officials and a succession of pashas sought his counsel and favor. His access to patrons in Istanbul won him lucrative tax farming contracts and academic appointments, and he owned several rural properties in addition to his residence in the city.

A survey register dating to 1675 showed that the Bakri family had obtained a large estate in the village of Daraya.<sup>177</sup> Another *alim* with an estate in the same village, Ismail Efendi bin Qadi Uthman, came with Asad Efendi to court to make a complaint against the Daraya villagers, and the two men brought with them the cultivators who tended their land.<sup>178</sup> They brought a case against these villagers—their own employees—maintaining that these villagers were charging them taxation amounts based on the claim that the cultivated lands under the control of Asad Efendi were equal to 7 feddans, and those of Ismail Efendi were equal to 3.75 feddans. The two *ulama* asserted that they did not know if these amounts were accurate and they demanded the villagers investigate the matter by performing what they called '*qiyas*', a comparison or analogy, of the village lands. The judge informed the villagers that "it was incumbent upon them to prove what was in the possession of each of them among the lands of the village by way of *qiyas*, so that each would pay according to what land he

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<sup>174</sup> DSC v. 18, p. 103, no. 168

<sup>175</sup> A helpful summary of the family and its members can be found in Linda Schatkowski Schilcher, *Families in Politics: Damascene Factions and Estates of the 18th and 19th Centuries* (Berliner Islamstudien, Bd. 2. Wiesbaden: F. Steiner, 1985), 156-159

<sup>176</sup> Muḥammad Khalil ibn 'Alī al-Murādī, *al-Silk al-durar fi a'yan al-qarn al-thani 'ashar* (Baghdad: Maktabat al-Muthanna, 1966), 1: 223-226

<sup>177</sup> A. DFE 143, f. 26

<sup>178</sup> DSC v. 18, f. 103, no. 168

possessed...and he ordered them to make *qiyas* and proof of it.”<sup>179</sup> At first glance, things appear as we might expect. A rich and powerful man was refusing to pay villagers the taxes he owed, and claimed that they were overcharging him. He demanded proof that he owed the amount they sought, and the judge obligingly ruled that the proof was necessary.

There was no question that Asad Efendi was the protagonist in the record of this case; his honorific titles and his accusation constitute the bulk of the record. The villagers speak only a few words, merely affirming the facts of the case. The inequality of stature between Asad Efendi and the peasants is readily visible, and the adamant instruction given to them by the judge to provide proof suggests deference to Asad Efendi. Judges made binding decisions, hence it was in the power of the judge to force the peasants to make the *qiyas*. Although there is no description of exactly how a seventeenth-century *qiyas* was carried out, a Swiss traveler named John Lewis Burckhart (1748-1817) described something similar that took place in a Hawran village in the early nineteenth century. Every two or three years in the spring time “the ground of the village is measured by long cords, when every Fellah (peasant cultivator) occupies as much of it as he pleases...[and] the amount of his tax is then fixed by the Sheikh, at the ratio which his number of fedhans bears to the whole of the number of fedhans cultivated that year.”<sup>180</sup> The villagers may well have used cords to determine the entire mass of the land and then that of the amount held by the various individuals. However they did it, the process must surely have been time consuming in a village as large as Daraya, which contained ten large estates and supported 569 villager households on its sprawling ninety feddans.<sup>181</sup>

Upon reflection however, the impression of the villagers being at a disadvantage eventually turns on its head; the people of the village of Daraya demanded that Asad Efendi pay his proportional share of the village taxes and his only grounds for objection was that the villagers had over calculated his share of the village lands. As soon as the *qiyas* was performed, Asad Efendi would be out of excuses for not paying his taxes. Incidentally, it would be the people of the village who would perform the *qiyas*, not a neutral third party or someone more inclined to favor Asad Efendi. The bottom line seems to invert the order of hierarchy: it is the peasant cultivators of Daraya who will make the final judgment of whether Asad Efendi al-Bakri’s taxation amount is accurate. Despite all the dignity of his bearing, Asad Efendi in fact had very little recourse against the demands of these peasants other than demanding proof, for the judge had affirmed the uncontested principle of tax division: that each person would pay taxes commensurate with the amount of land or property he held in the village.

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<sup>179</sup> *ibid.*

<sup>180</sup> Birgit Schaebler, “Practicing *Musha’*: Common Lands and the Common Good in Southern Syria under the Ottomans and the French,” in Roger Owen ed. *New Perspectives on Property and Land in the Middle East* (Cambridge, Mass.: Harvard University Press, 2000), 252

<sup>181</sup> see A. DFE 143, f. 22-26 on Daraya’s population and TT 401, f. 167 for Daraya’s size



In the end, Asad Efendi will be compelled to pay his share to the people of Daraya according to the results of the *qiyas*; a process that they, not he, control. If he continued to protest, the people of Daraya had means at their disposal to force payment. As we will see below, villagers did not hesitate to have imperial officials force payment from those prominent persons who refused to pay their share.

Examining how the people of the village came to assign tax liability, we can see that not all villagers had a voice or an equal voice, and that disagreements did occur. However, only one issue appeared to be truly controversial, that of the physical protection tax and its sometimes complex applicability to one's religious identification and property ownership. Overall, the principle that taxation was appropriate so long as it was proportional to property owned or land cultivated was unchallenged; it was also enforced by the mufti, the judge, and when necessary, the city's military officials as we will see below. As the traveler Burckhart pointed out, however, there were a good many other factors affecting an individual peasant's prosperity that did not go into formulating tax: "Whether the oxen be strong or weak, or whether the quantity of seed sown or of land cultivated by the owner of the oxen be more or less, is not taken into consideration."<sup>182</sup> Factors such as the quality of the soil or its need for fallow were also not part of the calculation. The villagers, it seems, accepted that a number of disparities would exist in their midst without expecting these disparities to affect tax status. If anything, the challenges to the people of the village highlight the very limited grounds upon which the consensus of fair taxation was based and from which it could be challenged.

### **The Village and the State**

On the 16<sup>th</sup> of November, 1689, a group of the people from the village of Daraya arrived in court and brought with them a man named Ahmad Efendi, sometimes known as Ruznamcheji Ahmad (Ahmad the account register keeper).<sup>183</sup> We will meet Ahmad Efendi again in chapter four; for now suffice it to say that Ahmad Efendi worked in the office of the Damascus treasury keeping track of the daily receipts and expenditures. Because of his employment, he was considered military (*askari*) class, which would suggest that he was tax exempt. The villagers described him as one of the 'lords of large plough holdings' (*erbab-i filah*) of the village. They noted that his name appears in the *defter* (register) that designates the various tax burdens upon the villagers: they pay *magharim* and *takalif* and customary imposts and additionally they bear a responsibility to passing travelers (*musafirin marin*) to feed them and fodder their animals. The *defter*, which they brought with them to court, stated how much the large landholders of the village are to contribute to each of these expenses, but Ahmad Efendi refused to pay what was allotted to him.

The villagers, when Ahmad Efendi refused to pay, appealed first to Husayn

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<sup>182</sup> Schaebler, 252

<sup>183</sup> DSC v. 18, p. 89, no. 134

Aga, the *qaim maqam* (deputy) of Ahmad Pasha the governor. Husayn Agha was likely the highest ranking military official present in the city at the time, as Ahmad Pasha was also the leader of the pilgrimage and may have been absent from the city with the pilgrims. The members of the military were supposed to be disciplined by their own officers, and this may be the reason why the head military authority was the first person that the villagers turned to. In support of the villagers' claim, Husayn Agha wrote into the *defter* an order to the members of the military to pay what the *defter* designated upon each of their holdings in the way of *magharim*, *takalif* and other levies with the people of the village.<sup>184</sup> He signed it and stamped it with his seal on September 30<sup>th</sup>, 1689. However, Ahmad Efendi still refused to pay what had been assigned to his holding in the *defter*. When the judge asked him why he refused, he answered only that he had never paid these kinds of taxes previously. The villagers then gave the *defter* to the judge and showed him the "*buyuruldu*" (the order from Husayn Agha) and the judge, after perusing it, ordered Ahmad Efendi to pay everything that had been assessed upon his holding.

It is remarkable to note that it is not the Ottoman collection authority or any other military or judicial figure that was doggedly chasing Ahmad Efendi and insisting that he pay his taxes, rather it was the people of Daraya. There is no doubt that they were an authoritative body—all the figures with whom they interacted, especially those with a clearer mandate to act on behalf of the imperial government, acknowledged the particular powers (and limits) of their authority. Ali Efendi al-Imadi acknowledged that it was within their authority to rearrange land holdings if the taxes were unfairly apportioned; no permission from collection authorities or anyone else need be sought. In the case of the convert Yusuf who protested his *magharim* in the village of Saydnaya, the *mutawalli* of the *waqf* had no part to play whatsoever. It was to the people of the village of Saydnaya that the judge turned for answers about the village payment arrangements and the reasoning behind them. In the last example cited, both the city's highest military and judicial official had authorized the villagers to part Ruznamcheji Ahmad Efendi and his money. So long as the people of the village did not violate the rule of proportionality, they had the power to enforce payment upon all those who shared in the common economy of the village.

The status of the people of the village appeared not unlike that of other corporate groups in the empire. Guilds of urban craftsmen and janissary regiments, for instance, had some degree of governing authority over their members and were responsible for overseeing various aspects of their discipline, adherence to professional conduct, and compliance with taxation or other

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<sup>184</sup> The way that the court scribe expresses Husayn Agha's order is extraordinary: "fi-waqa'a lahum 'ala al-daftar al-maw'ud bi-hikayatihi fihi buyuruldiyan madmunuhu bi-anna..." In English: "So he placed for them upon the *defter* the stipulation which he expressed as a 'buyuruldu', an order, the content of which is that..." This represents the one entry in a Damascus court register in which I have ever seen the Turkish "buyuruldu" or "it is ordered that..."

imperial demands. There is reason to see the growing legal and administrative presence of the people of the village as bringing the countryside into the trend of 'corporatization' that was already an important part of determining an individual's social life in the cities.<sup>185</sup> To return to Katib Çelebi's image of the body politic, an individual's part in this corporate group determined his obligation within the wider polity. All people had an important role in the functioning of the state, and each had to play his proper role. While Katib Çelebi believed that social groups should remain distinct in order to play their respective roles properly, it was fairly common in the seventeenth century for people to take more than one social role. Peasants became soldiers and janissaries took up trades to become merchants and part time soldiers. It was also a time when men with military privilege like Asad Efendi and Ruznamcheji Ahmad Efendi became subject to the communal discipline of peasants. Despite the fact that the categories intermingled in the lives of real people, the categories continued to stay relevant to political thought and the discussion of rights and privileges.

While corporate military groups such as the janissaries were widely considered a part of the imperial state, the status of the guilds and the villages was less clear. In general, the seventeenth-century courtiers who described the 'shape' of state, such as Hüseyin Hezarfen, did not include such groups as part of the institutions of the state.<sup>186</sup> However, in the literature of political morality, and the image of the body politic employed in such literature, the merchant guilds and peasant villagers were included as part of the body of state.<sup>187</sup> If one goes with the narrower definition of state according to Hezarfen, it would make sense to see the guilds and the people of the village as mediating groups that negotiated the application of state power over their members. Tax revenues were extracted, but only with the consensus and cooperation of the communities that were taxed, who saw to it that the burden was distributed in ways that met with local priorities.

Yet this chapter has shown that a number of conflicts that erupted around taxation were not between the villagers and an extracting collection authority—such conflicts did exist of course, but the subject of this chapter has been the conflicts that arose when the people of the village were *themselves* the primary extractors and collectors, acting simultaneously upon their own behalf and upon behalf of the state treasury. In such circumstances, an individual subject to the villagers' division of the tax burden would protest that he did not owe what he had been charged. Whether the mufti, the judge or the governor's deputy sided with the villagers or the recalcitrant individual always came down to one thing: was the

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<sup>185</sup> Mundy and Smith have come to the same conclusion, see *Governing Property*, p. 30

<sup>186</sup> See Ayn-i Ali, *Kavânın-i Âl-i Osman der hülâsa-i mezâmin-i defter-i divân*, (İstanbul: Enderun Kitabevi, 1979) and Hüseyin Hezarfen, *Telhîsü'l-beyân fî kavânın-i Âl-i Osmân* (Ankara: Türk Tarih Kurumu Basımevi, 1998)

<sup>187</sup> see not only Katib Çelebi, *Düstûr*, 126-128 but also Mustafa Naima, *Tarih-i Naima: Ravzat ül-Hüseyin fî hulâsat-i ahbar el-hafıkayn* (İstanbul: Tabhane-yi Âmire, 1863), 1:1-5.

amount charged in proportion to the resources that the individual possessed within the village? The overriding priority was that an individual must pay in proportion to the amount of resources that he commanded. In short, the assigning of taxation was less a negotiation between the individual and the people of the village than a determination of individual obligation towards the village welfare.

Even with their well-defined role in collecting revenue for the imperial treasury or its beneficiaries, it is unlikely that the villagers had a self perception of forming a part of the 'high state' as they called the Ottoman administration. Katib Çelebi and other political writers saw them as forming an integral part of the state because the state was not just men with swords and pens, but a common body of people all of whom were dependent upon one another for survival and prosperity. Whether or not the villagers saw themselves as constituting an essential and interdependent part of the state is obscure; yet if anything is clear, it is that they did know what it was to be collectively responsible for a shared communal and political space, namely the village itself.

## **Conclusion**

This chapter has attempted to explain the urgent nature of effective tax collecting in the seventeenth century as the Ottoman government sought to fight long and exhausting wars. To this end, the people of the villages surrounding Damascus performed an invaluable service to the empire. They transferred wealth from individual peasants and even proud *ulama* and military men to the state's collection authorities. These individuals, who a century ago might have been involved in the collecting themselves, now appeared content to let the villagers themselves allocate and collect the taxes. Ottoman subjects of the seventeenth century lived in a highly hierarchical world; this being the case, the power of villagers to call the privileged and powerful among them to account is extraordinary. Some of these people were surely in a position to flout the will of the villagers, even after receiving a direct and binding order from military officials or the judge. Nevertheless, it is worth remarking that all those in positions of authority generally supported and sought to enforce the villagers' determinations about how much privileged persons owed towards the taxes, and these officials lent muscle to the villagers' efforts to obtain payment from those who had the power to resist or protest. In a world where the high and mighty had the right to take tax revenues from the humble, it is fascinating to see that in fact it worked the other way around: humble villagers also had the power to strong arm notable military men into paying their taxes.

The scope of their power could be impressive. But in the end, they had a job that was quite demanding and which no one else wanted. It would seem to be more in their interest, in a strictly material sense, to obstruct tax collection rather than expedite it. Yet it would be a mistake, I believe, to see the rise of the people of the village as a phenomenon linked to serving someone's interests, whether it be the empire's or the villagers'. The emergence of the people of the

village does not seem to have been intentionally instituted by a central bureaucrat or provincial official in order to achieve more efficient taxation, rather it appears to have happened simply as a consequence of other factors: the organization of tax revenues according to the registers, and the transition to short term tax farming. The villagers were probably no worse off than they had been before; they expected to pay taxes on their produce and their property. They may not have liked it, but it was an unavoidable part of life. There were times when the villagers asked for a reduction in tax burden or begged for a year off, but in general, the concern of the people of the village was to see that everyone paid what they owed.

As noted, the new responsibilities of the people of the village also coincided with a newly formal recognition of their proprietary interest in the village's productive resources. Reference to the people of the village, their rights and responsibilities, had become robust in the seventeenth century. Rural cultivators appeared to belong to a corporate body that resembled other such bodies within the Ottoman polity, possessing some degree of answerability to the authorities and some degree of self discipline as well. As with the guilds, the governance that was wielded by the people of the village did not have a clearly demarcated relationship with the imperial state, yet it functioned with an indirect approval from it and to some extent, functioned on its behalf. This entity would continue to play a seminal role in village life even after the empowerment of the *malikane* tax farmers in the eighteenth century. In considering the political role of the rural communities in the reform era, and how the expectations of the peasant cultivators gave shape to the modern politics of the Middle East, we would do well to remember the strong position that the peasants occupied with regard to the governance of the village and its resources that had emerged in the seventeenth century.

## Chapter Two

Like the other early modern states that were its contemporaries, the Ottoman Empire at the turn of the eighteenth century sought to subdue internal rivals and muster resources for ever more expensive wars. Many scholars have wondered if Islam was a help or a hindrance in meeting these challenges, and what peculiarities that the Ottoman state experienced in the course of its development into a modern state that are traceable to its Islamic context. A number of scholarly voices have claimed that Islam was in some way responsible for limiting Ottoman development, and that of the Muslim world generally.<sup>188</sup> While such views were previously widespread in the historical literature, they have all but disappeared in academic discourse even as the general media has asked with increasing frequency whether Islam and modernity can coexist, and if so, how. Those scholars who have maintained that Islam played a positive role in early modern state building have generally argued that Islam provided a bond of solidarity between the people and the state, endowing the state with legitimacy and shoring up its support amongst an ethnically diverse population.<sup>189</sup> Far more prevalent in the field currently is the view that Islam and its importance has been overstated. The study of fiscal policy, political economy, and social history that revolutionized the field since the 1990's drew attention to institutions and structures whose development was a series of rational responses to material factors.<sup>190</sup> Belief in the sanctity of certain practices or behaviors, it was shown,

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<sup>188</sup> For an argument of the deleterious impact of Islam on Ottoman modernization, see Stanford Shaw's explanation for the fall of Selim III in Stanford J. Shaw, *Between Old and New; the Ottoman Empire Under Sultan Selim III, 1789-1807* (Cambridge, Mass.: Harvard University Press, 1971).

<sup>189</sup> For instance, Bruce Masters has argued that the Ottoman state stressed its Islamic credentials to obtain the support of Arab provinces such as those in modern day Syria. Bruce Masters, "Ottoman Policies Toward Syria in the 17th and 18th Centuries," in *The Syrian Land in the 18th and 19th Century: the common and the specific in the historical experience*, ed. Thomas Philipp, (Stuttgart: F. Steiner, 1998), 11-26.

<sup>190</sup> More typical of the academic trends since the nineties are books that emphasize pragmatism that has little to do with culture, religion etc. Administrative change is based on economics or social factors, c.f. Karen Barkey, *Bandits and Bureaucrats : The Ottoman Route to State Centralization* (Ithaca, N.Y.: Cornell University Press, 1994) and Ariel Salzmann, *Tocqueville in the Ottoman Empire : Rival Paths to the Modern State* (Boston: Brill, 2004). Those who study the later nineteenth and twentieth centuries have been more inclined to allow some room for religion as important factor in development because of the role that identity politics plays in nationalism and sectarianism, e.g. Selim Deringil, *The Well-Protected Domains: Ideology and the Legitimation of Power in the Ottoman Empire, 1876-1909* (London; New York; New York: I.B. Tauris ; In the U.S.A. and in Canada distributed by St. Martin's Press, 1998) and Ussama Samir Makdisi, *The Culture of Sectarianism : Community, History, and Violence in Nineteenth-Century Ottoman Lebanon* (Berkeley, Calif.: University of California Press, 2000).

did not dictate the empire's economic and political course so much as the interests of its different social groups.

But if one were to consider Islam not as primarily belief or mentality but rather as practices that Muslims deem necessary to meet the requirements of the faith, the question of how the history of the Ottoman Empire intersects with the history of Islam becomes very salient to the current concerns of the field. Institutional development in the empire, the rise of an increasingly sophisticated bureaucratic state, has been a productive line of inquiry for scholars, and demonstrated that the Ottoman Empire had much in common politically, economically, and socially, with other early modern states in Europe and Asia. Few Ottoman institutions have received more attention in recent years than that of the qadi's court. The records of the court have been consulted in numerous studies; some have investigated economic and social networks in the empire's provincial cities and their hinterlands.<sup>191</sup> Others have examined gender roles; kinship ties and the meaning of family; the policing of sexual morality; and the social realities of women in the provinces and in the capital.<sup>192</sup> Still others have

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<sup>191</sup> Some recent examples include Kenneth M. Cuno, *The Pasha's Peasants: Land, Society, and Economy in Lower Egypt, 1740-1858* (Cambridge [England]; New York: Cambridge University Press, 1992); Beshara Doumani, *Rediscovering Palestine : Merchants and Peasants in Jabal Nablus, 1700-1900* (Berkeley: University of California Press, 1995); Bogaç Ergene, "Social Identity and Patterns of Interaction in the Sharia Court of Kastamonu (1740-44)," *Islamic Law and Society* 15, no. 1 (2008), 20; Colette Establet and Jean-Paul Pascual, *Des Tissus Et Des Hommes: Damas, Vers 1700* (Damas, Syrie: Institut français du proche-orient, 2005); Suraiya Faruqi, *Artisans of Empire : Crafts and Craftspeople Under the Ottomans* (London: I. B. Tauris, 2009); Abdul-Karim Rafeq, *The Law-Court Registers of Damascus, with Special Reference to Craft-Corporations during the First Half of the Eighteenth Century*. (Paris: Editions du Centre National de la Recherche Scientifique, 1976); Amy Singer, *Palestinian Peasants and Ottoman Officials : Rural Administration Around Sixteenth-Century Jerusalem* (Cambridge; New York: Cambridge University Press, 1994); and Dror Zeevi, *An Ottoman Century: The District of Jerusalem in the 1600s* (Albany: State University of New York Press, 1996).

<sup>192</sup> On kinship ties and family see Iris Agmon, *Family & Court: Legal Culture and Modernity in Late Ottoman Palestine* (Syracuse, N.Y.: Syracuse University Press, 2006); Beshara Doumani, *Family History in the Middle East Household, Property, and Gender* (Albany: State University of New York Press, 2003); Margaret Lee Meriwether, *The Kin Who Count: Family and Society in Ottoman Aleppo, 1770-1840* (Austin, Tex.: University of Texas Press, 1999); for gender roles and women as social actors see Haim Gerber, "Social and Economic Position of Women in an Ottoman City, Bursa, 1600-1700," *International Journal of Middle East Studies* 12, no. 3 (1980), 231; Leslie P. Peirce, *Morality Tales: Law and Gender in the Ottoman Court of Aintab* (Berkeley, CA: University of California Press, 2003); Elyse Semerdjian, *"Off the Straight Path": Illicit Sex, Law, and Community in Ottoman Aleppo* (Syracuse, N.Y.: Syracuse University Press, 2008); and Fariba Zarinebaf-Shahr, "The Role of Women in the Urban Economy of Istanbul, 1700-1850," *International Labor and Working-Class History* 60, no. 1 (2001): 141.

explored relations between Muslims, Christians and Jews.<sup>193</sup> While there have been fewer studies focused on Ottoman era jurisprudence, those that have appeared have been enthusiastically received and widely read.<sup>194</sup> Many of these studies have addressed not only the information from the records, but the role that the court or the mufti played in Ottoman communities and the concept of law and its administration in the Ottoman Empire. Both the qadi's court and the production of jurisprudence were acknowledged to possess long histories predating the founding of the Ottoman state in 1300. Occasionally, the development of these institutions in the Ottoman Empire was tied to the history of Islamic institutions, Islamic practice or the shifting constellations of religious and temporal authority in Islamic communities over the *longue durée*.<sup>195</sup> But this was the exception rather than the norm, especially within the field of history, and especially with regard to the seventeenth and eighteenth centuries.

This chapter departs from more recent trends by positing not only that adherence to Islam affected the political and economic development of the Ottoman Empire, but more particularly, that the development of the Ottoman Empire also affected the way that Muslims under Ottoman rule practiced Islam. The particular constellation of state and religious authority, the extent to which the two were independent of one another, and the boundaries of their proper

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<sup>193</sup> For studies in areas where Christians constituted the majority of the population see Rossitsa Gradeva, "Orthodox Christians in the Kadi Courts: The Practice of the Sofia Sheriat Court, Seventeenth Century," *Islamic Law and Society* 4, no. 1 (1997), 37; Molly Greene, *A Shared World: Christians and Muslims in the Early Modern Mediterranean* (Princeton, N.J.: Princeton University Press, 2000). For Jews and Christians as minority populations see Najwa Al-Qattan, "Dhimmi in the Muslim Court: Legal Autonomy and Religious Discrimination," *International Journal of Middle East Studies* 31, no. 3 (1999), 429.

<sup>194</sup> Uriel Heyd, *Studies in Old Ottoman Criminal Law*, ed. V.L. Ménage, (Oxford: Clarendon Press, 1973) and Colin Imber, *Ebus-su'ud: The Islamic Legal Tradition* (Stanford, Calif.: Stanford University Press, 1997) focus on the imperial Ottoman muftis, while Martha Mundy and Richard Saumarez Smith, *Governing Property, Making the Modern State: Law Administration and Production in Ottoman Syria* (London: I.B. Tauris, 2007) examines both imperial and Damascene provincial fatwas. Judith E. Tucker, *In the House of the Law: Gender and Islamic Law in Ottoman Syria and Palestine* (Berkeley: University of California Press, 1998) focuses on gender and the rights of women in the fatwas of Palestinian muftis.

<sup>195</sup> Two major exceptions are Baber Johansen, *The Islamic Law on Land Tax and Rent: The Peasants' Loss of Property Rights as Interpreted in the Hanafite Legal Literature of the Mamluk and Ottoman Periods* (London; New York; New York: Croom Helm; Methuen, 1988) and Haim Gerber, *State, Society, and Law in Islam: Ottoman Law in Comparative Perspective* (Albany: State University of New York Press, 1994). While the court and the fatwa have not received attention as part of a larger history of Islamic institutions or as Islamic praxis, there are some areas wherein Ottoman contributions have been considered in this light. One has been the concept of the Islamic city and in general the field of art and archaeology, to some extent the history of *waqf*, and also the development of sufism.



jurisdictions were in great flux between 1500 and 1800. What is clear is that in the Ottoman Empire as in Europe, the state's quest for greater power over the empire's financial resources had broad implications for organized religion. In this chapter, we will see how the dynasty made a successful bid for greater legislative power over rural production and taxation. The way in which the sultan's government accomplished this feat was significantly shaped by the Hanafi jurisprudential traditions that the empire had inherited. At the same time, the new sultanic legislation increasingly penetrated not only the practice of the courtroom, but also the scholastic traditions and jurisprudence of the Hanafi *ulama*. Even in the Arabic-speaking provinces far removed from the capital of Istanbul, the *ulama* began to acknowledge the broader legislative powers of the sultan, the necessity of obeying the sultan's enacted laws, and that the sultan's laws had consequences not only for the qadi's court but for the judgments of fatwas. In fact, it is not too much to speak of a peculiarly 'Ottomanized' brand of Hanafi thought and practice that emerged after the sixteenth century.

As a general rule, early modern states were more intrusive than their earlier counterparts and increasingly regulated many aspects of their subjects' lives and relationships with one another. It has been frequently remarked that the goal of early modern states was a monopoly upon the use of violence; yet another means of coercion that such states sought to monopolize was legislative authority. Sovereigns sought to expand their legislative power in order to increase their authority and to increase their access to their subjects' resources. While historians are currently of the opinion that the term 'absolutism' better describes the powers that these monarchs sought than what they achieved, there is no doubt that sixteenth-century monarchs had more power at their disposal than their fourteenth-century counterparts.<sup>196</sup> Early modern sovereigns faced a number of limits on their legislative authority, but in different states there were different obstacles to be overcome. The Emperor of the Holy Roman Empire sought to expand his powers over criminal proceedings but found himself blocked by the municipalities.<sup>197</sup> The French King Louis XIII had greater success at expanding his legal authority by reducing his subjects' immunities from his edicts, a tactic championed by Cardinal Richelieu.<sup>198</sup> Nevertheless, the independence of the *pays d'etats* and the regional parlements continued to be a thorn in the

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<sup>196</sup> Nicholas Henshall, *The Myth of Absolutism: Change and Continuity in Early Modern European Monarchy* (London; New York: Longman, 1992) challenged the view of writers such as Alexis de Tocqueville that monarchs were as strong as had been believed in the sixteenth century and afterwards. Furthermore, John Brewer, *The Sinews of Power: War, Money, and the English State, 1688-1783* (New York: Knopf, 1989) pointed out that even though a monarch might be relatively weak, this did not mean that the state was weak.

<sup>197</sup> Hanns Gross, *Empire and Sovereignty: A History of the Public Law Literature in the Holy Roman Empire, 1599-1804* (Chicago: University of Chicago Press, 1975).

<sup>198</sup> C. V. Wedgwood, *Richelieu and the French Monarchy* (London: Published by Hodder & Stoughton for the English Universities Press, 1949).

side of French kings to the end of the Ancien Régime. In the eighteenth century, David Hume noted that even in the authoritarian states of France and the Ottoman Empire, there were limits to the sovereign's "constitutional" authority.<sup>199</sup>

Despite their reputation in Europe for wielding a wide range of arbitrary powers, the Ottoman sultans also faced a number of limits on their legislative authority.<sup>200</sup> Adherence to the Islamic *shariah* was a principle of paramount importance in the Ottoman Empire. The adjudication of personal status, inheritance, property, and a number of commercial transactions were governed largely by *shariah*. How the *shariah* was to be applied according to the facts of different circumstances was spelled out in the books of fiqh (jurisprudence) that were compiled over several centuries. Their authors were the Islamic jurists, legal scholars who were rarely associated with a particular state but were concerned with the application of the *shariah* outside of a particular time, place and temporal authority. The official jurisprudential rite of the Ottoman Empire was the Hanafi, one of the four principal schools of Sunni Islam. There were a number of provisions in the *shariah* that did not affect statecraft per se; however the *shariah*, along with custom, played an important role in determining what could be taxed and at what rates, a matter of critical importance to the regime. It was the dynasty's desire for greater control over tax law that was the primary force behind the legal innovations that I will be discussing in this chapter. But the *shariah* was not the only limitation that the sultans faced, for they could also find themselves in straightjackets of their own making. Once a sultan had granted privileges or exemptions or set a precedent, it was theoretically possible for later sultans to revoke them, but in practice it was nearly impossible—this was especially true if the privileged group was a section of the military.<sup>201</sup> Amidst such obstacles, the dynasty and its ministers sought (and in this case, obtained) greater authority to regulate agricultural resources and their taxation.

Much has been written of the dynasty's promulgation of its own legislation regarding taxes, penal law, military service, bureaucratic service, and other assorted imperial prerogatives such as striking coins. This legislation is known as the Ottoman *Qanun*.<sup>202</sup> There is no doubt that the concept of *qanun*, a word

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<sup>199</sup> David Hume, "Of the Origin of Government," in *Selected Essays*, ed. Stephen Copley and Andrew Edgar (Oxford; New York: Oxford University Press, 1993), 31.

<sup>200</sup> Europeans generally believed the sultan to possess wider authority than he actually possessed, especially the power to confiscate his subjects' wealth. See Lucette Valensi, *The Birth of the Despot: Venice and the Sublime Porte* (Ithaca: Cornell University Press, 1993).

<sup>201</sup> Gottfried Hagen, "Legitimacy and World Order," in Hakan T. Karateke and Maurus Reinkowski ed., *Legitimizing the Order: The Ottoman Rhetoric of State Power* (Leiden; Boston: Brill, 2005), 67, maintains that there has been too much emphasis laid on the ability of the Ottoman sultans to change custom or enacted law; in his opinion, Ottomans of the sixteenth and seventeenth century considered arbitrary changes to be unjust.

<sup>202</sup> Best overview in articles "*Qanun*" and "*Qanunname*" in EI<sup>2</sup> 4:556-562 and 562-566 respectively. See also Halil Inalcik, *The Ottoman Empire: the Classical Age*, ([London?] U.K.: Weidenfeld & Nicolson, 1973; London, U.K.: Phoenix Press, 1973), 70-75. More

with several meanings, predated the Ottomans. What is seldom remarked upon is that in the Ottoman Empire, *qanun* became something very different than what it had been in any state prior to, or even contemporaneous with, the Ottomans. In the early part of the eighteenth century, a prolific scholar of Damascus named Ibn Kannan wrote a book called *Gardens of Jasmine in Recounting the Qanuns of the Caliphs and Sultans*.<sup>203</sup> His aim, as he explains in the introduction, is primarily to create a reference tool for those who are reading historical works and find that they are full of technical terms that lay readers do not understand. That is, he recounts the technical terms for military units, government posts and various ceremonial aspects of the sultanate. The author undertakes to explain these terms and the functions associated with each position or privileged group. His work discusses regalia, perquisites, salaries, and related paraphernalia such as weaponry. He also discusses the academic positions at the madrasahs (schools) and administrative positions at the *waqfs* (endowments), for filling these positions is one of the sultan's powers. Because his purpose is primarily historical, when he discusses the offices in the divan, or royal cabinet, he describes a number of Mamluk offices no longer in existence, and adds at the end a few words about Ottoman administration and how it differs from what he has just described.<sup>204</sup> Never does he discuss the province's *qanunname*—the law book governing the city of Damascus—the last version of which dated to the middle of the sixteenth century.

In this text, we see the continuation of a meaning of *qanun* that is somewhat distinct from that of sultanic law. Namely, Ibn Kannan's book of terminology hones in on the concept of *qanun* as the organization of state offices and the ordinances regulating the soldiers and bureaucrats who serve in them. For Ibn Kannan, *qanun* exists primarily to catalogue the privileges of the state's personnel according to rank and the services that each must provide to the sultan. Manuals similar to that of Ibn Kannan's, which describe an elite social group's terms of service, are to be found in the literature of Safavid Persia and

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detail in Ö. L. Barkan *XV ve XVI inci asırlarda Osmanlı İmparatorlugunda zirai ekonominin hukuki ve mali esasları, I, Kanunlar*, Istanbul 1943, and Ahmet Akgündüz, *Osmanlı Hukukuna Giriş Ve Fâtih Devri Kanunnâmeleri* (Istanbul, Turkey: FEY Vakfı, 1990). For a discussion of criminal law, see Heyd and Ménage. On the question of the so-called decline of *qanun* in the Ottoman Empire, see Richard C. Repp, "Qānūn and sharī'a in the Ottoman Context," in `Aziz `Azmah ed., *Islamic Law: Social and Historical Contexts* (London; New York: Routledge, 1988); and Molly Greene, "An Islamic Experiment? Ottoman Land Policy on Crete," *Mediterranean Historical Review* 11, no. 1 (1996): 60-78.

<sup>203</sup> Muhammad ibn `Isá Ibn Kannan, *Hadaïq Al-Yasmin Fi Dhikr Qawanin Al-Khulafa Wa-Al-Salatin*, ed. `Abbas Sabbagh, (Bayrut: Dar al-Nafais, 1991).

<sup>204</sup> e.g. *ibid.*, 173, "In our time, it is the opposite of [the above]. In the time of the sons of Osman, the vizierate is among the greatest offices and it is not for anyone other than them to hold such as these, whereas the Qa'im Maqam has only a title."

Mughal India, although they do not always refer to this genre as *qanun*.<sup>205</sup> In the Arabic sources, this meaning of *qanun* not only persisted into the late eighteenth century, but appeared to remain the primary meaning of the word. The Damascene biographer Khalil al-Muradi (1173/ 1759-60 to 1206/1791) writes of knowledge of the *qanun* being a requisite quality in a person who serves the high state, something akin to having a dignified manner and a sense of good etiquette. He wrote of one courtier who “had grown up in the shadow of kings, the sight of the state, the knowledge of the *qanuns*, and in proximity of great men, *ulama* and service to the sultan.”<sup>206</sup> Such passages indicate that “knowing the *qanun*” was part and parcel of being a member in the political elite. Never do we see passages that indicate that *qanun* had much to do with ordering the lives of the sultan’s ordinary subjects; rather, it was the preserve of the ‘high state’ and the sultan’s servants. Clearly the meaning of *qanun* as sultanic law was present in Ottoman Turkish sources contemporary with Ibn Kannan and Muradi, but that was not the primary sense that they had of the word’s meaning.

No later than the time of the great political thinker al-Mawardi (d. 1058), the word *qanun* had also come to mean a tax register.<sup>207</sup> Keeping such a register up to date and ensuring that tax collecting was administered strictly according to the register became a principle of governance across the Islamic oecumen by the tenth century AD. This meaning is the one most frequently attached to the word ‘*qanun*’ before the Ottoman period and in other contemporary Islamic states, whether by the Ilkhans, the Safavids, or the Mamluks.<sup>208</sup> For instance, at the turn of the fourteenth century, the famous Ilkhan advisor Rashid al-Din sent a letter to the governor of Shiraz admonishing him not to tax the people beyond

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<sup>205</sup> For the Safavids compare Muhammad Dabir Siyaqi, *Tadhkirat Al-Muluk [Moshtamal Bar Tashkilat-e Edari Va-Sazman-e Hokumati Va-Darbari Va-Tabaqat Va-Moshaghel Va-Monaseb-e Ahd-e Safaviye]* (Tehran: [Ketabforushi-ye Tahuri], 1954), and Rafi’a Jabiri AnSari, Willem M. Floor, and Mohammad Khassan Faghfoory ed., *The Dastur Al-Moluk: A Safavid State Manual* (Costa Mesa, Calif.: Mazda Publishers, 2006), which discusses the offices and various trappings of state. For Mughal India see Abu al-Fazl ibn Mubarak et al., *The Aini Akbari* (New Delhi; New Delhi: Oriental Books Reprint Corp.; Distributed by Munshiram Manoharlal, 1977) which describes offices, ceremonial aspects of sovereignty, and the organization of the imperial household. It also includes taxation rates for land and classifications of land.

<sup>206</sup> Muhammad Khalil ibn ‘Ali Muradi, *Kitab Silk Al-Durar Fi a`yan Al-Qarn Al-Thani`ashar* (Bulaq: al-Matba`ah al-Amiriyah al-`Amirah, 1874), 2:60.

<sup>207</sup> EI<sup>2</sup> 4:558

<sup>208</sup> For the role of *qanun* in Safavid tax administration see Willem M. Floor, *A Fiscal History of Iran in the Safavid and Qajar Periods, 1500-1925* (New York: Bibliotheca Persica Press, 1998), 96. The Mughals did not refer to a tax book as *qanun*, but the term they used for the district accountant who was responsible for the tax register was *qanungo*, the ‘*qanun* keeper’, see W. H. Moreland, *The Agrarian System of Moslem India; a Historical Essay* (Delhi: Oriental Books Reprint Corp; exclusively distributed by Munshiram Manoharlal, 1968), 276.

what was in the assessment (*qanun*) of the divan.<sup>209</sup> One can see that this meaning of *qanun* is related to the one above: whether it referred to the functions of state officials or the tax obligations of the peasants, *qanun* was issued by the sultan and concerned what was owed to him and regulated by him: taxes clearly fell into this category.

The Ottomans preserved the idea of *qanun* as regulations that governed the tax status of their subjects, though they had a different word (*defter*) for the registers that recorded the tax payers and the sources of wealth to be taxed. One finds this meaning principally in the provincial *qanunnames* that describe authoritatively what is to be taxed in the province and the rates and methods of taxation. But in the general *qanunnames* of the Ottoman sultans, particularly the versions attributed to Sultan Süleyman the Magnificent, that were in effect throughout the empire as a whole, it is quite clear that *qanun* as a concept was moving into new territory. These general *qanunnames* dealt with crimes and penal law, fees payable to the judge, and taxes on nomads as well as the status of the land and the peasants.<sup>210</sup> In the sections that pertain to the latter, the focus of the regulations stays squarely fixed upon the tax status and liability of the peasants; however, the text intermittently bears witness to specific *privileges* that have been granted to the peasantry of the Ottoman Empire.

As later *qanunnames* would spell out more clearly, from the sixteenth century onwards, the Ottoman peasant increasingly became the subject of dynastic regulation and acquired a far more defined legal personhood. This evolution was fairly natural: as tax law became more centrally regulated across the empire, the tax status of the peasants became a matter of increasing scrutiny at the highest level of governance. Moving from the domain of the peasant's tax obligations, the Ottoman *qanun* took an unprecedented leap into an area where dynastic regulations had never before been found—that of creating distinct, enforceable rights for the peasantry on the land they tilled. As Martha Mundy and Richard Saumarez Smith suggest, the peasant himself thereby became something like the elite office holders and soldiers.<sup>211</sup> In return for serving the dynasty by cultivating land and paying taxes, he was granted a privilege: secured access to the dynasty's greatest economic resource, the productive land held by the state treasury. The terms of these privileges will be examined in detail below.

In a way, the peasant had joined the ranks of the dynasty's servants and like them had privileges that were underwritten by the sultan's authority. As unprecedented a situation as this was, it fits with the prevailing trends in Middle

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<sup>209</sup> Ann K. S. Lambton, *Landlord and Peasant in Persia; a Study of Land Tenure and Land Revenue Administration* (London; New York: Oxford University Press, 1953), 92.

<sup>210</sup> Two common editions have been edited, Romanized and annotated in Ahmet Akgündüz, ed., *Kanunî Sultan Süleyman Devri Kanunnâmeleri* (Istanbul: FEY Vakfı, 1992), vol. 4 of *Osmanlı kanunnâmeleri ve hukukî tahlilleri*, 1:293-431.

<sup>211</sup> Martha Mundy and Richard Saumarez Smith, *Governing Property, Making the Modern State : Law Administration and Production in Ottoman Syria* (London; New York: I.B. Tauris, 2007), 16-20 describes the peasant cultivator as holding a 'quasi-office' status.

East statecraft that Linda Darling has noted in this period.<sup>212</sup> Namely, Darling detects a new emphasis in the political literature on the need for states to ally themselves with the peasantry against rich and powerful elites that might potentially challenge the dynasty. She also maintains that dynasties such as the Akkoyunlu and the Timurids, which were unable “to balance the demands of nomadic warlords against the welfare of their subjects” either dissolved or were subsumed by the larger, more stable ‘gunpowder empires’ that emerged to dominate the Middle East in the fifteenth and sixteenth centuries.<sup>213</sup> Singling out the Ottoman state for its particularly notable attempts to protect peasant productivity and to integrate its peasants into the military, Darling maintains that the Ottomans’ dedication to this strategy goes a long way towards explaining the state’s longevity. The word *devlet*, which meant ‘dynasty’ in early Islamic political theory had also changed. By the sixteenth century, political writers were referring to *devlet* as an entity headed by the sultan that included the military, the bureaucrats, the *ulama*, the merchants, and the *reaya*.<sup>214</sup> The word ‘*devlet*’ today means ‘state’ in Arabic, Turkish and Persian. Its journey toward that meaning was well underway by the sixteenth century.

The sixteenth century was not the summit of this process whereby the definition of state and its powers over the land expanded, but rather the beginning. Similarly, the legal reforms of land law undertaken by the sixteenth-century’s most famous jurist, Ebu Suud Efendi, do not represent the final iteration of Ottoman land law, but rather the opening of a new era that commenced in the sixteenth century. Continuing to elaborate the peasant’s right within the framework laid out by Ebu Suud, Ottoman officials of the seventeenth century would address how the cultivation right of a deceased peasant would pass to the deceased’s family members, partners, or fellow villagers. In doing so, they further asserted the dynasty’s ultimate legal control over the peasants at the expense of all intermediaries. As I will show, the Ottoman state institutionalized the practice of its dynastic law to a degree that no other Islamic dynasty had ever accomplished. The determination of the dynasty to regulate agricultural taxes and peasant access to land wrought significant changes in two ancient and important Islamic institutions: the Islamic court, and the fatwa. As this chapter will demonstrate, the reinvention of these two institutions in effect changed what was normative Islamic practice throughout the empire, and adumbrated the Ottoman state’s increasingly strong armed attempts to control the practices of the courts and muftis in the late nineteenth century. The result was that the

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<sup>212</sup> Linda T. Darling, "Political Change and Political Discourse in the Early Modern Mediterranean World," *Journal of Interdisciplinary History* 38, no. 4 (2008): 505.

<sup>213</sup> *Ibid.*, 521

<sup>214</sup> This definition of state can be found in such works as Kinalizade Alâeddin Ali Çelebi, *Ahlâk-i Alâ`î* (Kahire [Cairo]: Bulak matbaasi, 1832); Katib Çelebi. and Ali Can, *Bozuklukların Düzeltmesinde Tutulacak Yollar (Düstûru'l-Amel Li-İslahi'l-Halel)* (Ankara: Kültür ve Turizm Bakanlığı Yayınları, 1982), and in Mustafa Naima, *Tarih-i Naima* (Kostantiniye [Istanbul]: Darü't-tibaati'l-Âmire, 1734).

Ottoman *qanun* was both more widely known and more uniformly adhered to across the empire by the end of the eighteenth century. The Damascus *ulama*, who had selectively ignored Istanbul prior to that time, began to show a greater interest in the *qanun* and the jurisprudential trends coming from the capital.

### **The *Qanun-i Jadid* and legal thought at the turn of the eighteenth century**

From the early years of the seventeenth century there began to appear authoritative texts explaining peasant land rights to the *ulama*, or the learned men of Islam, who were in the majority of cases responsible for enforcing them. The central text of this study, the *Qanun-i Jadid-i Osmani*, is the last and most exhaustive of these efforts to appear prior to the centerpiece of Ottoman reform legislation in the 19<sup>th</sup> century, the 1858 Land Code. Despite its title, which tends to be rendered 'The New *Qanun*', most of the regulations recorded in the *Qanun-i Jadid* were taken from previous *qanunnames* and then illustrated with fatwas from a famous land-related fatwa collection called *Zahir al-Qudat*.<sup>215</sup> Although the *Qanun-i Jadid* is arranged thematically rather than chronologically, most of the discrete regulations and fatwas are dated or credited to a specific official. We are therefore able to tell that virtually all of the decrees and fatwas that form the body of the text were issued during a period of just over a hundred years, from 1540 to 1655. However, some person or group of persons organized the material and issued it as a uniform text under the title *Qanun-i Jadid-i Osmani* well after that date.

When did this person or persons compile the text in the form that has come down to us? This *qanun* is often thought to be a late seventeenth-century text, but its composition most probably dates to the first 20 years of the 18th century, during the reign of Ahmed III.<sup>216</sup> We do not know who the compiler or compilers were. The *qanun* was probably not commissioned by a sultan; if it had been, the text would likely speak more openly about its origins. It was probably the project

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<sup>215</sup> It is uncertain when *Zahir al-Qudat* first appeared, but it could not have been earlier than the lifetime of Baha'i Mehmed Efendi, Shaykh al-Islam from 1649-1651, as his fatwas form a constitutive part of the text. Numerous manuscript copies exist, but very few record the date of the manuscript copy, e.g. Süleymaniye MS Esad Efendi 852 and 587. The colophon in Süleymaniye MS Lala Ismail 106 dates the copy to 30<sup>th</sup> April 1701 (22 Dhu al-Qa'dah 1112). Hence, we can date its composition to some time in the second half of the seventeenth century.

<sup>216</sup> The *firman* that closes the *Qanun-i Jadid* is dated, in most copies, to 1084 H/1673 AD, although a number of copies, including the one published copy "Osmanlı Kanunnameleri," *Milli Tettebbular Mecmuası* i, no. 1-2 (1331/1903) (hereafter, MTM) date it to 1129 H/1717 AD. Having looked at scores of manuscript copies, I have not seen a single copy that dates to the seventeenth century, or for that matter, that predates 1129 H. All copies that I consulted at the Süleymaniye, the Millet, the Istanbul University library and Turk Tarih Kurumu are dated between 1717 AD and 1858 AD. The date 1084 probably refers to the *firman*, as it is sometimes included with a group of other *firman*s that all date all from 1084-1085. The date 1129 is more likely the date of an early copy of the completed text, if not the date of compilation itself.

of a bureaucrat in either the *ilmiye* (scholarly/judicial government branch) or the chancery who simply thought that there was a need for a text that comprehensively explained the land law as it had evolved in the formative period between 1540 and 1655.

The text opens with an introductory section explaining in broad contours the principles of the land tenure system. The introduction consists primarily of long explanatory statements and fatwas authored by the eminent sixteenth-century Shaykh al-Islam Ebu Suud Efendi (1491-1574). In the sixteenth century, the Shaykh al-Islam, also called the mufti of Istanbul, had become the highest official of the *ilmiye*, the branch of bureaucrats who were 'learned' in the Islamic sciences.<sup>217</sup> Like other muftis, the Shaykh al-Islam answered questions from men and women, both of elite and humble origin, as to whether or not an action was permissible according to the *shariah*. Sixteenth-century Shaykh al-Islams faced questions that muftis had been facing since the early centuries of Islam: what were legal tax rates on productive land? Were the peasants who cultivated the land its owners? If not, then when they sold their right to another, what exactly was being sold and was the sale legal? Such questions were crucial to agricultural production, as it meant keeping straight the rights of the cultivator upon the land and how he might lose or transfer such rights. They were also of paramount importance for setting legitimate policies of taxation, and hence of concern to the government.

Ebu Suud based his responses on the premise that the vast majority of productive land in the empire was *miri*, that is, it belonged to the state treasury and its proceeds were to be used for the benefit of the Muslim community.<sup>218</sup> Because it was treasury property, the sultan had the right to administer the land on behalf of the Muslim community. Europeans often erroneously believed that the sultan owned the land, but in fact he was its custodian: while it was not in his possession, he nevertheless had wide discretionary powers over who received the revenues, what the rates of taxation were, and how the land's productivity was to be maintained. To some extent this was not a break with tradition. Since the twelfth century, Hanafi jurists had increasingly relied on the doctrine of treasury ownership to explain the feudal-type tenure arrangements that prevailed in their societies.<sup>219</sup> In this formulation, found in works of Hanafi jurisprudence from Central Asia to Egypt, the peasants did not pay taxes, but rather rent, to the deputies of the treasury.

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<sup>217</sup> R. C. Repp, *The Müfti of Istanbul : A Study in the Development of the Ottoman Learned Hierarchy* (London; Atlantic Highlands, N.J.: Published by Ithaca Press for the Board of the Faculty of Oriental Studies, Oxford University : Distributed in the U.S.A. and Canada by Humanities Press, 1986).

<sup>218</sup> In this paragraph and those following, references to the *Qanun-i Jadid* can be checked in MTM, 49-112 and 305-348

<sup>219</sup> See Imber, 117-122 and Johansen, *The Islamic Law on Land Tax and Rent: The Peasants' Loss of Property Rights as Interpreted in the Hanafite Legal Literature of the Mamluk and Ottoman Periods*, 98-121, and Mundy and Smith, 11-20.



What made the Ottoman situation unique however, was that the heartland of the Ottoman domains existed in Western Anatolia and Eastern Europe. The customs of the Byzantine empire were deeply rooted among the peasant communities in these regions, and these customs were at odds with the prevailing Hanafi formulation that peasants were renters on land that belonged to the treasury. Ottoman land tenure traditions had integrated such customs, which allowed one cultivator to sell his plot to another, and for sons to inherit the land that their fathers worked. The resulting legal incoherence meant that deeds of sale were issued in the empire's Islamic courts, and cultivators who obtained the deeds might later claim that they were the sole owners of such property rather than the treasury. Individuals who claimed ownership of the land might endow the land to support a charity or their descendants, known as a *waqf*, thereby escaping tax liability.

Ebu Suud Efendi, who was Shaykh al-Islam for nearly thirty years (1545-1574) spanning the reigns of Süleyman I and Selim II, was extremely concerned that all the *miri* land in the empire would end up in freehold possession and consequently in *waqf*, vastly reducing the treasury's income. When he was the military judge of Rumeli, Ebu Suud wrote, "By claiming that they have sold and bought [the land] from one to another, they make a *waqf* of it, and the governors and judges for their part do not prevent this from coming to pass. By giving rulings (*hüccetler*) that contradict the *shariah* in buying and selling [land] and making *waqf* certificates, a great injury is done to the order of affairs and the good of the people."<sup>220</sup> Beginning in the 1540's and continuing through the 1560's, Ebu Suud systematically redefined the empire's prevailing land tenure practices, rendering them consistent with the Hanafi view of land, and Hanafi transactional law. In Hanafi transactional law, only freehold property could be sold. Since the peasants were not the land's owners, they could not sell it and all deeds of such sale were null and void: "if a judge gives a ruling (*hüccet*) in which there is buying and selling of [*miri* land], it is void (*batil*)," writes Ebu Suud.<sup>221</sup> Because the land was not owned by the peasants, it could not be endowed, and a number of other transactions associated with freehold property were also forbidden, such as using the land or its usufruct to secure a loan.

Rather than owning the land itself, the peasants held the usufruct of the land—they possessed the right to use it (*tasarruf*): "By way of a loan [from the treasury] they use it, planting and harvesting and in all such ways exploiting it...so long as they do not leave it barren but in the ways specified make it flourish

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<sup>220</sup> MTM, 56-7. Also, Halil Inalcik notes Ebu Suud's preoccupation with this matter in Halil Inalcik, "Islamization of Ottoman Laws on Land and Land Tax," in Josef Matuz, Christa Fragner, and Klaus Schwarz, eds., *Festgabe an Josef Matuz: Osmanistik, Turkologie, Diplomatiek* (Berlin: K. Schwarz, 1992). While prior to this article Inalcik had suggested that the Islamization of *qanun* weakened the Ottoman state, this article shows a change of mind.

<sup>221</sup> MTM, 51

and pay for its rights no one may interfere or protest.”<sup>222</sup> They could not sell the right of usufruct because the Hanafi rite did not allow the sale of things that had no physical entity, such as a right of cultivation. However, the peasant could ‘transfer’ the right to another person and charge a fee; in effect he was selling it but using a different name in order that the transaction be valid and legally distinguishable from a sale. As with the majority of peasant transactions on *miri* land, the peasant was required to receive the approval of the sultan’s deputy—the *sahib al-ard*—for the transfer to take effect. The *qanun* generally presumes that the *sahib al-ard* is a cavalry officer with a land grant from the treasury, so that the *sahib al-ard*’s ability to permit or to veto the transaction is something that resembles a feudal right. Presuming that the *sahib al-ard* agreed, the document generated by the court would testify that the land was *miri* and its usufruct had been transferred, and no legal action to have the land reclassified as the peasant’s freehold would be supported by the court’s documentation.

Similarly, the dynasty had approved the right of a son to cultivate his father’s land upon his death. However, Ebu Suud noted that sons did not ‘inherit’ usufruct. Like buying and selling, inheritance applied only to freehold property. Rather, usufruct *passed* (*intaqala*) to sons. If no son survived the peasant at his death, then it fell to the sultan’s administering deputy, the *sahib al-ard*, to find another peasant to cultivate. “When they die, their sons will take their place, according to that which was detailed, let them have the usufruct. If no sons remain...then let it be given with tapu, to someone who is able to make it flourish.”<sup>223</sup> It was the responsibility of the *sahib al-ard* to find a peasant to take the usufruct, and when he did so, he legally extracted a fee from the peasant that was called tapu. Once tapu was collected, the usufruct could not be revoked, and the peasant was legally recognized as the new *mutasarraf*, or usufruct holder, for the land in question. Ebu Suud described tapu as a down payment on the ‘rent’ that was the due of the peasants who were renters of the treasury.<sup>224</sup>

As is plain, Ebu Suud did not change the customary practices but rather reworked the way that they would be processed in the Islamic court. Because Ebu Suud advised Sultan Süleyman to formally enjoin the judges and imperial officials to apply these new regulations, the rights of peasants to transfer usufruct and to succeed to the usufruct of their fathers were no longer left in the domain of custom, but entered the domain of enacted law for the first time. Other rights, many of them rooted in Byzantine custom, were simultaneously proclaimed and recognized as imperial *qanun*. These were extremely important, yet their reformulation according to the *shariah* was more straightforward than the examples above: none of them had posed any contradiction to the general theory of *miri* land, peasants as renters, or state authority over taxation. Principal among these was the peasant’s right to remain the cultivator of the land over

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<sup>222</sup> MTM, 58

<sup>223</sup> MTM, 50

<sup>224</sup> Imber, 123; Mundy and Smith, 16

which he had the right of usufruct.<sup>225</sup> Neither the *sahib al-ard* nor anyone else could take the usufruct of one cultivator and against his will give it to another. So long as the cultivator planted and harvested continually, never allowing the land under his maintenance to lie fallow for more than three years, he had complete security of tenure.

As a general rule, any peasant who worked a particular *miri* land for ten years or more was understood to be the *mutasarrif* of that land, and possessed the right to remain on it. In keeping with a general Islamic priority of safeguarding the property of orphaned minors, the *qanun* orders that if a peasant dies leaving only a son who is too young to work the land, this son may succeed to his father's usufruct at any time within the next ten years. Someone else may be appointed to cultivate it in the meantime, but this interim cultivator must desist when the son is old enough to cultivate and wishes to assume his right. Peasants also had the right to plant vines and trees or to build a house on *miri* land so long as the *sahib al-ard* consented that it would not negatively impact the productivity of the land. In a move that would later cause a great deal of judicial controversy, the peasants were also given the right to lend their usufruct to someone else if they had need to be gone from the land. So long as they sent word at regular intervals to the *sahib al-ard* to let him know that they were alive and the lender kept the land cultivated, peasants could be absent for any length of time and resume their right upon their return.

Such regulations went far beyond specifying the tax liability of the peasants and the general injunction to treat the peasant justly. In that it regulated the way that the peasants used the land and gave specific guarantees to them to access it, the Ottoman *qanun* was not, so far as we know, like any sultanic law before it. To be sure, enacting a law on the authority of the ruler was a Turkish/Mongol custom, but let us consider what kind of law was found in the law books of previous dynasties such as the Mamluk and Aqqoyunlu, with the caveat that the full content of these *qanuns* cannot be ascertained because no complete copies of the original texts have survived. The Mamluk Sultan Qaitbay (r 1468-1496) produced a *qanun* that is mentioned laconically in the Ottoman *qanunname* for Damascus. Specifically, the Ottoman *qanunname* states that Qaitbey's regulations concerning market inspection, and the taxes levied on crafts to support it, would be retained.<sup>226</sup> It is also clear that some of the agricultural taxes in the Ottoman *qanunname* corresponded to those of the Mamluks even if the names changed, so that land that had paid "*fasl*" under the Mamluks would henceforth pay "*dimus*" under Ottoman administration.<sup>227</sup> Hence, evidence of Mamluk *qanun* is found in the Ottoman *qanunname* purely in reference to taxation. If the Mamluk-era *qanun* contained any kind of land tenure right for the peasantry, it left no trace in its Ottoman counterpart.

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<sup>225</sup> MTM, 49-58

<sup>226</sup> Muhammad `Adnan Bakhit, *The Ottoman Province of Damascus in the Sixteenth Century* (Beirut: Librairie du Liban, 1982), 159.

<sup>227</sup> *Ibid.*, 148

While this fact alone does not prove that the Mamluk *qanun* bestowed no usufructary or other access right to its peasantry, there is another body of evidence to consider. Namely, Damascene jurisprudence makes no reference to a right of usufruct, much less one underwritten by the authority of the sultan. Damascene *ulama* wrote about the Mamluk system of land grants and the rights of those soldiers who held them, but when it came to the terms of access of the peasantry the muftis had little to say except that it fell under the rubric of rent.<sup>228</sup> Likewise, they made no reference to anything outside the Hanafi books of jurisprudence—be it custom or sultanic edict—that had any bearing on their discussions. If the Mamluk sultans had enacted any legislation or even recognized any local customs among the peasants, the muftis appeared quite unaware of them. The Ottoman-era fatwas of the Damascene *ulama*, as we will see below, are full of reference to peasant usufruct right, and even though they are often foggy on where the right comes from (local custom, Hanafi jurisprudence, or the sultan) they usually formulated the usufruct right in ways that were compliant with the sultan's orders.

The fragments of the *Qanun* of Uzun Hasan, which was widely applied in Eastern Anatolia and Persia even after the fall of the Aqqoyunlu dynasty, suggest that its rural regulations were focused entirely on tax liability with one or two criminal penalties.<sup>229</sup> The many sixteenth-century provincial *qanunnames* that preserve pieces of it bestow no rights at all upon the peasantry except for the right not to be taxed at higher rates than those specified. If it specified a right of usufruct or continuous access to the land and how such rights were lost, maintained or transferred, no glimpse of it has survived. Even discussion of the Uzun Hasan *Qanun* in Aqqoyunlu chronicles supports the conclusion that this *qanun*'s rural regulations were concerned solely with defining legitimate taxes and preventing illegal imposts upon the peasants. The reform efforts of Uzun Hasan's son Sultan Ya'qub have been described as 'land reform'.<sup>230</sup> However, according to the chronicler Fadlullah ibn Ruzbihan, these efforts consisted of revising the *kharaj*, or land tax, abolishing the *tamgha*, or municipal levy, and

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<sup>228</sup> Mundy and Smith, 13, summarize the position of the Mamluk jurist Ibn Qutlubugha (1399-1474) on this issue: "Rental contracts with cultivators could be renegotiated by a newly appointed grant holder; and relations between cultivator and grant holder would be subject to the provisions of Islamic jurisprudence governing lease and sharecropping contracts." Another eminent Damascene jurist, al-Nawawi (1234-1278), ruled that soldiers possessing a land grant could rent it, although it is unclear whether he means renting the earth to the cultivators or renting the revenue source and its collection rights to a tax farmer. See Yahya bin Sharaf al-Nawawi, *Fatawa Al-Imam Al-Nawawi*, ed. Muhammad al-Hajarah (Halab [Aleppo, Syria]: Maktab Dar al-Da'wah, 1391 H), 153.

<sup>229</sup> Ömer Lütfi Barkan, "Osmanlı Devrinde Akkoyunlu Hukumdarı Uzun Hasan Beye Ait Kanunlar," *Tarih Vesikaları* I, no. 2&3 (1941): 91-106.

<sup>230</sup> V. Minorsky, "The Aq-Qoyunlu and Land Reforms (Turkmenica, 11)," *Bulletin of the School of Oriental and African Studies, University of London* 17, no. 3 (1955): 452.

regularizing other taxes in accordance with the *shariah* and justice.<sup>231</sup> In other words, the issue of peasant right was again defined solely through the right not to be overtaxed.

In Mughal India, another large Sunni state contemporary with the Ottomans, there was an effort in the seventeenth century to do what Sultan Süleyman and Ebu Suud had done in the sixteenth: to reconcile the land tenure and taxation practices with the *shariah*. Interestingly, this process produced results bearing some similarity to those of the Ottoman Empire. Notably absent however was an expansion of the sultan's legislative authority. In 1668 or 1669, the Mughal Sultan Aurangzab sent a number of regulations regarding rural taxation to his ministers in Gujarat.<sup>232</sup> Although most of these have to do with lawful amounts of taxation according to the *shariah*, Aurangzab also mentions that a peasant's land cannot be taken away unless he abandons it or is unable to tend it.<sup>233</sup> He also noted that if a peasant goes to an uncultivated land and makes it productive, then that peasant is to be regarded as the owner.<sup>234</sup> Both of these provisions enacted rights that were already normative in Hanafi jurisprudence.<sup>235</sup> As in the Ottoman case, enacting law that was consistent with the *shariah* led to a proclamation of peasant rights that had not been part of sultan law hitherto.<sup>236</sup> At Aurangzab's request, a compendium of Hanafi jurisprudence known as the *Fatawa Alamgiriya* was compiled by a group of *ulama* from 1075/1664 to 1083/1672.<sup>237</sup> In this work's sections dealing with the status of land and the taxes of the peasants, treasury land clearly exists, but the compilation makes no mention of sultan laws that affect the peasants living on such land.<sup>238</sup>

In short, the meaning of *qanun* in these other states appeared to be what Ibn Kannan and al-Mawardi considered it to be. When it pertained to privileges, it was those of the elite, the sultan's great servants that *qanun* concerned. For more humble folk, it pertained only to obligation, not to privilege. It specified legitimate taxation, and perhaps also, fees or punishments for crimes. Only in

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<sup>231</sup> Ibid.

<sup>232</sup> An English translation is found in Jadunath Sarkar, *Studies in Mughal India* (Calcutta: M.C. Sarkar, 1919), 168-87.

<sup>233</sup> Irfan Habib, *The Agrarian System of Mughal India, 1556-1707* (Bombay; New York: Published for the Dept. of History, Aligarh Muslim University [by] Asia Pub. House, 1963), 114.

<sup>234</sup> Sarkar, 176

<sup>235</sup> Neil B. E. Baillie, *The Land Tax of India, According to the Moohummudan Law* (London: Smith, Elder, & Co., 1873). See pp.14-16 for the jurists' discussion of the sultan's powers over land in the possession of those who do not or cannot cultivate it and see pp. 42-43 for a discussion of how ownership over wasteland is recognized.

<sup>236</sup> An earlier farman, or order, from Aurangzab that showed no concern for applying Islamic categories to taxation and land made no mention of these rights. See Sarkar, 187-197

<sup>237</sup> A. S. Bazmee AnSari, "Fatawa Alamgiriyya", EI<sup>2</sup> 2: 837

<sup>238</sup> For a summary of the land related sections of the *Fatawa* in English translation, see Baillie, *ibid*.

the Ottoman Empire had peasant cultivators gained privileges through the *qanun*: guaranteed security of usufruct, a grace period of three years if they quit planting the land before the authorities could give the usufruct to another, the right to transfer or redirect the usage with the permission of the proper authority, and so on. *Qanun*, previously a code that underwrote only the rights of warriors and administrators to mark their special status, now reached across the social spectrum to ensure the rights of the humblest members of the political body, the peasants, to the means of their subsistence. Truly, the scope of what the state was regulating had expanded.

Ottoman officials would credit Ebu Suud with harmonizing *qanun* and *shariah*. However, not all the *ulama* would agree that Ebu Suud's reworking of the customary practices had integrated coherently into the *shariah*.<sup>239</sup> Ottoman historians have also questioned such a characterization: Colin Imber calls Ebu Suud's synthesis a 'legal fiction' whose importance to the dynasty was "for the entirely secular reason that it gave the Treasury effective control over land and over the rates of taxation on agriculture."<sup>240</sup>

While it is undeniable that interest in tax revenues led to Ebu Suud's reformulation, the effects went far beyond that concern. Mundy and Smith perceptively write that "this juridical analysis of administrative terms went beyond an instrumental legitimation of administrative (the sultan's) law to form an integrated system of law administered by the Islamic courts of the empire."<sup>241</sup> In other words, the significance of this development cannot be reduced to legitimacy for the treasury's taxation practices or good publicity for a regime that wished to display its pious respect for the *shariah*. Rather, its importance was twofold: first, it created a new vision of the proper jurisdictions of the sultans and the *ulama*, respectively, that would have wide ramifications for both. Secondly, it was an administrative advance that made the *shariah* courts of the Ottoman Empire into distinctively Ottoman institutions. Ebu Suud had defined the regulations of the *qanun* to seamlessly integrate within the prevailing practices of Hanafi adjudication and jurisprudence that were the dominant order of the courtroom. Thereafter, the judiciary was to be confined to interpretations of the law that adhered to both the *qanun* and the *shariah*, hence limiting the scope of the Qadi's ruling, and marking a new level of dynastic control over the judge and the application of law within the empire's borders.

Ebu Suud put forward a judicial interpretation for tenure practices that would keep control of land in the dynasty's hands, but he saw that it would only work if the sultan required the Qadis, the Islamic judges, to practice it. Over and over again, this point is hammered home in the *Qanun-i Jadid*. Judges must

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<sup>239</sup> See Mundy and Smith, 16-19 on the reaction of Taqi al-Din Birgevi (d. 1573), to the land laws propagated by Ebu Suud and Jon E. Mandaville, "Usurious Piety: The Cash *Waqf* Controversy in the Ottoman Empire," *International Journal of Middle East Studies* 10, no. 3 (Aug., 1979): 289 on his disapproval of cash *waqf*.

<sup>240</sup> Colin Imber, H-TURK, email to list on April 4, 2004

<sup>241</sup> Mundy and Smith, 11

make judgments that are consistent with both the *shariah* and the *qanun*. A judgment that was not consistent with the *qanun* was not only in defiance of the sultan but of the *shariah* as well. The main issues regulated by the *qanun* that the court dealt with were already alluded to above, that of not allowing the sale of *miri* land, and designating transfer instead. “A qadi’s ruling that describes the peasants’ giving and taking as selling is not at all in agreement with the noble *shariah*.”<sup>242</sup> Of course, if it were not incumbent upon the judges to regard the land as *miri*, a category which some jurists disputed as a legitimate classification, then giving a ruling saying that one peasant had sold land to another would not be against the *shariah*. Ebu Suud made clear that it was not an option to regard the land as anything other than *miri*, and that all transactions associated with freehold were barred. The following question was put to him, “is it permissible to sell *miri* land, or give it as a gift, or to exercise the right of pre-emption upon it, or to endow it or to give it in exchange for a pact?” The mufti answered that it was not. The questioner continued, “then what should be done legally (*shar’an*) to a qadi that rules that these things are permissible?” Ebu Suud responded, “It is plainly void. Thereafter, he must not do it again.”<sup>243</sup>

Not only did the Ottoman dynasty oblige its judges to apply a harmonious reading of *qanun* and *shariah*, but it furthermore conscribed through royal authority the judges’ rulings on a number of other issues. During the 1550’s and 1560’s, Ebu Suud from time to time submitted petitions to Sultan Süleyman noting that there was disagreement between Hanafis on a particular question, and recommending one remedy above the others. He then requested that the sultan make a decree obligating his judges to enjoin the preferred remedy, which Süleyman did, on issues ranging from statutes of limitation to liability for injury and theft.<sup>244</sup> Ebu Suud and Sultan Süleyman thereby not only standardized Ottoman court practice on land tenures issues but on a host of others as well. It is difficult to find evidence of any other Muslim dynasty so intrusively and systematically regulating how its judges should perform adjudication. It was standard practice across the Muslim world that judges were appointed by the sultan and bound by his commands, and there was no debate among jurists that the sultan had the capability of limiting the jurisdiction of the qadi in various ways, such as specifying the kinds of cases in which he could rule.<sup>245</sup> Still, Ottoman procedures departed from any known precedent by systematically inserting its own laws into the courtroom.

The Ottomans were not the first Muslim dynasty to enact sultanic law and insist on its application. The origins of sultanic legislation, and justifications for its necessity were found first in the Abbasid period (750-1258). The rise of Turkic

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<sup>242</sup> MTM, 52

<sup>243</sup> MTM, 58

<sup>244</sup> Imber, 106-110

<sup>245</sup> Imber, 55. Also, Émile Tyan, *Histoire De l'Organisation Judiciaire En Pays d'Islam*. (Leiden: E.J. Brill, 1960), 104. explains in detail the ways that the authority who appoints the qadi can limit or expand his jurisdiction.

sultanates such as the Seljuks under the nominal suzerainty of the Abbasid caliphate put most of the Muslim lands under the authority of dynasties whose concept of rule was tied to enacting a dynastic law.<sup>246</sup> However, the question of a temporal leader promulgating a dynastic code that might be in tension or competition with the *shariah* does not appear as a problematic reality in Arabic sources until after the Mongol conquest put an end to the Abbasid state in 1258. Controversy particularly surrounded the Mongol law, which sources refer to as *yasa* or *siyasah*. These regulations were attributed to Chingiz Khan and perpetuated by the Mamluk dynasty, although their content is the subject of much debate among present historians.<sup>247</sup> The Mamluk historians who discuss dynastic law in their societies do not speak of any attempts to reconcile it with *shariah*, but rather suggest that the application of the two remained quite distinct. Such historians as al-Maqrizi in Cairo and al-Subki in Damascus wrote of a court official called a *hajib* who was something like a judge of *siyasa*, or *yasa*.<sup>248</sup> Another place that such law might be practiced was in a separate court called *mazalim*, as was the case in the Safavid empire.<sup>249</sup> Although the temporal authority rather than the qadi headed the *mazalim*, the qadi was a part of the group of officials that advised *mazalim* decisions.<sup>250</sup> The qadi may have had some knowledge of these measures as a result of his role in the *mazalim* or simply because he moved in the ruler's circle. Nevertheless, neither al-Subki nor al-Maqrizi state that the qadi was forced to apply it in the *shariah* court. Another source, al-Zahiri's *Zubdat Kashf al-Mamalik*, records the qadi's responsibilities as "security, application of the commands of the *shariah*, suppression of corruption and vice, protecting the rights of individuals."<sup>251</sup> Given the number of *ulama* who were hostile to the *yasa* on principle, its forcible introduction to the courtroom would surely have elicited some commentary.

Similar to the *mazalim*, the Ottomans dispensed justice through the *divan*, where any subject could bring a petition to the presiding officer and ask that his complaint be heard. In Istanbul, the presiding officer had at one time been the sultan himself, but after the fifteenth century it was the grand vezir. In the provinces, imperial *divans* were headed by the governor of the province. But it

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<sup>246</sup> Halil Inalcik et al., *Shari'ah, Ummah, and Khilafah: Lectures* (Karachi, Pakistan: Dr. Ishtiaq Husain Qureshi Chair, University of Karachi, 1987), 6-11 discusses political literature from the 9th to 15th centuries and the views of sultanic authority and *shariah* expounded in this period.

<sup>247</sup> Jørgen S. Nielsen, *Secular Justice in an Islamic State : Mazalim Under the Bahri Mamluks, 662/1264-789/1387* (Leiden, Nederland: Nederlands Historisch-Archaeologisch Instituut te Istanbul, 1985), 104-109.

<sup>248</sup> Ibid., 105, 108

<sup>249</sup> For Safavid and Qajar Iran, see Hamid Algar, *Religion and State in Iran, 1785-1906; the Role of the Ulama in the Qajar Period* (Berkeley: University of California Press, 1969), 12.

<sup>250</sup> Kemal Salibi, "Al-Nizam Al-Qada'i Fi Misr Wa Al-Sham Fi 'Asr Al-Mamalik 1250-1517," *Al-Abhath* xi, no. 4 (1958): 476-7.

<sup>251</sup> Ibid., 475



had been clear to Ebu Suud Efendi and other bureaucrats of his time that maintaining the Ottoman tax base and ensuring order and productivity on the land was secured just as much by the judges as by the governors. The transactions and records of transactions that could undermine the entire tax system were not made at the governor's divan, but in the Islamic court. It was therefore imperative that the *qanun* be practiced in the Islamic court and that judges serving all over the Ottoman provinces understand and apply it. No dynasty prior to or contemporary with the Ottomans had ever made such effective use of its Islamic court system for enforcing sultan law.

Implementation in some ways was quick to follow. Alexander Fotič has shown how the confiscation of monastery properties in Eastern Europe that began upon the succession of Selim II in 1566 was entirely consistent with the new theory of land tenure that Ebu Suud expounded.<sup>252</sup> The *miri* lands that had been endowed to the monasteries were declared to be ineligible for endowment, and in order to retain usage upon them the monks had to pay the tapu fee. If the monks did not have the resources to pay the tapu fee, the land's usage right was given to those who could pay it. Some monasteries did manage to acquire the usufruct of lands previously under their control, but those that were poor did not. Perhaps the best witness to the permanent change wrought in the legal framework throughout the empire are the court records of provinces such as Damascus that carefully note in sale records whether the status of the property changing hands is freehold or *miri*. If *miri* land is involved in the transaction, without fail the document notes that the land itself is not being sold, but that a *transfer of usufruct* is taking place. This formula, which incorporates exactly those distinctions that the *qanun* demanded, appears to have been regularly observed in court records throughout the eighteenth century.<sup>253</sup>

For instance, a case in the Damascus court dating to October 8<sup>th</sup>, 1692, starts with a certain Shaykh Muhammad claiming that a man named Mustafa from the village of Duma had transferred his usufruct to him for the sum of one hundred qurush.<sup>254</sup> However, Mustafa failed to obtain the permission of the *sahib al-ard*, which was, as the *qanun* dictated, obligatory for the transfer to be valid. Shaykh Muhammad therefore demanded that Mustafa return his money. When questioned, Mustafa corroborated Shaykh Muhammad's statements, and the judge informed Mustafa that because the transfer was invalid, he must return the money. Without recording which of the parties requested a fatwa, the record states that the mufti of Damascus Ahmad Efendi gave a fatwa in confirmation of the judge's ruling. In this example, the transactions followed the *qanun* with precision: the transfer of usufruct was acknowledged to be the transaction under

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<sup>252</sup> Aleksandar Fotič, "Confiscation and Sale of Monasteries," *Turcica* 26 (1994): 33-54.

<sup>253</sup> Abdul-Karim Rafeq, "City and Countryside in a Traditional Setting: The Case of Damascus in the First Quarter of the Eighteenth Century," in *The Syrian Land in the 18th and 19th Century : The Common and the Specific in the Historical Experience*, ed. Thomas Philipp (Stuttgart: F. Steiner, 1992), 307.

<sup>254</sup> DSC, v. 20, f. 62-3, case 209

dispute rather than one that involved a sale of land. The transaction was abrogated because it failed to meet the criteria for validity spelled out in the *qanun*. This particular criterion—the permission of the proper *sahib al-ard*—was a purely sultanic stipulation that had nothing to do with Hanafi practice anywhere else in the Muslim world. Both the judge and the mufti were aware of this stipulation, and ruled accordingly. This despite the fact that the *qanun* for the province of Damascus never specified these rules, as did those of Budin, the Morea and various other Ottoman localities.

Whatever Ebu Suud's motives and aspirations, he had a seminal impact on the Ottoman legal system. Within the framework of Hanafi jurisprudence, he cleared a space both abstract and physical—*miri* land—wherein the sultan had wide latitude to enact law as he saw fit. While the existence of this space ensured that the peasants would pay the highest rate of taxes possible, it also led to the state's guarantee of their cultivation rights. Likewise, he saw to it that the key venue for enforcement of his unified vision of *qanun* and *shariah* was the qadi's court. The court thereby became a more effective instrument of Ottoman authority in the provinces—not one which would challenge the provincial governor but support him and the provincial treasurer. The massive expansion in the state's legal authority over the peasants, the land and in court rooms across the provinces was enabled by the legal theory that *qanun* and *shariah* had been reconciled.

### **Succession**

The amount of legal power that the dynasty claimed over peasants and taxation had increased dramatically in the sixteenth century as a result of Ebu Suud's legal interventions and their implementation. However, the dynasty continued to legislate, creating new rights and obligations for peasants well into the seventeenth century. Ebu Suud is often presented as the culmination of the Ottoman legal system. Yet the *Qanun-i Jadid* presents him not as its culmination, but as its foundation. Ebu Suud's theoretical construct dominates the opening of the text, but does not dominate the body. While later sultans and ministers of state continued to work within the paradigm that he set forth, most of the regulations and explanatory fatwas in the *Qanun-i Jadid* date from after his death. The *qanun* continued to grant new rights for peasants and modify older ones throughout the first quarter of the seventeenth century.

More than any other land tenure right, peasant succession to usufruct was the subject of new imperial regulations in the seventeenth century that utterly transformed it. The changes reflected the tension between the differing priorities of the imperial treasury and the peasants who cultivated the land. The imperial treasury's interest was bound up in keeping the land under constant cultivation and ideally at maximum capacity. As Ebu Suud noted several times, the land should remain in the care of someone who could make it flourish. On the other hand, the peasants sought security of access to the land that provided their livelihood. Although usufruct was held by individuals, the proceeds from it

frequently maintained or affected the prosperity of other family members and even other villagers. In particular, the conflict of state versus peasant interest congealed around the issue of whether or not women could succeed to usufruct. From 1540 to 1566, the question of who had the strongest claim to succeed to usufruct after the death of a cultivator was resolved in terms that emphasized capability of cultivation and prohibited the succession of women. Shortly after the accession of Sultan Selim II in 1566, this policy began to change. Not only did women become successors, but the *qanun* began to reflect a new consensus that those who most deserved to succeed to usufruct on a parcel of land were not necessarily the ablest cultivators, but rather those people whose livelihood was already dependent upon the parcel in some way.

The strengthening of family and community claims upon the usufruct of those in their midst should also be understood with reference to other changes made to the *qanun* at this time. In 1595 it was proclaimed that the number of years that a peasant could be absent while no one worked his land had risen from one to three.<sup>255</sup> Furthermore, the process for a peasant's being absent indefinitely yet retaining his usufruct through regular contact was spelled out.<sup>256</sup> Prior to 1613 peasants who left their villages to escape violence had only a year to notify their authorities that they were still alive and wished to retain their usufruct. After that date, so long as they appointed someone to work the land and pay taxes on their behalf, they needed to stay in touch only once every three years. The context for these and similar developments was the widespread violence that engulfed the countryside of the Ottoman domains in the last quarter of the sixteenth century and which continued intermittently throughout the first decades of the seventeenth century. Entire villages of peasants fled, leaving the village 'ruined' in Ottoman parlance. The extension of succession rights and other rights that made it easier for peasants or their families to retain usufruct were enacted at a time when peasant communities had never been weaker or under greater duress. During these difficult years, imperial bureaucrats sought to alleviate hardship upon the villagers and to encourage communities to stay put and keep producing.<sup>257</sup> The changes in the succession law that increased the security of family and village control over land were probably undertaken with that goal in mind and with an eye to maintaining the viability of the villages.

While Ebu Suud's work had led to the practice of *qanun* within the provincial courtroom, the new succession laws were to enmesh imperial power with Islamic jurisprudence even further, weaving provincial law practice ever more tightly into an imperial framework. From the late seventeenth century, the Damascene *ulama* became more aware of the sultan's law and its ramifications

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<sup>255</sup> MTM, 91

<sup>256</sup> MTM, 92

<sup>257</sup> Some of these will be discussed in chapter 3; primarily the finance ministry's requiring tax farmers to resettle villagers in their village of origin, to provide them with seed for planting, and to see that they had the security to engage in cultivating without molestation.

for their scholarly work and the practice of *ifta*, or granting fatwas. By the nineteenth century, the Damascene *ulama* showed a new attitude of openness towards taking direction from the sultan and the muftis of Istanbul. When, in the middle of the nineteenth century the sultan assumed wider legislative powers in the name of reform, he addressed an audience of learned men who were already predisposed to acknowledge his legislative powers.

While the imperial judges of the seventeenth century looked to Istanbul for guidance about how to apply Hanafi jurisprudence in the courtroom, the *ulama* of the Arab provinces did not. They looked to the great classics of the Hanafi school written in Arabic, and on questions of land they looked to one Ibn Nujaym, a sixteenth-century Egyptian, in particular. He did not have views on tenure that were radically different from Ebu Suud's, for both were shaped by the broader trends of Hanafi thought.<sup>258</sup> Nevertheless, his work had a far more profound impact on Hanafi jurisprudence, both in the Arab world and the wider Islamic world.<sup>259</sup> Composing their works primarily in Ottoman Turkish, the *ulama* in Ottoman state service did not produce scholarship that became widely known among the Arab *ulama*, even though quite a few of the latter seemed to have some facility with the Turkish language.<sup>260</sup> On the other hand, all Turkish *ulama* could and did read Arabic. They were aware not only of the classic works of the Hanafi school, but also kept abreast of the scholarly output of their Arab colleagues, most of whom were ignorant of the work of even their most eminent Turkish counterparts. Istanbul was the center of the political world, but not the scholastic world for Ottoman Arabs. Works such as those of Ebu Suud were, in the seventeenth and eighteenth centuries, somewhat peripheral to the mainstream of Hanafi thought. However, to follow the way that Damascenes became aware of the new succession laws is to see that this situation changed, and that the *ulama* of Damascus, by the nineteenth century, were more accustomed to look to Istanbul for legislative direction.

The *Qanun-i Jadid* is preoccupied with the issue of succession to usufruct more than any other single matter, a full quarter of the text is dedicated to explaining it. The vast majority of the succession laws were proclaimed in the seventeenth century, well after the death of Ebu Suud in 1574. Collected

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<sup>258</sup> They both shared in the view that the Treasury was the owner of most lands, that peasants' taxes were essentially rent, that state representatives had the right to give a peasant's land to someone else if the peasant failed to cultivate. There were ways in which they differed, most of which will be covered in chapter 3.

<sup>259</sup> Johansen, 98 notes Ibn Nujaym's importance to the muftis of Ottoman Syria; his influence is also evident in the *Fatawa Alemigiriyah* composed at the order of the Mughal Sultan Aurangzab. See Baillie, 24, 26-31, 37, 38

<sup>260</sup> There were some that could read Turkish, and did engage with their Anatolian counterparts on various scholarly subjects, see Abdul-Karim Rafeq, "Relations between the Syrian 'Ulama' and the Ottoman State in the Eighteenth Century," *Oriente Moderno* 28, no. 1 (1999), 79. Nevertheless, works by Turkophone authors that became popular in the Arab world were those like Birgevi's *Tariqa Muhammadiya*—which were written in Arabic.

together in the *Qanun-i Jadid*, these laws defined a line of succession clearly demarcating the candidate who was ‘most deserving’ of all those who might have a claim on the land’s usufruct.<sup>261</sup> Fortuitously, the *Qanun-i Jadid* not only records this line of succession, but relates a great deal of information about its development. The opening section of the *Qanun-i Jadid* is taken word for word from the *qanunname* of Budin, originally issued around the year 1541. As noted above, this *qanun* maintains that a son could succeed to the right of usufruct, and take his father’s place upon his death. Ebu Suud specifies that only sons have this right. If no sons survive the peasant, the *sahib al-ard* may appoint an outsider to take the usufruct, the requisite quality being that he can “make the land flourish”. Upon paying the tapu fee, the new appointee becomes the legally recognized cultivator. It is worth noting that the general Süleyman *Qanun* specifically prohibits giving the usufruct to daughters.<sup>262</sup> It was therefore rather momentous when, in 1568, Ebu Suud wrote that according to new sultanic regulation, a cultivator’s daughter may take the usufruct when he dies, provided that he has no sons.<sup>263</sup> However, the son may take his deceased father’s usufruct freely, while the daughter must pay tapu in order to succeed. The exceptional position of the son would remain intact, for the cultivator’s son would remain exempt from paying tapu, while the daughter and all other successors were required to pay tapu.

The other successors did not get their place in line officially sanctioned until much later. It is unclear when it was enacted that the deceased’s brother had the right to succeed if neither a son nor a daughter survived the deceased. However, it was not until 1602 that it was decreed that in the absence of a son, a daughter or a brother, then the priority passed to the deceased’s sister. In 1609 came the ruling that if no offspring or siblings survived, then the father could take the usufruct, and if he was deceased, it fell to the mother. These are the only family members included in the succession, and in 1622 it was decreed that if none of them survived the peasant cultivator, then anyone who jointly shared in the usufruct on the land (a partner) has priority. If the peasant had possessed the usufruct in its entirety and had not shared it with anyone, then the right of usufruct fell to any person with freehold property—such as trees or vines—on the land. If no parties met any of these definitions, then anyone from the deceased’s village could ask for the usufruct and was guaranteed priority above peasants resident in a different village. The right of the people of the village to take the usufruct before any outsiders was proclaimed in 1623. In each case, the situation is ‘winner takes all’ in the hopes that the right to the land will remain unified. Specifically ruled out was the right of the *sahib al-ard* to give himself or his son the cultivation of the land.<sup>264</sup>

The dynasty need not have come up with this complex scheme; the sultans

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<sup>261</sup> MTM, 58-80

<sup>262</sup> Akgündüz, *Kanunî Sultan Süleyman Devri Kanunnâmeleri*, 309

<sup>263</sup> MTM, 66

<sup>264</sup> MTM, 79

could have left it to local tradition to decide who was most deserving if there was no son. But they and their officials appeared eager to quell the possibility of conflict over who should succeed. After all, conflict could disrupt production, and peasant rights were in most cases predicated upon keeping the land under constant usage. By recognizing everyone who had some kind of interest in the land and arranging them according to priority as successors, the dynasty increased the possibility of a quick and orderly turnover of the usufruct. Those recognized as having the most immediate claim were immediate family members, while those who shared property rights were recognized as having a legitimate, though secondary, priority. As taxation was largely determined by village, it was also in the interest of villagers to see that land resources were not transferred from a peasant of one village to a peasant in another. The enactment of these measures meant a corresponding curtailment of the powers of the *sahib al-ard* to delegate usufruct to the candidate of his choice. Nevertheless, he was still able to collect the tapu fee from any successor who was not the deceased's son, a factor which surely reduced any recalcitrance from those who served as *sahib al-ards*. It goes without saying that no Islamic state had ever sought to regulate in such detail how access to the land was to pass from one holder to another at the time of a peasant's death. On the other hand, such a development seems fairly typical in the context of early modern state building, when many states sought to expand legislative authority and to regulate key revenue sources.

Even after the inclusion of daughters, sisters and mothers to the succession order, there was noticeable privileging of the male to male line. The son is the only successor who pays no tapu, unlike the daughter. In each set of family successors, first children, second siblings, and thirdly parents, the right of the male precedes that of the female. Daughters will not succeed if a son survives, sisters will not succeed if a brother survives, and so on. An unusual condition attached to the succession of the sister that applies to no other family member is that the sister must be living on the 'yurt' in order to succeed, as the text puts it. Whether this meant the family plot itself or simply in the same village is ambiguous, leaving its interpretation largely to the mufti's discretion. One mufti, taking a generous interpretation, wrote that the sister was eligible for the usufruct so long as "her residence is less than three days distance from the land under consideration."<sup>265</sup> A further indication that sisters had difficulty asserting their right is evidenced by the fact that the right of sisters to succeed was originally proclaimed in 1010 AH/ 1602 AD and then actually re-proclaimed two years later.<sup>266</sup>

A more telling indication of the limitations upon women is that the line of succession automatically presumed that the deceased cultivator was male. It was not until 1609 that a sultan order proclaimed that if a female *mutasarraf* (holder of usufruct) died that the only recognized successor was her son, and unlike the free succession that marked the passing of usufruct from father to son,

<sup>265</sup> "Qanun-i Jedid-i Osmani," Süleymaniye MS Bağdatlı Vehbi 569 f. 22

<sup>266</sup> MTM, 71

a son could only take his mother's usufruct by paying tapu.<sup>267</sup> No daughter or other family member could claim the usufruct, so if no son survived, the *sahib al-ard* was free to choose the succeeding cultivator of his choice.

Despite such limitations, the fact that women constituted a recognized part of the succession by the 1560's was fairly extraordinary, considering that the Süleyman *Qanun* instructed *sahib al-ards* not to give the usufruct to women. One criterion that Ebu Suud inserts in the *Qanun* name of Budin yet omits in the later fatwa allowing daughters to succeed is the condition that the successor be "make the land flourish".<sup>268</sup> Women were to be left out of the succession altogether because they were not physically fit to plough land. There seems to be a fear that land held by a woman would not be worked or perhaps not be worked to capacity, which was undesirable. But even before 1568, this fear was being set aside in favor of an argument about family resources. In a fatwa attributed to Ebu Suud, the mufti is asked what happens to the usufruct of a deceased man who cleared and cultivated land that had not been previously cultivated. Ebu Suud replied that "in the year 958 (1551 AD), in lands such as these that had been revitalized and put to cultivation through labor and spending of money, it was decreed that usufruct was to be given to an outsider who would pay the tapu fee. But when it was necessary to dispossess the daughters from the wealth in which their father had so heavily invested, there came a sultanic order giving it to them..."<sup>269</sup> In this case the daughters prevailed by arguing that their father had invested his money and labor in bringing new land under cultivation, and its worth in fact derived from his investments. What this incident shows is that the government was inclined to accommodate family members who were not content to let a valuable resource escape from the family's control in the absence of a son. It was an early indication of the trend that eventually dominated the order of succession. The state's concern for keeping land in the hands of those who were physically able to maximize its productive capacity was superceded by a concern both for equity and stability. The result was the privileging as successors those whose livelihoods were already in some way vested in the usufruct or its value.

The succession laws were a continuation of the trend of the sixteenth century: they increased the dynasty's control over who had a right of access to the land while at the same time delivering more rights to the peasantry. However, the question of how the new succession rights would be implemented was a trickier one. The rights that the peasants accumulated in the sixteenth century were to be enforced in a courtroom. Qadis were appointed by the temporal ruler and requiring them to follow the *qanun* procedures in the court was not an overly ambitious project. However, succession to usufruct was an issue

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<sup>267</sup> MTM, 72-3

<sup>268</sup> MTM, 50

<sup>269</sup> Ala al-Din al-Haskafi, *Durr al-Muntaqa*, printed on the margin of `Abd al-Rahman ibn Muhammad Shaykh'zadah, *Majma` Al-Anhur Fi Sharh Multaqá Al-Abhur* (Bayrut, Lubnan: Dar Ihya al-Turath al-`Arabi, 1980), 1:665.

that was rarely dealt with in the Islamic court, or at least, not in the Arab provinces. Succession cases usually went before a mufti rather than a judge, and unlike imperial judges, muftis were not enjoined to obey the sultan's commands.<sup>270</sup> Muftis were to give the theoretically most correct answer to the question at hand, according to the doctrine of their school.<sup>271</sup> The succession rules could not be foisted upon the provinces through the courtroom. Dissemination of the rules was therefore slower and more haphazard, for there was no institutional apparatus to lead the way. Adherence depended largely upon the circulation of the texts that summarized sultanic land tenure—first the antecedents to the *Qanun-i Jadid* and then the *Qanun-i Jadid* itself—and the willingness of the provincial *ulama* to familiarize themselves with such texts. Yet as the case of Damascus shows, imperial views came to be known and applied among the *ulama* after the elapse of several hundred years. The final result was a more unified Ottoman legal culture that placed the imperial *ulama* such as the Shaykh ul-Islams in a more central role in setting land tenure practice, whether in the courtroom or outside it.

### **Legal Traditions and Succession to Usufruct in Damascus**

By the time Ibn Kannan wrote his reference work on the *qanuns* of the sultans and caliphs in the early eighteenth century, Damascus had lived under Ottoman rule for nearly two hundred years. The Arab *ulama* were not hostile on principle to the concept of Ottoman sultanic law, but they opposed specific aspects of it that they considered to be contrary to the *shariah*.<sup>272</sup> Much of the Arab *ulama*'s opposition to the Ottoman *qanun* focused on one-time fees or taxes that Ottoman officials charged for various services. The tax that was paid in order to have a marriage legally recognized, the so-called bride tax, was roundly denounced, as was the fee collected by the Ottoman judge when he took up his position in a new location.<sup>273</sup> Besides taxes such as these, the main venue in which the

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<sup>270</sup> In the major towns of the Ottoman Empire, the muftis were appointed by the sultan. As we will see in later chapters, these appointments had more to do with patronage than with ideology.

<sup>271</sup> For a concise and useful discussion differentiating the difference between a fatwa as an 'element of doctrine' and a hujjah (qadi's ruling) as a 'segment of practice' see Brinkley Morris Messick, *The Calligraphic State : Textual Domination and History in a Muslim Society* (Berkeley: University of California Press, 1993), 146-49.

<sup>272</sup> The disdain with which the Mamluk era scholars al-Maqrizi and Ibn Taymiyah treated the 'yasaq', the temporal code of the Mongols, is related to its alleged infringements upon the *shariah*. See El<sup>2</sup> 4:559 and David Ayalon, "The Great Yāsa of Chingiz Khān. A Reexamination (Part B)," *Studia Islamica*, no. 34 (1971): 151.; *ibid.* and David Ayalon, "The Great Yāsa of Chingiz Khān: A Reexamination (Part C2). Al-Maqrīzī's Passage on the Yāsa Under the Mamluks," *Studia Islamica*, no. 38 (1973): 115.

<sup>273</sup> Abdul-Karim Rafeq, "The Syrian 'Ulama', Ottoman Law and Islamic Shari'a," *Turcica* 26 (1994): 10-12.; Ghazzi, Najm al-Din Muhammad ibn Muhammad, and Jibrail Sulayman Jabbur, *Al-Kawakib Al-Sairah Bi-a`yan Al-Miah Al-`ashirah* (Bayrut: Dar al-Afaq al-Jadidah, 1979), 2:116.



*ulama* of Damascus encountered the Ottoman *qanun* was the courtroom. The Ottoman judge accepted contracts with specified rates of interest, and allowed other kinds of transactions that the Damascene *ulama* considered forbidden.<sup>274</sup> Nevertheless, sultanic legislation that they did not believe to contradict the *shariah* was not particularly controversial. The majority of the sultan's laws regarding land tenure that were practiced in the court met with no opposition from the Damascene *ulama*.

Like many parts of the Ottoman Empire, Damascus had a usufruct tradition with local peculiarities that may have predated the Ottoman conquest of 1517. It is difficult to know when exactly the local term for the peasant's central right, "*mashadd maska*", which roughly means 'plough land right', entered the vocabulary and jurisprudence of the city. It may have Mamluk origins, but neither a fatwa nor a jurist manual from the Mamluk period that uses this term or any other to refer to a usufruct right has yet come to light. This is not due to any shortage of Mamluk era fatwas that have survived: in fact, one of the greatest Damascene muftis of all time, Ibn Taymiyah (1263-1328), flourished under Mamluk rule. Ibn Taymiyah's fatwas do discuss land law, and he explains at some length how to distinguish legal and illegal share cropping contracts, and about the arrangements between soldiers who have land grants (*iqta'*) and the peasants who rent the land and cultivate it.<sup>275</sup> Never does he refer to *mashadd maska* nor a similar right under a different name that gives peasants security from eviction so long as they cultivate. Like Ibn Taymiyyah, the great Mamluk encyclopedia writer Ibn Fadl Allah al-Umari (d. 1349) wrote about share cropping arrangements in the rural areas around Damascus, and made no mention of anything approximating usufruct.<sup>276</sup> The fact that the institution of *mashadd maska* is not present in Damascene jurisprudence nor in other writings of land tenure until the Ottoman period suggests that it may not have existed prior to the Ottoman conquest.

When we look at the way that the Damascene muftis define *mashadd maska* in the seventeenth century, we find a right that looks very similar to the right of usufruct as formulated in Istanbul. *Mashadd maska* refers to the peasant's right to plant on land that is owned by the treasury or a *waqf* (endowment). So long as the peasant cultivates continually the land upon which he has the *mashadd maska*, his right to plant in that place cannot be taken away by the authorities or challenged by any other cultivator. However, if the peasant quits working the land for three years, the muftis rule, he loses his *mashadd*

<sup>274</sup> Abdul-Karim Rafeq, "The Syrian 'Ulama', Ottoman Law and Islamic Shari'a," *Turcica* 26 (1994):13-19

<sup>275</sup> Ahmad Ibn Taymiyah, *Mawsu'at Fatawá Al-Imam Ibn Taymiyah Fi Al-mu'amalat Wa-Ahkam Al-Mal*, ed. Ali Jumahh ibn Abd al-Halim, (al-Qahirah: Dar al-Salam lil-Tiba'ah wa-al-Nashr wa-al-Tawzi' wa-al-Tarjamah, 2005), 1:163-216 and 2:667-712.

<sup>276</sup> Ibn Fadl Allah al-Umari, Ahmad ibn Yahyá, et al., *Masalik Al-Absar Fi Mamalik Al-Amsar* (Frankfurt, Jumhuriyat Almaniya al-Ittihadiah: Ma'had Tarikh al-Ulum al-'Arabiyah wa-al-Islamiyah, 1988), 12:85.

*maska*, and it can be transferred to another. The Damascenes are in uniform agreement that there exists a kind of land called *miri* that belongs to the treasury and is administered by the sultan. In this regard, they have adopted the mainstream position of the Hanafi school.<sup>277</sup> No Damascene mufti disputes the sultan's right to appoint a military deputy for this land (*sahib al-ard*) who enjoys wide discretionary powers in terms of overseeing its cultivation.<sup>278</sup>

As for *miri* land, they note that it cannot be sold or inherited and they use the term 'transfer'—the same as used by the imperial *ulama*—to denote how *mashadd maska* moves between individuals, differentiating it from buying and selling.<sup>279</sup> They are also in agreement that the sultan's appointed deputy must give permission in order for the transfer of usufruct to be legally valid.<sup>280</sup> Just as Ebu Suud and other Ottoman muftis had done with the customary terms and practices they encountered in Anatolia, the Damascene muftis tried to assimilate the term '*mashadd maska*' to the terminology found in the books of fiqh (Islamic jurisprudence). They asserted—more in the 18<sup>th</sup> century and later than in earlier centuries—that *mashadd maska* was essentially the same as terms that had longer pedigrees within the jurisprudential tradition such as *kirdar*, *haqq al-qarar* and *tasarruf*.<sup>281</sup> In short, the degree of symmetry between the Istanbul and Damascene rulings on the cultivator's right would suggest that whatever *mashadd maska* had been prior to Ottoman rule, assuming that it had existed at all, it generally fit with prevailing Ottoman definitions by the seventeenth century.

No later than a hundred years after the Ottoman conquest, many aspects of the tenure regime Damascus appear to be adopted from the Ottomans—the rule that a peasant loses usufruct if he does not plant for three years is a case in point. But in general the seventeenth-century Damascene muftis viewed the

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<sup>277</sup> Perhaps another indication of the peripherality of Turkish speaking Anatolia to the mainstream of Hanafi opinions was the presence of Turkish *ulama* who thought the category of *miri* land was controversial. They maintained that if the ancient Hanafis had dealt only in categories of freehold land, then the category of *miri* was suspect. Although Birgevi allows that it is an open question whether one accepts the category of *miri* land (see Mundy and Smith, 16-19), Molly Greene hypothesizes that the Crete Kanunname omits the category of *miri* land wholesale because of the influence of Vani Efendi, a member of the Qadizade faction that preached a return to the fundamentals of Islam, see Greene, *An Islamic Experiment? Ottoman Land Policy on Crete*, 60-78

<sup>278</sup> Abdul-Karim Rafeq has frequently argued that Damascus resisted incursions of Ottoman authority, e.g. Abdul-Karim Rafeq, "Al-'Alaqat Al-Zira'iyah Fi Wilayat Al-Sham Fi Al-'Ahd Al-'Uthmani," in *Buhuth Wa Dirasat Fi Tarikh Al-'Arab Hadayatan Ila Al-Ustadh Al-Duktur Muhammad Khayr Faris* (Damascus: Dar Talas lil-Dirasat wa-al-tarjamah wa-al-nashr, 2000), 2: 186.

<sup>279</sup> The Damascene muftis are more consistent in their usage of the verbs based on the f-r-gh roots to denote the transfer, while the Ottoman imperial muftis use both f-r-gh and f-w-d.

<sup>280</sup> Ibn `Abidin, Muhammad Amin ibn `Umar, *Al-'Uqud Al-Durriyah Fi Tanqih Al-Fatawi Al-Hamidiyah* (Bayrut: Dar al-Ma`rifah, 1960), 2:201.

<sup>281</sup> See Mundy and Smith, ch. 3 for a full and enlightening discussion on this matter.

issues related to land tenure as governed either by Hanafi jurisprudence, or as an entirely local phenomenon governed by the custom, or 'urf, of the Damascene peasants. Hence, when questions arose, they did not consult the sultan's enacted legislation. In fact, most seventeenth-century Damascene muftis seem at best dimly aware of Ebu Suud and the land tenure fatwas of other muftis serving in imperial administration that expounded further how the new *qanun* affected the practice of jurisprudence. How the Damascene general conception of land tenure regulation could so closely resemble its imperial counterpart while the Damascene *ulama* seemed unaware of the imperial jurist literature is a mystery that at present cannot be solved.

As Baber Johansen has shown, when the muftis of Damascus cite sources and quote precedent, they most frequently invoke the formulations of the sixteenth-century Hanafi Egyptian scholar Ibn Nujaym.<sup>282</sup> When Nabulusi wrote of the qualifications necessary to be a mufti, he stated that muftis were required only to have soundly digested the standard works of jurisprudence within their school.<sup>283</sup> He said nothing about the mufti needing a knowledge of sultanic legislation, for in general, sultans did not pass laws that affected the practice of jurisprudence. The fact that the Ottoman sultans were doing so, and that compliance was demanded not only in the court but outside of it as well, was a fairly novel phenomenon in Islamic history. It was an expectation that was not thoroughly understood or practiced in the provinces for some time.

The one major difference between the Damascene and the imperial land tenure traditions was the issue of succession to the cultivation right. This is hardly surprising, for unlike most of the other land related laws, succession cases were settled out of court by local muftis rather than under the supervision of the Ottoman judge. Like their Istanbul counterparts, the muftis agreed that because *miri* land was not owned by the peasant, it was not subject to the Islamic law of inheritance. Rather, it was theoretically the sultan who determined who should 'succeed' to *mashadd maska* when a peasant died. While the Istanbul administration and imperial muftis had elaborated the complex hierarchy of succession recounted above by the middle of the seventeenth century, the seventeenth-century Damascene muftis were either unaware of these developments or did not see them as relevant to the succession of Damascene peasants.

In the vast majority of Damascene rulings prior to middle of the eighteenth century, only a son had the right to take his deceased father's *mashadd maska*. If there was no son, then the *sahib al-ard* was free to give it to any man who had the ability to work it. A fatwa of Isma'il al-Hayik (d. 1701) is instructive here: *miri* lands are those of the treasury, it is not inherited, but rather it is for the one deputized by the sultan to direct it to those among men who are capable of its

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<sup>282</sup> Johansen, 98

<sup>283</sup> Abd al-Ghani al-Nabulusi, "Radd ala Haskafi", Süleymaniye MS Bağdatlı Vehbi 2112, f. 2-5a.

good usage and women have no part in it.<sup>284</sup> The famous scholar and sufi Abd al-Ghani al-Nabulusi approvingly quotes this response in one of his own fatwas.<sup>285</sup> The Ottoman *firman* amending the succession and allowing for daughters to take their father's usufruct dated to 1568, over a century before Hayik issued his fatwa, yet neither Hayik nor Nabulusi seems to be aware of it. What is particularly interesting is the part in Hayik's fatwa that cultivation is to be given to men 'capable of the land's good usage', which is precisely the criterion given by Ebu Suud Efendi in the *Qanunname* of Budin. When Ebu Suud allowed twenty years later that daughters could take cultivation rights in the absence of a son, he dropped all reference to the necessity of choosing someone who is capable of making the land flourish. Thereafter, we see no mention in the imperial fatwas of the condition that the *mutasarraf* be fit for working the land or benefiting it. What is clear is that this condition stayed extremely important to the muftis of Damascus.<sup>286</sup>

Only one seventeenth-century Damascene mufti, Ala al-Din al-Haskafi (d. 1677), clearly broke the mold on this issue. His life and career will be discussed further in chapter 4, for now suffice it to say that he showed a much greater interest in Istanbul, its administration and the work of the imperial *ulama* than any of his Damascene predecessors. His scholarly work was widely admired in the imperial capital: Shaykh al-Islam Feyzullah Efendi (1639-1703), one of very few Shaykh al-Islams to quote precedent for his fatwas, frequently cited Haskafi.<sup>287</sup> One of Haskafi's two great works of jurisprudence was a work called *al-Durr al-Muntaqa*, which is a commentary, or sharh, on an earlier classic called *Multaqa'l-Abhur*. Both *Multaqa'l-Abhur* and *al-Durr al-Muntaqa* are broad manuals of the Hanafi rite, explaining Hanafi thought on everything from ritual purity to commercial transactions, to punishments for drunkenness. In this work, Haskafi explains that he found a work "in the hand writing of Sidqi Efendi the Ra'is al-Kuttab (head secretary) in Rum (Istanbul) saying that the *qanun* concerned with land as it is now was presented to the sultan in the year 1018 (1609-10)."<sup>288</sup> In

<sup>284</sup> Ismail al-Hayik, "Fatawi Ismail al-Hayik," Zahiriyah MS 5677, f. 9b

<sup>285</sup> Abd al-Ghani al-Nabulusi, "Fatawa al-Nabulusi," Zahiriyah MS 2684, f. 176.

<sup>286</sup> Mundy and Smith, 38 also note the ongoing emphasis on male succession and qualification for usufruct in terms of the ability to perform labor, but they draw a different conclusion: "Bound up with the ambiguity concerning how to define the cultivator's right, whether as a subordinate office or as an 'estate of production', is a tension concerning the exclusion of close female relatives from succession to the cultivator's plough lot. This is unproblematic if the lot is conceived as a prerogative of office but highly problematic when the lot is seen as an estate." Yet it appears to me to be quite the opposite. Capability to cultivate the land (which the muftis believe to be a male attribute) qualifies the peasant as for an office, in which the remuneration for the service of cultivating is rewarded with secure access.

<sup>287</sup> e.g. Feyzullah Seyit, *Fetava-yi Feyziye Maan Nükul*. ([Istanbul]: Daruttibaat'ilamire, 1850), 165, 166.

<sup>288</sup> Ala al-Din al-Haskafi, *Durr al-Muntaqa*, printed on the margin of Shaykh'zadah, *Majma` Al-Anhur Fi Sharh Multaqá Al-Abhur*, 1:665

quoting from this *qanun*, Haskafi writes that if a deceased cultivator has no son then the right to take his land by paying tapu “is for none other than his daughter or his brother or his sister resident in that location, or his father or his mother.”<sup>289</sup> Haskafi’s writings evince a knowledge not only of the Ottoman sultans’ and Shaykh al-Islams’ views about land tenure but also a firm grasp of Ibn Nujaym and the broader scope of Hanafi thought. Prior to the mid eighteenth century, Haskafi was the one exceptional Damascene figure who appeared cognizant of Istanbul’s new succession regulations and incorporated them into his work.

Given that he had relationships with imperial officials and set out to write an extremely thorough and up to date jurisprudential manual, it is not perplexing that Haskafi was the first Damascene to notice that a line of succession had been established by sultanic order. What is perplexing is that long after he had finished *al-Durr al-Muntaqa* and passed away in 1677, no other Damascene muftis appear to have noticed the succession changes or adhered to them. Hayik in particular seemed as though he should have been well informed: besides reading both Turkish and Persian, he was also Haskafi’s student.<sup>290</sup> Nabulusi, who did not die until 1731, was familiar with at least some of Haskafi’s work, and very likely did know *al-Durr al-Muntaqa*.<sup>291</sup>

It is possible that both Hayik and Nabulusi were aware of the changes in peasant succession, and that it is dissidence that underlies their ruling contra the new succession regulations. After all, Nabulusi in particular is known for his outspoken refusals to be coerced or co-opted by imperial authorities. However, let us consider another fatwa that Nabulusi gives on the subject of peasant taxes. A group of peasants went before the judge with a tax collector, protesting that the tax collector sought to take the tithe from them. They maintained that they had not paid the tithe previously, but rather a specified lump sum, and that this had always been to the tax collector’s satisfaction. The tax collector noted that according to the imperial tax register, the villagers were to pay the tithe to him. The judge asked the peasants for a contract or some sort of proof that they had obtained approval to commute their tithe to a lump sum. When they could not produce such proof, the judge ruled for the tax collector. Asked if the ruling was correct, Nabulusi conceded that it was and ended the fatwa saying that “if a sultanic order accords with the rule of the immaculate *shariah* then it is necessary to carry it out and not permitted to defy it.”<sup>292</sup> In other words, no one can defy the sultan on frivolous grounds. Unless the sultan enjoins something that contradicts the *shariah*, he must be obeyed. Could Nabulusi have believed that the new succession laws contradicted the *shariah* and that it was morally incumbent upon him to disobey them? Given that Nabulusi acknowledges the

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<sup>289</sup> Ibid.

<sup>290</sup> Muradi, *Kitab Silk Al-Durar Fi a`yan Al-Qarn Al-Thani `ashar*, 1:256

<sup>291</sup> Nabulusi wrote a short treatise called “Radd ‘ala al-Haskafi” (see Süleymaniye MS Bağdatlı Vehbi 2112, f. 2a-5a) as the result of a disagreement with Haskafi over the nature of what qualifies someone to be a mufti, to be discussed further in chapter 4.

<sup>292</sup> Nabulusi, “Fatawa,” f. 176 or 194

wide authority of the sultan over *miri* land, it seems highly improbable.

More likely, if Nabulusi knew of the new regulations and was disregarding them, he believed that they were applicable in some other part of the Ottoman Empire and not in Damascus. In discussing the land tenure treatise of an Anatolian scholar, he maintained that there were different categories of land in Damascus than existed in Anatolia, and that consequently things worked a bit differently.<sup>293</sup> Hayik, whose fatwas often appear to quote Ebu Suud's earlier work while completely disregarding his later amendments, may have adhered to the earlier views because they were in line with pre-existing local traditions that designated plough land as a male preserve. There is also the not negligible factor that the earlier ruling of Ebu Suud that excluded female succession was consistent with the predominant opinion among the mainline Hanafi *ulama*. Let us consider the principles of succession as expressed in Ibn Nujaym's *al-Tuhfa al-Mardiya fi al-Aradi al-Misriya*. Ibn Nujaym writes that if a peasant 'owner' dies or becomes unable to plant, the head of state is authorized to direct the land to "whoever is capable of cultivation". Ibn Nujaym notes that a number of other authoritative Hanafi sources also embrace this view.<sup>294</sup> Keeping the land in the hands of men with the ability to cultivate and thereafter to remit the necessary taxes was not a specifically Ottoman priority, but a priority widely held among Hanafi scholars. Breaking with this tradition and allowing daughters and sisters to inherit plough land can be understood as a specifically Ottoman peculiarity. In this issue as on several others, the Damascene muftis are more in line with the mainstream of Hanafi thought, while the imperially sponsored jurisprudence in the *qanun* sometimes embraced trends running against the grain.

If Nabulusi and Hayik were selectively discarding Ottoman law in favor of mainstream Hanafi views or local custom, Hamid al-Imadi (1692-1758) took an even more extreme position. Hamid al-Imadi was the scion of a prominent dynasty of Damascene scholars and muftis. He was widely revered in the city, and held the appointment as the Damascene Hanafi mufti from 1725 to 1758 with the exception of a ten month period.<sup>295</sup> In a short treatise, he wrote that he was not exactly sure why women could not 'inherit' *mashadd maska* as men do but that he had consulted the fatwas of his forefathers and they were all in agreement that women were excluded from usufruct. He conjectured that perhaps this is because usufruct is like governance (*wala'*). That is, men can inherit a leadership position from their fathers or brothers, but women do not for they are not combatants. Likewise, women do not work the plough, which was the operative condition of being eligible for usufruct. He noted that a woman could qualify herself for holding *mashadd maska* by buying it, just as a woman

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<sup>293</sup> Mundy and Smith, 24

<sup>294</sup> Zayn al-Abidin Ibrahim Ibn Nujaym, "Al-Tuhfa Al-Mardiya Fi Al-Aradi Al-Misriyah " in *Rasail Ibn Nujaym*, ed. Shaykh Khalil al-Mays (Bayrut: Dar al-Kutub al-Ilmiyah, 1980), 53.

<sup>295</sup> Muradi, *Silk al-Durar*, 2: 13

could qualify herself to govern a slave by buying him/her.<sup>296</sup>

The logic is fairly consistent with that evinced by Hayik and Nabulusi, yet what is extraordinary is the paucity of influences that this extremely well-read scholar brought to bear upon this question. While Hayik and Nabulusi very carefully deploy a vocabulary that indicates their grounding within wider currents of Hanafi and Ottoman thought, Imadi fails to connect the issue of female succession to the land tenure traditions of the Hanafis broadly or the Ottoman tradition specifically. Rather, his view of *mashadd maska*'s succession is reminiscent of the view expressed by his ancestor Abd al-Rahman al-Imadi (d. 1640), who maintained that *mashadd maska* was the customary law of the peasants.<sup>297</sup> As a result, Hamid al-Imadi treats the succession question as a local issue that can only be commented upon by other local *ulama* and he feels compelled to look no further than the family archive. This despite the fact that he was familiar with the Hanafi classics cited by Nabulusi and Hayik, and probably also was familiar with Haskafi's *Durr al-Muntaqa*.

Additionally, Hamid al-Imadi had received some of his education from a Turkish *alim* from Istanbul, and his collection includes imperial fatwas in Turkish and writings from the province's *qanunname* that suggested he had a strong degree of familiarity with the Ottoman usufruct laws. The latter in particular makes it remarkable that he uses the verb 'to inherit' when discussing *mashadd maska*, since most muftis (including Hayik, Nabulusi and Haskafi) would only use the verb 'inherit' for freehold property that was subject to inheritance law. Like the muftis in imperial service, they spoke of *mashadd maska* 'passing' from one person to another, and of peasants taking it. Hamid al-Imadi's treatment of usufruct succession in isolation from both imperial orders and mainline Hanafism was more extreme than either Hayik's or Nabulusi's positions. Yet taken together, the positions of all three amply demonstrate that well into the eighteenth century it was acceptable for muftis to place other considerations—either local custom, mainstream Hanafi views or a combination of both—above sultanic law in their fatwas on usufruct succession.

It was Ali Efendi al-Muradi, who served in the office of the Hanafi mufti from 1758 until his death in 1771, who ushered in a shift. Not only was he aware that, according to Ebu Suud, a daughter could succeed if there were no son, but he adds that a sister could succeed assuming there were no daughter.<sup>298</sup> He is the first Damascene mufti who has left a fatwa that cites Ebu Suud on the issue of succession, as well as Haskafi's *al-Durr al-Muntaqa*.<sup>299</sup> This development indicates that the laws of succession reached Damascus not only slowly, but remarkably unevenly. A period of nearly a century separates Haskafi's tenure as Hanafi mufti from that of Ali al-Muradi. In between the two of them were a number of talented muftis who did not view sultanic law as the ultimate arbitrator

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<sup>296</sup> *Uqud* 2: 205-6

<sup>297</sup> *Uqud* 2: 198

<sup>298</sup> Ali Efendi al-Muradi, "Fatawi al-Muradiyah," *Zahiriyyah* MS 2642, f. 326

<sup>299</sup> Ali Efendi al-Muradi, f. 325

of how peasants succeeded to usufruct. Other than that the Muradi family had directly received the patronage of the Ottoman sultan, and were newcomers both to the empire and to Damascus, there is no obvious reason as to why Ali al-Muradi would have taken a view that set him apart from his predecessors. Indicating that perhaps Ali al-Muradi was part of a wider Ottoman phenomenon, his term as the Hanafi mufti coincided with an era in which scores of copies of the *Qanun-i Jadid* were produced.<sup>300</sup> The land law of the Ottoman dynasty was becoming more widely known in its most complete form.

By the time Ibn Abidin (1784-1836) penned his commentary on Hamid al-Imadi's fatwas, he showed a more thorough understanding of the new *qanun*'s order of succession. After recording Hamid al-Imadi's fatwas on succession issues, he notes that in "the ma'ruzat" (a famous work of Ebu Suud's) the line of succession is to the son, the daughter, the brother, the sister, the father and the mother.<sup>301</sup> In addition, he states the following, "And it is now accepted in all the sultan's and *waqf* lands that the deputy gives them to the son for free because he has the greatest right and if there's a daughter then it's given with a fee that the deputy takes which is called *tapu*...the daughter has the right to take (the usufruct) but only with *tapu*, in contradistinction to the nephew, who has no right. Rather, the deputy has the choice between him or an outsider."<sup>302</sup> The question of whether or not women were able to actually work the land had finally dropped out of the equation. If the daughter's right was as universally accepted as Ibn Abidin claims, then this was a major change from the status quo one hundred years prior.

In one way, Ibn Abidin's commentary returns us to Ebu Suud's instructions from three hundred years prior. Regarding the fatwas about land tenure given by the Shaykh al-Islams of the seventeenth and eighteenth centuries, Ibn Abidin writes, "Hamid al-Imadi relays about two and a half pages of fatwas and questions from the former Shaykh al-Islams of the Ottoman state in the Turkish language. Most of them are unknown things which are not present in the books of jurisprudence. It is as though they are based on the sultan's orders because it is for his Majesty the sultan, God make great his victory, to permit the appointing of usufruct on *miri* land in a special way. Its contradiction is not permitted without contradicting the noble *shariah*."<sup>303</sup> Ebu Suud had also insisted that the sultan's law must be applied, that it was in fact against the *shariah* not to apply his laws, but he had made these remarks with respect to the judges, his concern being the

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<sup>300</sup> The copy dates of the *Qanun-i Jadid* manuscripts date from 1733 to 1820, with the 1760s and 1770s particularly well represented. For instance, of the Süleymaniye copies, 8 of 20 dated copies are from those two decades.

<sup>301</sup> *Uqud* 2: 205. The "ma'ruzat" is a work of Ebu Suud; Ibn Abidin is mistaken in attributing the succession line to Ebu Suud, but many nineteenth century texts—including the 1858 Land Code—make the same mistake and credit him with designating the entire line of succession.

<sup>302</sup> *Uqud* 2:206

<sup>303</sup> *Uqud* 2:207



application of law inside the courtroom. But the new regulations of the sultan upon the peasantry had spilled into legal activity that took place outside the courtroom, wherein very slowly, the regulations were recognized as binding. According to Ibn Abidin, the question of succession is no longer subject to local or alternative Hanafi procedures: the sultan had ruled on it, he had the authority to do so, and the sultan was to be obeyed. With the government lacking an institution such as the courtroom for forcefully introducing its newest regulations, provincial adherence had taken a long time, but it had come.

Just as the practice of judging in the Islamic court had changed to accommodate the more legislatively assertive Ottoman sovereigns, so had the practice of jurisprudence. The acknowledgement that a sultan's regulations could and even should, beyond the confines of the court, affect the fatwas and the academic tradition of jurisprudence was a new development for Hanafi Damascenes. The legislative authority that the government had assumed changed what it was necessary for a mufti to know when giving a fatwa. The result was that the Damascenes increasingly acknowledged the obligation to make rulings consistent with sultan's law in areas where the sultan was free to make such laws. Whether or not a particular mufti agreed that *qanun* and *shariah* were reconciled in a coherent and unproblematic way, the fact remained that sultanic law became a part of the practice of jurisprudence even for muftis laboring far from Istanbul. This expansion of the sultan's laws into the academic practice of Hanafism can be viewed quite literally in the fatwa collections themselves. As Mundy and Smith have pointed out, Damascene fatwa collections from the seventeenth and eighteenth century have entire chapters dealing with land and with the sultan's laws of usufruct, whereas earlier collections do not have such chapters nor do they address land laws made by temporal authorities.<sup>304</sup>

This expansion in the legal reach of the dynasty's laws came well before the empire entered the centralizing throes of the nineteenth-century *tanzimat* reform era. Was the newly accepted presence of sultanic law within the fiqh a prelude to the policies of the reform period? After all, the expansion of Istanbul's legal and administrative authority over the provinces was frequently the goal—if not always the result—of the nineteenth-century reforms. At minimum we could speculate that the late eighteenth and early nineteenth-century acceptance of the sultan's legislative authority over state land facilitated the reform efforts that would follow: for one thing, it had already become normal for provincial muftis to pay attention to the laws issuing from Istanbul, and to look to the Shaykh al-Islam for their interpretation. On the other hand, the increasing adherence of the Damascenes to imperial land law did not reduce the scope of or importance of Islamic jurisprudence. The legislative power claimed by the sultan did not displace the role of fiqh within the empire or the provinces, rather, the sultan's presence within the fiqh had expanded. This state of affairs is crucial for

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<sup>304</sup> Mundy and Smith, 38-39

understanding how the expansion of state legislative power in the seventeenth century differed from that of the nineteenth century.

In the sense that seventeenth and eighteenth-century Ottoman jurists dealt with dynastic law as a matter of course within their academic work and the practice of giving fatwas, one can perhaps speak of a practice of Islamic law that was peculiar to the Ottoman Empire and different from the Hanafi practice as it was developing elsewhere. However, this should not be conflated with what Selim Deringil refers to as the “Ottomanization of the *shariah*” that took place in the nineteenth century.<sup>305</sup> What Deringil was alluding to was that state institutions increasingly claimed a monopoly on interpreting and carrying out the *shariah* in the nineteenth century. New committees and government officials claimed the exclusive power to define and police Islamic rectitude, more or less appropriating this role from the *ulama*. In keeping with this development, the sultan’s government began to make pronouncements about which areas of legislation were subject to Islamic jurisprudence and which were not—increasingly, Islamic jurisprudence was restricted to matters of personal status and inheritance. New sultanic law was issued to govern other areas of the law, with the result that sultanic legislation increased at the expense of and was largely put forward as an alternative to Islamic jurisprudence. Such had not been the case in the earlier period, when sultanic legislation had been enfolded within the apparatus of the *fiqh* and was administered by muftis and scholars who might have had no affiliation with the government whatsoever.

It is therefore difficult to draw a straight line between the expansion of Ottoman legal might in the seventeenth century and the wider expansions of state legislative authority that followed in the nineteenth century. In fact, it is precisely this inability to claim the earlier development as precedent for the later one that highlights the reason why so much of Ottoman development in the early modern period remains obscure. In the sixteenth and seventeenth centuries, those officials who wished to expand the sultan’s legislative power saw the solution as an expansion within the *fiqh*, while nineteenth-century officials with the same goal increasingly considered this solution to be impractical. To the eyes of Ottoman reformers, and indeed the historians who have come after them, the increase of sultanic legislative authority within the realm of *fiqh* hardly counted as an advance in state building; the path to modern statehood was one wherein the powers of state and religion were untangled and differentiated. Ideally, state jurisdiction should increase at the *fiqh*’s expense. Any developments that did not fit this prescribed recipe were not in fact significant

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<sup>305</sup> Examples that Deringil cites to illustrate this phenomenon include a ban on Qurans that were printed outside the Ottoman Empire, creating a more visibly Ottoman presence in the holy cities of Mecca and Medina, and the encouragement of mystic groups that supported the Ottoman caliphate. See Selim Deringil, *The Well-Protected Domains: Ideology and the Legitimation of Power in the Ottoman Empire 1876-1909* (I.B. Tauris: New York, 1999), 44-67

developments and could not have been important to the emergence of the modern Ottoman state.

This chapter has shown that the legal system continued to become more integrated after the sixteenth century, and that in some respects imperial legal traditions subordinated the local ones. However, the next chapter shows that the opposite process also contributed to the increasingly uniform legal terrain: state legislative practices could change older Hanafi practices, but mainstream Hanafi thought could oppose, and eventually overturn, aspects of Ottoman legal practice.

### Chapter Three

The expansion of the Ottoman sultan's powers in the Islamic court and over *miri* land that were described in the second chapter were fairly uncontroversial; no impassioned opponents condemned them even if it took some time before they were generally adhered to. But the sultan's authority to regulate *miri* land was not boundless, and the Ottoman government authorized some practices that were controversial, inspiring critics to denounce them as incompatible with the *shariah*. These sorts of critics are generally presumed to be *ulama*, and more often than not in the seventeenth century, reactionary *ulama* like the Qadizadelis.<sup>306</sup> The implicit suggestion is that only the *ulama* claimed to speak on behalf of the *shariah*, and that it was the *ulama* alone who were concerned with the issue of whether Ottoman practice was in conformity with *shariah*. As this chapter will demonstrate, concern over whether Ottoman policy or legislation was in harmony with the *shariah* was not an exclusive preoccupation of jurists and other *ulama*. It was an issue of wide concern, and also of differing and conflicting concerns.

The Ottoman dynasty presented itself as being committed to upholding the *shariah*, and a number of scholars have noted that it made this claim ever more emphatically in the seventeenth century.<sup>307</sup> Ottoman concern with vigilant application of the *shariah* (or at least the appearance thereof) was until recently seen as retarding the development of the state and society: too much interest in the dictates of religion and not enough in developing science and technology meant that the Ottomans fell behind their European peers.<sup>308</sup> Once innovative and adaptable, the empire was, in the seventeenth century and afterwards, ever more conservative and antiquated, dominated as it was by obscurantist *ulama*. Recent historiography has moved away from this bleak assessment, first and foremost because a number of scholars have maintained that obscurantist Islam

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<sup>306</sup> The Qadizadelis were a movement infamous for their opposition to all innovations in customs, law and learning that had appeared after the time of the prophet Muhammad. They were particularly opposed to Sufism. In the seventeenth century, they enjoyed three periods of particular influence at court and in Istanbul: 1617-1635, 1647-1656, and 1661-1683. See Madeline Zilfi, *The politics of piety: the Ottoman ulema in the postclassical age, 1600-1800* (Minneapolis: Bibliotheca Islamica, 1988).

<sup>307</sup> O.L. Barkan, *xv inci ve xvi inci asırlarda Osmanlı İmparatorluğunda zirâi ekonominin hukuki ve mali esasları* (Istanbul, Bûrhaneddin Matbaası, 1943), p. xix, Uriel Heyd, *Studies in old Ottoman criminal law*, ed. V. L. Ménage, (Oxford, Clarendon Press, 1973) p.54; and Richard Repp "Qânûn and sharî'a in the Ottoman context" in Aziz al-Azmeh ed., *Islamic law: social and historical contexts* (London: Routledge, 1988), p. 124

<sup>308</sup> e.g. Halil İnalcık, *The Ottoman Empire: the Classical Age*, ([London?] U.K.: Weidenfeld & Nicolson, 1973; London, U.K.: Phoenix Press, 1973), 179-185. İnalcık has since revised his opinion, but when this now standard reference work first appeared in 1973, there was a wide consensus that Islamic fanaticism was a leading cause of what was then accounted the empire's age of decline.

has little to do with major developments of Ottoman developments in the years of the later Ottoman Empire. On the other hand, Baki Tezcan has argued that adherence to the *shariah* in the late Ottoman Empire did become discursively more pronounced, but has been misinterpreted. In his view, the increased stature of the *shariah* is the extension of ‘private law’—by which he means that of jurisprudence—into the public domain. The result of this is that the sultan himself is increasingly bound by the rule of law. Reversing the conclusion of the previous historiography, he maintains that increasing adherence to the *shariah* should be seen as a positive development precisely because it subverts authoritarian tendencies.<sup>309</sup>

Ultimately, these analyses say more about the historian’s assessment of the Ottoman state building enterprise than they convey about prevailing concepts of the *shariah* and how actions were determined to be in conformity with it or violating it. In other words we still know little about how seventeenth-century Ottomans thought that the *shariah* should constrain state power, or for that matter the ways in which they saw the *shariah* as empowering state officials to take action. Focusing on the rights of imperial officials over the peasant cultivators and their tax revenues, this chapter will depart from the question of whether adherence to the *shariah* was good or bad for state development and examine simply what *shariah* compliance meant to seventeenth-century Ottoman subjects, and how dissenting opinion impacted state policy. The goal is to unsettle the question of what state practices violated the *shariah*, and what it means at this time in history, to adhere to *shariah*. For seventeenth-century Ottomans, there was more than one way to approach the question of what the *shariah* permitted. The *shariah* was not only discernable through jurisprudence (*fiqh*) but also through the meditative and disciplinary exercises of the sufis, and, most importantly for this chapter, as ethical principles that are the basis of social harmony. Seventeenth-century Ottomans disagreed with one another about how to prioritize different approaches to the *shariah*, and disagreed with one another about which state activities were not permitted by the *shariah*. Jurisprudence allowed scholars and bureaucrats to decide what actions or transactions the *shariah* allowed according to definitions and precedents. But there was also the question of what social consequences resulted from such transactions and if the consequences were ethically conscionable or politically viable. Despite rampant disagreements, there was also a great deal of common ground, for everyone agreed that both the rules of formal jurisprudence and a wider ethical sensibility were important for determining compliance with *shariah*.

This chapter will examine the question of conformity with the sharia through the lens of two controversies associated with the class of men, usually of the military profession, who collected taxes from villages farming land that belonged to the treasury. The question of the supervising deputy and his power over the peasants was a thorny one. On the one hand, the dynasty had an interest in

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<sup>309</sup> Baki Tezcan, *The Second Empire: Political and Social Transformation in the Early Modern World* (New York: Cambridge University Press, 2010), chapter 1.

investing him with wide ranging authority to vigilantly guard the productivity of the land and the regularity of tax remittances. On the other hand, a powerful deputy could use his might to further his own interests rather than the dynasty's. In general, the Ottomans favored a policy whereby the powers of the deputy were designed to ensure that each revenue unit remained prosperous enough to pay the variety of taxes assessed on it during the sixteenth and seventeenth centuries. The tax collector's chore of ensuring productivity, and the question of how it was appropriate for him to manage this task, proved to be the primary question of the debates that follow. However, another issue also fueled these debates, namely, that of how resources at the state's disposal were to be properly redistributed. The question of who was entitled to community resources, and to what end, is also a dominant theme in these discussions.

Below, I explain the fiscal changes that transformed the process of tax collection in the early part of the seventeenth century, which was marked by the spread of various forms of tax farming. I then discuss the legal basis for tax farming, and one of the first surprises emerges: the muftis, both imperial and Damascene, are far more accepting of tax farming than has been previously emphasized. From a juridical standpoint, tax farming turns out to be somewhat controversial, but far from roundly condemned. In fact, the most ardent opponents of tax farming turn out not to be 'conservative' *ulama*, but rather reform minded imperial bureaucrats, who oppose tax farming for reasons that have less to do with jurisprudence than with the theory of political ethics alluded to above. I then discuss the opposition of the Damascene muftis to the two most extreme rights of the tax collectors over the peasantry. I argue that this disagreement is not easily classified as either center-periphery or *ulama* versus temporal men of state. Rather, it shows a very fascinating disagreement about the relationship between societies and individuals that has many parallels in the political debates of other early modern states. The main point is that the question of what the *shariah* does or does not allow the state to do was in many cases quite contentiously debated.

### **Grant Holders and Tax Farmers**

In both the imperial *firman*s and the fatwas, the principal tax collecting figure on *miri* land is known as the *sahib al-ard*.<sup>310</sup> By the sixteenth century, the legal personality of the *sahib al-ard* was well-defined: similar to other legal developments described in the previous chapter, the sixteenth-century Shaykh al-Islams had taken this term from Hanafi jurisprudence and adapted it to the prevailing customary practices of the empire. In the *Qanun-i Jedid*, the *sahib al-ard* par excellence is a cavalry officer whose grant of land revenues and authority over the villagers was called a *timar*; in fact, the terms *sahib al-ard* and *sipahi*

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<sup>310</sup> This is the standard term in Ottoman Turkish, borrowed directly from the Arabic for 'possessor of the land' or 'holder of the land'. Colin Imber and others choose to translate this term as 'landlord', but I refrain from doing so since this term would suggest that the *sahib al-ard* owns the land in question.

(cavalry officer) are very nearly synonymous in the fatwa literature. A higher ranking officer, a *zaim*, could also be a *sahib al-ard*; his grant was known as a *zeamet*. In theory if not always in practice, these cavalry officers received such grants because they had distinguished themselves in battle and needed the revenues to maintain themselves, their men and their horses in order to regularly participate in warfare. They were rewarded for their service not with actual ownership of the land, as in the European feudal system, but rather with administration and tax collecting rights in one or more of the villages whose lands belonged to the treasury. The sultan could, at his discretion, appoint the revenues to those who served in his forces, and they in turn served as his deputies upon the land.

In the concept of the *sahib al-ard*, we quickly encounter the first of the two principal themes of this chapter: equitable distribution of tax revenues. By the early seventeenth century, a number of bureaucrats and concerned men of state protested that the *timar* system had been perverted and needed better oversight. These reformers complained that the *timar* system was intended to support the war effort, but that increasingly frequently, *timar* revenues were awarded to non-combatants as a political favor. State revenues were being awarded to those who did not perform service—military or otherwise—to the state, and the result was a demoralized and under financed military force. As a result, Sultan Murat IV (r.1623-1640) passed reforms that aimed to better define the criteria for who was eligible to receive a *timar*, and the obligations of those who held them.<sup>311</sup> Only deserving military personnel should receive a *timar*, the legislation stated. The issue of *timar* reform revolved around the question of what it meant to be “deserving” in this context. The right to the revenues not only of the state, but of the community—*miri* land was held in trust for the benefit of Muslims—was predicated on the *timar* holder’s status as a combatant. In this role, he performed a valuable service defending the dynasty and the Muslim community and hence could justifiably ask to receive a share in the treasury’s wealth.<sup>312</sup> Ottoman custom was here underscored by developments in Hanafi jurisprudence reaching back to the twelfth century, when the great Central Asian jurist Qadikhan (d. 1189) had ventured to explain who had a right to share in the wealth of treasury owned land. “The legitimate recipients of tribute from the land, and of poll-tax (*jizyah*), are fighting men and their descendants.”<sup>313</sup> Later jurists, including the influential Ibn Nujaym, would agree that it was permissible to grant such funds to the *ulama* as well as the ‘fighting men,’ yet the claim of combatants remained

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<sup>311</sup> Douglas Howard, “The Ottoman *Timar* system and its transformation: 1563-1656” (dissertation submitted to the Department of Uralic and Altaic Studies, Indiana University, Bloomington, Ind., 1987), chapter 2.

<sup>312</sup> Hüseyin Hezarfen, *Telhîsü'l-beyân fî kavânîn-i Âl-i Osmân* (Ankara: Türk Tarih Kurumu Basımevi, 1998), 115 notes that the mal-i *miri* collected from the *reaya* is known as fighting money.

<sup>313</sup> Qadikhan, as translated and quoted by Colin Imber in *Ebu's-su'ud: The Islamic Legal Tradition* (Stanford, Calif.: Stanford University Press, 1997), 119

paramount.<sup>314</sup> Keeping state funds in the hands of those who served the state and Muslim community as combatants was an extremely important priority for those who were civic minded.

The second major theme of this chapter, that of managing productivity, comes up in even the most cursory examination of the *sahib al-ard*'s powers. In the *Qanun-i Jedid*, Ebu Suud describes the *sahib al-ard*'s right to take the taxes as *hılal*, and the *sahib al-ard*'s claim to the revenues could be enforced according to the *shariah* in a qadi's court.<sup>315</sup> As we will discuss further below, other than the authority to collect the taxes, the *qanun* primarily enjoined the *sahib al-ard* to see that the productivity of the land was maintained; as his livelihood derived from it directly, it was in his own interest as well as the treasury's to do so. Any reorientation of the land's usage needed his approval, similarly no building could be built on the land without his consent. Peasants wishing to transfer their usufruct to someone else needed his permission to do so, and it was his responsibility to see that when a cultivator died, the appropriate successor was located and given responsibility for cultivating. All of these measures safeguarded the continuous productivity of the land. As we saw in the previous chapter, the peasant cultivator was not without his own set of rights that limited the *sahib al-ard*'s authority over him. Although the cultivator did not own the land, he does possess a right of *tasarruf* (usufruct) which enabled him remain in a specific place and cultivate it. So long as he continued to cultivate and pay taxes, no one, including the *sahib al-ard*, could strip him of his 'right to remain' and cultivate in that place. The peasant cultivator who has such a right over a piece of land is called a *mutasarrif* in the Ottoman literature.

Despite the fact that the legal sources, whether *qanun*, fatwa, jurist manual or learned treatise, overwhelmingly deal in cases where the tax collector is a grant holding *sahib al-ard*, by the end of the seventeenth century, financial records as well as anecdotal evidence attest that actual tax collection was dominated not by the cavalry officers on their *timars*, but rather by a more broadly defined group, known as tax farmers. What is a tax farm exactly? In fact, there is no one term in Ottoman Turkish or Arabic that unproblematically corresponds to tax farming—there are an array of ways in which individuals could purchase or contract for the right to collect tax revenues, and the degree of their control over the revenue sources. Many sources describe the growth of tax farming as resulting from the decline in the number of villages granted as *timars*. In the late sixteenth and early seventeenth centuries, increasing numbers of villages were

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<sup>314</sup> Imber, 119 and Zayn al-Abidin Ibrahim Ibn Nujaym, "Fi Bayan Iqta'at wa mahalliha" in *Rasail Ibn Nujaym*, ed. Shaykh Khalil al-Mays (Bayrut: Dar al-Kutub al-Ilmiyah, 1980), 146

<sup>315</sup> "Osmanli kanunnameleri" *Milli Tettebbular Mecmuası* i/1-2 (Istanbul, Matbaa-i Amire, 1331/1903): 49-112 and 305-309 (hereafter MTM): 109



added to the imperial *khass*<sup>316</sup> (the imperial domain) and the rights to their revenue collection sold as tax farms by the treasury. The treasury had been selling tax collection rights on *muqataas*, (revenue blocks) for centuries, but the number of village taxes that were sold this way increased exponentially in the late sixteenth and early seventeenth centuries. The treasury could grant the right to collect the revenues of the *muqataa* in one of three primary ways: *iltizam*, *emanet*, or (after 1695) *malikane*.<sup>317</sup> The *iltizam* was undertaken for a specified, usually quite high, amount with a large advance payment at the outset, while the *emanet* contract stipulated only that the collector would turn over everything that he found it possible to collect.<sup>318</sup> *Iltizam* became increasingly popular in the early seventeenth century, because the tax collector guaranteed to pay a certain amount no matter how much he collected, hence assuming more risk himself and leaving the treasury with a more accurate sense of what its future payments would be. The *malikane* was similar to the *iltizam* but lasted for the lifetime of the tax farmer who purchased it, while the *iltizam* granted tax collection rights in a particular area for generally no more than three years at a time.

The increasing number of villages under the management of the central treasury and subject to tax farming overseen by treasury personnel is an important part of the proliferation of tax farming, but it should be understood that tax farming is not primarily a new fiscal system which replaced the *timar* system. Rather, it is more accurate to say that tax farming was a practice uniformly observed across the land tenure spectrum. The majority of productive land in the Ottoman Empire was either in the imperial domain, land grant (*timars* and *zeamets*) or a *waqf*. It is clear that by the seventeenth century, all three of these types of land were tax farmed on a regular basis. The taxes on *waqf* land appear to have been collected by tax farmers rather than by the *waqf* administrators almost as a rule.<sup>319</sup> Even on land held as *timar* or *zeamet*, it was common for the *sahib al-ard* to rent his tax collecting privileges to someone else. These arrangements were also considered to be a form of *iltizam*, and it is clear from a number of different records that they took place both in Damascus and in other parts of the Ottoman Empire.

The tax farmers worked as contractors for grant holders, *waqf* supervisors and other treasury officials, seeing to it that their employer—whether the

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<sup>316</sup> Imperial domain “*khass-i humayun*” is not the sultan’s private domain, but rather the lands belonging to the treasury where the sultan, rather than a military officer, acts on the treasury’s behalf. See Hüseyin Hezarfen, 137.

<sup>317</sup> Baki Çakır, *Osmanlı mukataa sistemi: (XVI-XVIII. yüzyıl)* (İstanbul: Kitabevi, 2003), 115-170

<sup>318</sup> Ibid., 115, 121

<sup>319</sup> Almost every reference to tax farming in the *Qanun-i Jedid* involves *waqf* land. *Waqf* is ubiquitous in the fatwa collections both in Istanbul and Damascus. The tax farming registers of the central finance bureau also make clear that the treasury auctioned the right to collect imperial taxes on land that belonged to the imperial *waqfs*, such as that of Sultan Selim and Sultan Süleyman.

treasury, a *sipahi* or a *waqf*—received the assessed amount of tax revenues. Tax farming was ubiquitous, and it did not preclude other types of tenure so much as form another layer in the complex sets of claims on the land's productive capacities. In Greater Syria, tax farming was as much a part of the classical system of Ottoman military fiscal organization as the system of benefice characterized by *timar* or *zeamet* holding cavalry officers. As Abd al-Rahman Abu-Husayn has succinctly noted, "The fact that the *iltizam* system was already established in Syria from the earliest years of Ottoman rule does not support the commonly held view that it was devised as a response to the financial crisis resulting from the world inflation that began to hit the Near East towards the end of the sixteenth century."<sup>320</sup> In the more remote subdistricts of Damascus Province—Wadi Taym, Nabulus, Ajlun and other areas separated from the city by either long stretches or mountains—it was common to award the entire subdistrict's land taxes to its subdistrict governor, or *sanjaqbeyi*, as a tax farm. According to Abu Husayn, this kind of tax farming existed from the earliest days of Ottoman administration in Greater Syria and was an attempt to co-opt the great families who lived in these remote areas and to integrate them into Ottoman administration. Even in the farmland surrounding the cities of Damascus and Aleppo, a number of villages were likely tax farmed as early as the sixteenth century. The sixteenth-century cadastral surveys show that most of the villages around Damascus were not assigned to benefice officers, but rather were a part of the sultan's domain.<sup>321</sup> Someone had to collect their revenues for the treasury, and while this person may have been a salaried official (*emin*) he was more likely a tax farmer.

The transition of land revenues from benefice to tax farm, the hallmark of the empire's general military fiscal transformation, was not as dramatic in a region like Damascus, which had never had as many benefices as some of the Anatolian and European provinces. Still, the reallocation of revenues and military manpower does bear some remarking and widely fits with prevailing empire-wide trends. Dating to the first three decades of the seventeenth century, the tax farm register edited by Nagata Yuzo is full of entries for villages that are being newly tax farmed having been converted from supporting a benefice officer to the sultan's domain.<sup>322</sup> By the last quarter of the seventeenth century, tax farmed villages are found on all sides of Damascus, in the *nahiyas* of Ghuta and Marj, Wadi Acem, Zabadani, Hawran, Wadi Barada and the Bika' just to name the principal areas. Most of these were part of the *khass-i humayun*, and were interspersed with neighboring villages that were *waqf* or *zeamet* or freehold. This is equally true of the area referred to as the "greenbelt", principally the province of the Ghuta, as it is of districts where rain fed agriculture predominated.

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<sup>320</sup> Abdul-Rahim Abu-Husayn, "The *Itizam* of Mansur Furaykh: A Case Study of *Itizam* in Sixteenth-Century Syria," in Tarif Khalidi, ed., *Land Tenure and Social Transformation in the Middle East* ([Beirut]: American University of Beirut, 1984), 250

<sup>321</sup> TT 474, *passim*

<sup>322</sup> e.g. Nagata ed., 452-3

According to the last detailed *tapu tahrir* register of Damascus, dating from 977 AH/ 1569-70 CE, the imperial *khas*s accounted for a full two thirds of the villages of the Ghuta *nahiye*.<sup>323</sup> In rural districts such as the Ghuta, where the imperial *khas*s constituted the majority of the village lands in the late sixteenth century, we find that more than 90 percent of tax farmed villages are not villages newly added to the *khas*s in the seventeenth century, but rather villages that had been held as *khas*s since 977 AH. In other words, the size of the *khas*s and the number of tax farms does not noticeably increase during the seventeenth century in districts such as the Ghuta, which surrounds the city, or Wadi Barada, to the northwest, or in Iqlim al-Zabib to the southwest. What these districts all have in common is that more than 50 percent of their villages were already imperial *khas*s in 1569.

However, in some districts where the imperial *khas*s was relatively small in 1569, we see a dramatic rise in tax farming that parallels the expansion of the imperial *khas*s in those districts during the seventeenth century. The Marj was an extremely large *nahiye* just to the east of the Ghuta, comprising about 65 villages. Of these, only 10 were designated imperial *khas*s in the 1569 *tapu tahrir* register, or only 15 percent of the district's lands. By the 1690s, 21 villages in the Marj saw their *mal-i maktu* sold as tax farms, indicating that the imperial *khas*s had doubled in size and now constituted about a third of the villages located there.<sup>324</sup> To look at it another way, in 1569, the Marj had 19 villages that supported either a *zaim* or a *timariot*. By 1690, seven of these had been added to the imperial domain and were tax farmed. A further four villages (Majdaliya, Qasimiyah, Ghuzlania and Alawiayah) that had belonged to the office of the Damascus treasurer (*Defterdar*) were also joined to the imperial *khas*s and converted to tax farms. Overall, the amount of village land tax farmed varied from as little as 27 percent in the *nahiyes* of Ghuta and Zabadani, to as much as 37 percent in Wadi Barada, with Iqlim al-Zabib and the Marj somewhere in between.

Even with the significant growth of tax farming in areas such as Marj in the first part of the seventeenth century, the *timar/zeamet* system was resilient. There had never been many grant villages in the Ghuta oasis that surrounded the city of Damascus, but throughout the seventeenth century the villages of Barza, Muhammidiya, Jisrayn, al-Qadam and Ayn Tarma in the Ghuta continued to be held as *zeamet* or *timar* and roughly half of the villages in the Marj were still held as *zeamets* or *timars*.<sup>325</sup> While the numbers of *zaims* and *timariots* had diminished, the trend of reducing them in the *nahiyes* closest to the city had come to an end by the middle of the seventeenth century. The tax farm registers from 1081 H (1670-1), 1099 H (1687-8), and 1106 H (1694-5) all show that in the districts mentioned above, there were no new additions to the imperial *khas*s,

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<sup>323</sup> TT 474, f. 101

<sup>324</sup> MAD 9866, f. 28-45

<sup>325</sup> All of these villages were designated thus in the 1568 *Tapu Tahrir* (TT 474); they do not appear subsequently as tax farm in either the registers published by Nagata Yuzo or in the MAD tax farm registers.

and no villages being sold as tax farms for the first time. The trend of converting benefice to tax farm had stopped, and a status quo developed, suggesting that the finance bureau thought that it had achieved a sustainable balance between the two in these areas. The fiscal reorganization was therefore not ongoing into the eighteenth century, or at least, not this part of it.

The upshot of this situation is that there was less land held as benefice in the latter part of the seventeenth century as there had been in the latter half of the sixteenth century in most subdistricts around Damascus. The reduction of benefice and the expansion of the number of villages in the sultan's domain along with their sale as tax farms were the standard features of the military fiscal transformation that were seen across the Ottoman domains. While the number of villages held as *timar* or *zeamet* grants was smaller in the seventeenth century than it had been in the sixteenth, *timars* and *zeamets* did not disappear. They, and those who held them, remained an important part of the military hierarchy of the province of Damascus whether or not they took any role in collecting taxes or managing their benefice lands.

Many Ottoman observers were alarmed by the shrinking of the *timar* system and the growth of tax farming; deeming such forebodings prescient, historians have generally pointed to this development as the initial sign of a decline in Ottoman military and economic power culminating in the empire's demise three hundred years later. However, a revisionist view has now largely replaced this negative assessment. Revisionist historians, noting that a similar phenomenon was afoot in many European early modern states, have persuasively shown that increasing tax farming was a step towards the modernization of the military and the fisc—a rational response to an increased need for cash in an increasingly commercialized economy.<sup>326</sup> Nevertheless, neither the Ottomans nor many of their peers in Europe were in a position to appreciate that the changes they were witnessing would have a positive impact upon the future. It is with this issue in mind that we proceed to investigate the legal basis of tax farming in the Ottoman domains, and the Damascene hinterland in particular.

### **The Permissibility of Tax Farming**

Historians have frequently written that Ottoman courts and other organs of government openly engaged in activities that were violations of *shariah*. Tax farming is often a case in point; Dror Ze'evi alludes to contracts found in the sixteenth-century shari'a court of Jerusalem that show *sipahis* renting *timars* despite that it was "common knowledge, certainly among *timariots*, that it is illegal

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<sup>326</sup> For the older view of tax farming, see Stanford Shaw and Ezel Kural Shaw, *History of the Ottoman Empire and Modern Turkey*, 2 vols, (Cambridge, U.K.: Cambridge University Press, 1976-7); Halil Inalcik's "Military and Fiscal Transformation in the Ottoman Empire, 1600-1700", *Archivum Ottomanicum* vi (1980), 283-336, although not about tax farming per se, explains the factors driving the increase in tax farming.

to rent *timars*".<sup>327</sup> However, recent studies have cast a new light on the question of controversy and illegality in Islamic law, and have brought greater understanding of how Ottoman practices were perceived in their own time.<sup>328</sup> In the same vein, Khaled Abou El Fadl's study on the concepts of tax farming prior to the Ottoman period reveal that there was no prevailing consensus among jurists about both what to call it and whether indeed it was permissible according to the *shariah*.<sup>329</sup> The commonly held belief that tax farming was considered a violation of the *shariah* in the Ottoman Empire runs into trouble when sources of jurisprudence from the Ottoman period are consulted. In fact, these sources suggest that there was very little about tax farming that was controversial as far as the jurists themselves were concerned.

Despite the fact that the conservatism of the *ulama* is often cited as a reason for the alleged illegality of tax farming, the Ottoman Shaykh al-Islams allowed every type of tax farming discussed in the section above with nary a word to indicate that any of these practices were considered controversial. The Shaykh al-Islams' fatwas from the first half of the seventeenth century rarely address tax farming practices, but those from the second half discuss them with increasing frequency, a reflection perhaps of the Ottomans' growing acceptance that tax farming was a part of the fiscal landscape that would not go away. Minkarizade Yahya Efendi, Shaykh al-Islam from 1662 to 1673, dealt with both revenue collecting on behalf of the treasury (*miri muqataas*) and those situations in which a *timar* or *zeamet* holder rented his *timar* to someone to collect taxes on his behalf. While we generally think of the former as 'tax farming', it was the latter that the Shaykh al-Islam was most often addressing as '*iltizam*'. With regard to the *miri muqataas* appointed by the treasury, the most frequently encountered problem is who has the right to the revenue if a new tax farmer is appointed while the revenues are being collected.<sup>330</sup> This issue was still by far the most common type of inquiry fielded by Minkarizade's later peers such as Feyzullah Efendi and Abdürrahim Efendi.

Even more interesting, the kind of tax farming administered by the treasury seems to have met no opposition at all from the Damascene muftis, either on imperial domain villages or *waqf* villages. The muftis frequently face questions from peasants on *waqf* land where the collection of the tithe is held by a tax

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<sup>327</sup> Dror Ze'evi, *An Ottoman century: the district of Jerusalem in the 1600s* (Albany: State University of New York Press, 1996), 124

<sup>328</sup> For a discussion of the legal foundation of the devshirme, the child levy, see Y. Hakan Erdem's *Slavery in the Ottoman Empire and its Demise 1800-1909* (Houndmills, Basingstoke, Hampshire: MacMillan Press; New York: St. Martin's Press, 1996), 1-6. For a discussion of the controversy over love and sexual relations between males, see Khaled al-Rouayheb's *Before Homosexuality in the Arab-Islamic World, 1500-1800* (Chicago: University of Chicago Press, 2005).

<sup>329</sup> Khaled Abou El Fadl, "Tax Farming in Islamic Law (Qibalah and Daman of *Kharaj*): A Search for a Concept", *Islamic Studies* 31:1 (1992), p. 5-31

<sup>330</sup> "Qanun-i Jedid," Süleymaniye MS Bağdatlı Vehbi 551, f. 64-5 and Yahya Minkarizade, "Fetava-yi Yahya Efendi," Süleymaniye MS Hamidiye 610, f. 44-45

farmer who was appointed by the treasury officials. At no point do the muftis suggest that there is anything wrong with this arrangement, in fact they maintain that the tax farmer should collect the tithe and otherwise leave the peasants alone since, as we will see below, the officer of the *waqf* is their proper administrative authority.<sup>331</sup> In a discussion of revenue collecting and the question of who has the right to represent *miri* land in a lawsuit, Ali al-Imadi refers openly to the kind of tax farmer present on *waqf* land, who has only the power to collect the tithe. He also refers to the people who can legally collect taxes on *miri* land, such as the *sipahi*, or a general agent such as the *defterdar* (head of the treasury) who has been deputized to collect the sultan's wealth.<sup>332</sup> The right of the treasury to make such arrangements is not challenged, nor is their soundness questioned. As a matter of jurisprudence, the tax farming administered by the treasury was not a cause for concern to the Damascene muftis any more than the imperial Shaykh al-Islams.

For the Damascene muftis, the real legal controversy in tax farming was centered not on the treasury's practices but on the desire of *sipahis* and *zaims* to rent their tax collection rights to others. For the imperial Shaykh al-Islams, this practice is as unproblematically legal as the former. Minkarizade's rulings on this issue usually address disputes between a *sipahi* and his designated *multazim* (tax farmer) over discrepancies in the amount of revenue actually collected versus what the *multazim* was contracted to collect. In delineating the responsibilities of each party, Minkarizade gives no indication that these arrangements are problematic. As Martha Mundy states, the Shaykh al-Islams construed this transaction not as renting the *timar* per se, but as *wikala*, or the hiring of an agent. The problem, as both she and Khaled Abou El-Fadl identify, is that it is illegal to rent something in order to consume it in Hanafi transactional law.<sup>333</sup> Abdürrahim Efendi in particular is always careful to refer to the *multazim* as the *sahib al-ard's wakil* (agent) in his fatwas.<sup>334</sup> Although this issue was not controversial in Istanbul, in Damascus it met with greater skepticism. Even so, the Damascene muftis did not uniformly repudiate it. An early seventeenth-century or late sixteenth-century fatwa of Muhibb al-Din al-Alwani forbade a *timari* to rent his collection rights on a *waqf* to a different person.<sup>335</sup> Writing a century later, however, Abd al-Ghani al-Nabulusi says that a *timar* village can be rented,

<sup>331</sup> e.g. Ali Efendi al-Muradi, "al-Nur al-Mubayn," Zahiriyah MS 7508, f 70b and Hamid al-Imadi, "Fatawa al-Hamidiyah," Zahiriyah MS 5656, f.464b.

<sup>332</sup> Ali Efendi a;-Muradi, "al-Nur al-Mubayn," f. 67b

<sup>333</sup> Martha Mundy and Richard Saumarez Smith, *Governing Property, Making the Modern State*, London, 2007, p. 28 and Abou El Fadl, 23

<sup>334</sup> e.g. Menteşizade Abdürrahim, *Fetava-yı Abdürrahim* (Qunstantiniye: Darü'ttîbaat ül-Ma'muret üs-Sultaniye, 1243 [1827]), 2: 513

<sup>335</sup> Muhibb al-Din al-Alwani, "Fatawa bani al-Imadi wa ghayrihim," Zahiriyah MS 5864, f.80. As is the case with all the Damascene muftis, Muhibb al-Din makes no discernible terminological distinction between a tax farmer and an actual *timar* holder. Damascenes refer to tax farmers either as *mutakallim*, *timari*, or *sipahi*.

as does the mid-eighteenth-century mufti Ali Efendi al-Muradi.<sup>336</sup> This is not necessarily an indication of a new way of thinking about tax farming, for Nabulusi's views on land tenure theory were in many ways idiosyncratic, and Muradi's views were diametrically opposed to the great mufti Hamid al-Imadi whom he had just succeeded in the office of chief Hanafi mufti.<sup>337</sup> The most accurate statement to be made is simply that there was no monolithic belief in its legality or lack thereof among the Damascene *ulama*.

One Damascene mufti who did not reject it was Ala al-Din al-Haskafi, one of the great intellectuals of the late seventeenth century, whose manual of fiqh *al-Durr al-Mukhtar* has proved an enduring classic in the Hanafi school. Its position on the renting of *timars* attracted the attention of Ibn Abidin, who writes, "I saw in *al-Durr al-Mukhtar* in the first part of the chapter on rent, that this greatly learned text says that if conditions of rent are put on a *muqataa*, it is correct."<sup>338</sup> Given the context, the use of the word *muqataa* here refers not to the treasury's revenue blocks, but to the land grants made by the sultan such as *timars* and *zeamets*, as is fairly common in Arabic jurisprudence. Ibn Abidin, who seems to reject *timar* rental out of hand in his commentary on *Durr al-Mukhtar*, explains in *Al-Uqud al-Durriyah* that some *ulama* believe that it can be countenanced when it's applied under the rubric of a *hilah*.<sup>339</sup> After reviewing Hamid al-Imadi's unambiguous repudiation of *timar* renting, he observes that it's obviously invalid "if [the tax farmer] didn't rent the earth from the *timari* for the purpose of planting and instead he rented it for the purpose of taking tithes and what the *timar* produces; but if [the tax farmer] employed artful means (*ihṭal*) thus and rented it for planting as happens in our times, then the rent is correct."<sup>340</sup> He explains how this is possible, writing that the *timari* is permitted to rent the *timar* to someone to cultivate it. He does not attempt to rent it to the tax farmer, but instead retains the power of forbidding the tax farmer from taking the *qism* (one of the taxes paid by villagers) or the tithe, and remains the only rightful beneficiary of the revenues. The *timari* can permit the tax farmer to collect the taxes, and then is permitted to take everything that the tax farmer collects since he is the rightful owner of everything collected by the tax farmer. In this scenario, Ibn Abidin concludes, the tax farmer is "like a *wakil*, and his taking it [the tax] is correct." He adds that the *timar* holder should look to the tax farmer alone, not the cultivators, for his

<sup>336</sup> Abd al-Ghani al-Nabulus, "Fatawa al-Nabulusi", Zahirīya MS. 2684, f. 159 or 176; Mundy and Smith, 28

<sup>337</sup> Muhammad Amin ibn Abidin, *Al-Uqud al-Durriyah*, (Bayrut: Dar al-Ma'rifah, 1882), (hereafter *Uqud*), 2:111

<sup>338</sup> *Uqud*, 2:111

<sup>339</sup> A *hilah* is literally a 'trick' or "device". In legal terminology, it refers to a legal way around a particular prohibition. For Ibn Abidin's discussion rejecting what he calls *iltizam*, see Ibn Abidin's *Hāshiyat Radd al-muḥtār, li-Muḥammad Amīn al-Shahīr bi-Ibn 'Abidīn, 'alā al-Durr al-mukhtār, Sharḥ tanwīr al-Abṣār fī fiqh madhhab al-Imām Abī Ḥanīfah al-Nu'mān, yalīh takmilat Ibn 'Abidīn, li-naḥl al-mu'allif* (Miṣr [Cairo]: al-Bābī al-Ḥalabī 1966 [i.e. 1966-69]), 12: 715 (hereafter *Hashiyat*).

<sup>340</sup> *Uqud*, 2:111

payment.<sup>341</sup> The point here is that the *sahib al-ard* is at liberty to designate an agent who is not 'consuming' the thing that's rented. Rather, the tax farmer has no right whatsoever to the revenues as he would have if in fact the *timari* had rented the *timar* to him. Instead, he collects, with the landlord's permission, that which is solely the property of the landlord. By defining his role in this way, his relationship with the landlord is one of *wikala*, or agency, rather than rent. In this issue as in many others, Ibn Abidin shows an understanding of the logic that the imperial Shaykh al-Islams employ. He leaves open the question as to whether he himself is convinced by this *hila*, noting that other *ulama*, such as Khayr al-Din Ramli and al-Taji al-Ba'li do not find it permissible.

Upon examining the views of the *ulama* in both Istanbul and Damascus, it is far from clear that there was a consensus that any form of tax farming was a violation of *shariah*. The imperial Shaykh al-Islams accepted the treasury's revenue assignments, the farming of tax collecting rights on land in *waqf* (trust), and the 'subletting' of *timars* and *zeamets* to *wakils*. The Damascene muftis made no protest against the first two of these, but were divided with regard to the third. Whatever their opinions, for all of the *ulama*, the criterion for determining whether the *shariah* permitted specific instances of tax farming rested on the question of whether or not something was being rented in order to be consumed. In other words, their concern was the proper definition of 'rent' versus 'agency' and whether the action in question fit the prior or the latter: if subletting tax collection on a *timar* is legal, it is because the *timari* and the tax farmer 'artfully' make an arrangement that fits the definition of agency rather than rental. The proper definition of an action determined whether or not it was acceptable to the *shariah*. This being the case, the *ulama*'s discussion of the matter never strays from the terminology and conceptual framework of Hanafi jurisprudence. This observation is noteworthy, for many of them if not all would have agreed that jurisprudence is not the one and only way to approach the *shariah* and understand its requirements: in particular, there is the question of the *shariah*'s ethical sensibility. Although none of the *ulama* cited above approached the permissibility of tax farming through means other than jurisprudence, others did turn to ethics.

It is a little-remarked fact that the primary opponents of tax farming were not the *ulama* of either the imperial or provincial variety, but rather the dissident bureaucrats in the dynasty's scribal and financial apparatus who saw tax farming as a short sighted attempt to obtain revenue with dire consequences in the long term. Emblematic of such critics was the great bureaucrat and scholar Katib Çelebi (1609-1657), who says of tax farming: "While there's no doubt that it's firmly forbidden in the *shariah*, it was done secretly in times past by calling it by a different name, and they announced that it was for the benefit of the treasury."<sup>342</sup> Like some of the *ulama* of Damascus, he expresses disapproval of using a *hilah*, a legal trick, to get around what is, to his mind, a clear prohibition. Despite this

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<sup>341</sup> Ibid.

<sup>342</sup> Katib Çelebi, 129



remark, Katib Çelebi's critique does not primarily focus upon jurisprudence, but rather develops an empirical argument to make his case that from an ethical standpoint, tax farming is forbidden by both the *shariah* and reason.

Such argumentation is consistent with his belief that the *shariah* must be understood within the context at hand rather than in an idealized way divorced from the realities of its setting.<sup>343</sup> He asserts that the budget crisis faced by the Ottoman state in 1653 was directly attributable to the way that the treasury created perverse incentives for the tax farmers to ruin the villages of the imperial domain and destroy the revenue base there. His ire was directed not at the *sipahis* or *waqf* officers who subcontracted tax collection on a *timar* or *waqf*, but primarily at the kind of tax farming administered by the treasury. Instead of carefully protecting the tax payers (*reaya*) and the state's resources, he asserts, the bureaucrats were destroying them. To Katib Çelebi, this was not simply bad policy, but a perversion of the obligations enjoined by the *shariah* on the political elite.

Katib Çelebi's understanding of the harmony of reason and the *shariah* was deeply influenced by the Persian tradition of Greco-Islamic moral philosophy that had developed a new and distinct Ottoman branch in the sixteenth century. In his memorandum on the 1653 budget crisis, Katib Çelebi embellished on an image that had appeared in the famous sixteenth-century Ottoman political and ethical treatise *Ahlaq-i Ala'i*, that described the state as composed of four social categories that corresponded to bodily humors.<sup>344</sup> Taking this metaphor a step further, Katib Çelebi illustrated the nature of political obligation by referring to the state as a single body wherein all the constituent members must work together with common purpose in order for the body to maintain its health. Likewise, all members of the state, from the sultan to the humblest peasant, have a particular role to play in order for the political body to flourish. Therefore, all are dependent on each other to perform the functions appropriate to each individual's station in life. According to this view, the state can, and should, legitimately demand that each person fulfill his or her political obligations by performing the duties necessary to maintain the state's general strength and health. The oft-cited golden circle also emphasized the interconnectedness of the different groups within the political entity and the separate tasks assigned to them.<sup>345</sup> Adhering to

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<sup>343</sup> This is the primary lesson of his famous work *Mizan al-Haqq*, available in English as idem, *The Balance of Truth*, by Katib Çelebi, translated with an introd. and notes by G.L. Lewis, (London: Allen and Unwin [1957]).

<sup>344</sup> Gottfried Hagen, "Legitimacy and World Order" in *Legitimizing the Order*, ed. H. Karateke and M. Reinkowski, (Leiden: Brill, 2005), p. 63. I thank Professor Hagen for referring me to this work.

<sup>345</sup> The Golden Circle is a maxim: The world is a garden hedged in by sovereignty, sovereignty is authority, by which the law lives, law is administration, governed by kingship, kingship is order, supported by the army, the army are helpers, supported by wealth, wealth is livelihood, gathered by the people, the people are servants, enfolded by justice, justice is familiar, it is the support of the world. See Linda T. Darling, "Political

the *shariah* was the way to keep all the parts working in an ideal state of harmony and cooperation. The *shariah*, in Katib Çelebi's understanding, enjoined each member to faithfully play the part required, hence reinforcing the notion that political obligations were sacred ones. It was the duty of the sultan and men of state to keep all the members working together and to see that no one group oppressed any of the others. Hence the duty of the imperial officials to protect the *reaya* was a sacred one.

Reflecting this view of *shariah*, Katib Çelebi's objections to tax farming concentrated on showing the damage that tax farmers were inflicting on the villagers, and by extension, the fisc. His analysis of the budget crisis of 1653 drew heavily on the metaphor of the body politic and the medical theory behind it.<sup>346</sup> The villages sold as tax farms had been sold to one tax farmer for three years, but he knew that his contract could be bought out at any time by another bidder willing to offer the treasury more money for the same revenue source. So the tax farmer abused the villagers, collecting as much from them as he possibly could before the village was turned over to a different tax farmer within two or three years. Each was eager to recoup the advance payment and make a profit, each was more determined than the last to bleed the peasants dry. Many peasants simply gave up cultivating and ran away.<sup>347</sup> The reason, Katib Çelebi opined, for the fact that the treasury was empty in 1653, was that the tax base had been utterly depleted and the primary productive activity of the empire, agricultural cultivation, had ground to a halt in a number of places. He then had recourse to the body metaphor, writing that when one humor became distempered and dominated the others within the body, it needed to be reined in. The tax farmers he likened to rampant phlegm, which if unchecked by a timely treatment of the governing faculties of the state/brain, would destroy the peasants/black bile, and the resulting imbalance would threaten the life of the state as a whole. For men such as Katib Çelebi, adhering to the *shariah* meant prohibiting those practices that demonstrably hurt the welfare of Muslims rather than finding a legal technicality to permit them. It was the *siyasat al-shariah*, or statesmanship that followed the *shariah*, that kept the humors in balance, and harmony in the state.

To what extent Katib Çelebi's analysis of the budget crisis was faulty or accurate is beyond the scope of this chapter, rather, the point is to understand the terms in which he saw it. He was not alone in his opinion, and over the course of the seventeenth century such sentiments became ascendant. It was

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<sup>346</sup> Katib Çelebi, *Düstûr el-'Amel*, 127-129

<sup>347</sup> This phenomenon was plainly quite common in Damascene villages. Many tax farming contracts from the first half of the seventeenth century explicitly mention that the villages had been ruined and the peasants had fled. Reviving the village and repopulating is frequently the main condition that the treasury stipulates for awarding the tax farm.

not sustainable, treasury officials agreed, to continue short-term tax farming, and in 1695 the lifetime tenure tax farm, which had been tested in Egypt and shown to have positive results, was instituted across the empire. The imperial writ that introduced the sale of these tax farms, known as *malikane*, specifically noted that the sultan intended the *malikane* to address the very problems that Katib Çelebi and others had identified in 1653.<sup>348</sup> The lifetime tenure of the tax farm was supposed to give the tax farmer a vested interest in the long-term viability of the revenue source, and would prevent him from abusing his peasants so much that they ran away. The *malikane*'s impact on the empire was profound in a number of ways, perhaps the most notable being that it functioned much like the financing of public debt in European states, which also appeared at roughly the same time.<sup>349</sup> It allowed the treasury to better predict its income for years in advance, and helped keep the empire solvent throughout most of the eighteenth century.

Again, this innovation in the mechanics of finance and tax collection brought no protest from the Istanbulite or Damascene *ulama*, in keeping with their general acceptance of the treasury's right to appoint tax collectors for *miri* lands. However, the former chief imperial defterdar (treasurer) Sarı Mehmed Pasha was not so sanguine: the issuing of *malikanes*, he maintained, meant selling as freehold property (*milk*) something that had no real existence by which to measure its value (*asil*), which was forbidden in the *shariah*'s transactional law.<sup>350</sup> While the argument is a juristic one, I was unable to find any jurists who agreed with this view and employed a similar critique. Most fatwas simply deal with the *malikane* as an established fact of life. The high ranking imperial *ulama*'s *taqariz*—short statements of support that declare permissibility of the *malikane* according to the *shariah*—that were attached to the imperial writ of 1695 declare approval of the *malikane* on the basis that it improves conditions for the cultivators and supports the treasury. The *taqriz* of the Shaykh al-Islam Mehmed Sadık is instructive. He writes that when an order reduces onerous injustices to the subjects and “causes the ordering of the Islamic domains and leads to the flourishing of the countryside and the sultan's treasury, then it is certainly approved by believers of intellect and sanctioned by the leaders of Muslims.”<sup>351</sup>

It bears remarking that Mehmed Sadık and all the *ulama* who wrote similar

<sup>348</sup> Erol Özvar, *Osmanlı maliyesinde malikâne uygulaması* (Istanbul: Kitabevi, 2003), 172-5 provides a transliterated version of this text.

<sup>349</sup> Mehmed Genç, *Osmanlı İmparatorluğu'nda devlet ve ekonomi*, İstanbul: Ötüken Neşriyat, 2000; Ariel Salzmann, “An Ancien Regime revisited: ‘privatization and political economy in the eighteenth-century Ottoman Empire’”, *Politics & Society*, xxi/4 (1993), 393-423. Wantje (J.M.F.) Fritschy, “Was there a West-European Trajectory of State Formation? A Comparison with the Ottoman Empire from a Dutch Perspective” (unpublished paper delivered at the American Historical Association Annual meeting, New York City, January 4, 2009).

<sup>350</sup> Defterdar Sarı Mehmed Pasa, ed. Abdülkadir Özcan, *Zübde-i vekayiât : tahlil ve metin, (1066-1116 / 1656-1704)* (Ankara: Türk Tarih Kurumu basımevi, 1995), 513.

<sup>351</sup> Özvar, 175, transliterated from KK 5040, f. 3-4

statements offered a defense of the *malikane* primarily on political/ethical grounds. For them, like Katib Çelebi, the flourishing of the countryside and the treasury were so interwoven that they were nearly the same thing. The ruin of one guaranteed the ruin of the other. Such logic shows that although the *ulama* might in some instances pronounce an action compatible with the *shariah* purely on the basis of jurisprudence, they too were aware of and responsive to the ethical dimension of the *shariah*, just as the bureaucrats were aware of and responsive to jurisprudence.

Sarı Mehmed Pasha, who segues from a juristic critique of the *malikane* to an ethical one, does not deny that the *malikane* has been a successful resolution of crucial treasury problems. The *malikane*, he concedes, has not destroyed the tax base, and it has brought much-needed income to the treasury. Nevertheless, it was not without negative consequences. His principal concern was that revenues that had been allocated to support combatants and equip troops for war were being diverted through the *malikane* for the enrichment of influential officials who were not combatants. Indeed, one of the byproducts of the *malikane* was the creation of a more powerful, more financially secure set of officials and provincial notables.<sup>352</sup> Recent historical scholarship has tended to view this development as a positive one; this group of notables, unlike those of the early seventeenth century, were more cooperative with the central government in return for more secure access to revenues. Their cooperation is considered key to the empire's survival in the eighteenth century. Mehmed Pasha, however, saw things differently and it is worth quoting at length his assessment of the situation: When the services of the *Miri malikane* had been sold, in one year an amount of akches accrued to the *Miri* in the form of its advance payment and the benefit was visible. However, with control [of the *malikane*] lasting for the life of the person under contract, the benefit of each year's surplus was restricted to him alone. By contrast, when the services [i.e. tax farms] were being sold in previous years, those in the service of the high state who were military campaigners (*erbab-i sefer*) did not suffer impotence and hardship with regard to their campaigning in the necessary places, for [after they paid] first the advance and then the balance according to their circumstances, the *Mirî's* [tax farming] contracts and their surplus were made into a rotating stipend. Later, that sort [combatants] became utterly bereft of and hopeless of [attaining] this benefit. It is

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<sup>352</sup> A number of studies address this trend. For an overview of political economy and the strength of the provincial notables in this period, see Bruce McGowan, "The Age of the Ayans, 1699-1812" in Inalcik and Quataert ed., *An Economic and Social History of the Ottoman Empire, Volume II, 1600-1914* (Cambridge: Cambridge University Press, 1994), 637-758. For examples set in the cities of Diyarbekir, Mosul, and Damascus see respectively Ariel Salzmann, *Tocqueville in the Ottoman Empire: rival paths to the modern state* (Boston: Brill, 2004); Dina Khoury, *State and provincial society in the Ottoman empire: Mosul, 1540-1834* (New York: Cambridge University Press, 1997); and Karl Barbir, *Ottoman rule in Damascus, 1708-1758* (Princeton, N.J.: Princeton University Press, 1980).

expected that those who are found in the high service [as *malikane* holders] will be among the rich and influential men. Their circumstances are various but they are not in the military.<sup>353</sup>

Rich officials, he implies, were the only people wealthy enough to afford investment in the *malikane*, which required an extremely expensive advance payment given that the tenure of the tax farm would last for life. In the days of the short-term tax farms many combatants had been able to afford the initial down payment and serve as tax farmers, using the surplus to support their martial activities. At the end of its term, the tax farm would be rotated to someone else, usually another combatant. The short-term tax farms, he maintains, had at least kept state revenues directed towards the appropriate end: warfare. The *malikane*, on the other hand, diverted state resources away from state defense and the public good towards private enjoyment by the rich and influential.

Taken together with Mehmed Pasha's testimony, the tax farming records of Damascus show that Mehmed Pasha knew whereof he spoke. Tax farm revenues throughout the seventeenth century were overwhelmingly in the hands of combatants. Virtually every tax farmer was a member of one of the military units of the province, be it the local janissaries, imperial janissaries, the irregular units, or the cavalry.<sup>354</sup> While tax farmers who proved reliable and remitted the taxes in a timely fashion could petition to extend their terms, 'rotation' indeed seemed to be more the policy: tax farmers were seldom approved for a new contract and the tax farm usually passed into the control of a different combatant. Many tax farmers were bought out before the end of their term. Although Mehmed Pasha suggest that there was a conscious policy of 'share the wealth' wherein the treasury bureaucrats sought to distribute the revenues broadly among the combatants, this may be a mere rationalization for a frequent turnover that arose in response to the need for revenue during the War of the Holy League from 1683-1699.

The most dominant group in the Damascene tax farming registers from 1670 and 1687 are without a doubt the city's janissaries. In 1670, at least 34% of the tax farms were in their hands, and in the 1687 register, at least 26% were under their control. This may appear modest, and the figure for 1687 is almost definitely lower than the real figure. Unfortunately, the tax farming documents from 1687 do not include biographical details about the buyers as regularly as the earlier register, making it impossible to identify which military group 13% (22 individuals) of the tax farmers belonged to. A number of military titles were

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<sup>353</sup> Sarı Mehmed Pasha, *Zübde-i Vekayiat*, 514

<sup>354</sup> Sources for general observations about tax farmers are made on the basis of the tax farm registers for Damascus published by Nagata Yuzo as *Tax Farm Register of Damascus Province in the Seventeenth Century: Archival and Historical Studies* (Tokyo: The Toyo Bunko, 2006) for the years 1028 to 1044 H, and the unpublished tax farming registers of the Basbakanlık Osmanlı Arşivleri's Maliye'den Müdevver collection, numbers 9486, 9487 and 9866 that cover the period of the 1680s to the 1720s.

shared between the two janissary regiments of the city, the *Ojaq al-Sham* and the *Qapiqulus* respectively, and the benefice officers, in particular the title Agha. While the figure for 1670 is fairly precise, the only thing to be said with certainty about 1687 is that janissaries owned the largest number of tax farms of any social group, but whether their percentage had declined relative to 1670 is not clear.

Janissaries were not the only combatants who benefited from investment in the rural tax farms, benefice officers also played a role in it. While the number of resources allocated to *timariots* and *zaims* had decreased, sources agree that the numbers of people appointed to such benefices had also fallen.<sup>355</sup> There is much grumbling in the advice literature about how the *sipahis* had become impoverished and did not earn enough from their benefices to attend campaign. However, as this chapter will show, whatever the officers lost in benefice income, they had new opportunities to gain wealth through investing in rural tax farming. Their sheer numbers having declined, those who did receive *timars* or *zeamets* found that they could use the wealth of their benefice to purchase one of the increasing numbers of rural tax farms. In fact, they were the ideal investors in such tax farms; their possession of *timar* or *zeamet* villages meant that they were already in the business of collecting rural taxes, and without much trouble they could extend their collection operations to other villages. The result of the increase of tax farming in the first part of the seventeenth century was a higher concentration of rural assets in fewer hands in the second part of the seventeenth century; many of these hands belonged to the *timariots* and *zaims* of the province.

According to the tax farm register for the year 1670, benefice officers purchased 32 of the 191 rural tax farms, or 16%.<sup>356</sup> While this may not seem overly impressive, relative to their proportion of the population of the province, or even the city, it is quite substantial. In 1687, they purchased 35 of the 175 rural tax farms, or 20%.<sup>357</sup> Of those tax farms sold between 1695 and 1701, they bought 17 of the 91 tax farms (19%) that were offered.<sup>358</sup> Thanks to tax farming, this group's grip on revenues from the land was formidable. They were clearly involved in the grain trade, and constituted a small group of powerful and wealthy men. These facts may come as a surprise; the late seventeenth century is not

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<sup>355</sup> There are a number of estimates made by Ottoman and European sources of the seventeenth and eighteenth century of their numbers, but none are based on any methodological research, the number put forward by a French observer in 1683 was 1,400 in all of Aleppo, Damascus and Tripoli provinces. For this and other 'guesstimates' see Abdul-Karim Rafeq, *The province of Damascus, 1723-1783* (Beirut: Khayats, 1966), 282.

<sup>356</sup> MAD 4181, a tax farm register dating to 1081 H, actually has about 245 tax farms recorded, but only about 195 have a recorded purchaser. I cut those out of the sample because I don't know if they remained unsold or if the purchaser's name was simply not recorded.

<sup>357</sup> MAD 9866 is a tax farm register dating 1099 H.

<sup>358</sup> MAD 9486 is a tax farm register from the years 1106-1112 H.

usually seen as the heyday of the *sipahis* and *zaims*. Because of the spread of tax farming and the declining numbers of *timars* and *zeamets*, historians have sometimes been led to believe that the numbers of the benefice officers became so small as to be insignificant, or presumed that they were so distressed that they played no important role in the life of the province.<sup>359</sup> However, the tax farming registers show that relative to their numbers, the benefice officers obtained a sizeable slice of the tax farm holdings, and remained in this position throughout the seventeenth century.<sup>360</sup> The land system had undergone changes but by combining tax farms with benefices to secure rural wealth, the benefice officers continued to supplement their income with revenues from land holdings.

Sarı Mehmed seems to have been right not only about the overwhelmingly military character of those who invested in short term tax farms, but also that the tax farm was a supplement to whatever salary or benefice they received for military services. That these tax farms were for most combatants a supplement—or perhaps one source of income cobbled together with others—is evident from the majority of examples. On average, the relatively small size of the revenues to be collected from individual village and satellite farms meant that even those individuals with multiple holdings had relatively modest obligations to the treasury. For example, we should consider the *zaim* Beddah Ghawaszade, whom one court record describes as “Amir Beddah son of the deceased Amir Yunus.”<sup>361</sup> Like many of his contemporaries, he began his career in the local janissary regiment and in the year 1675 he held the position of *bolukbashi* within the regiment, while having attained by 1688 the rank of *sipahi* and by 1695 the rank of *zaim*.<sup>362</sup> In 1688 he held the tax farms for two villages and two farms in the southwestern districts of Wadi al-Ajam and Iqlim al-Darani where the Ghuta oasis met the grain-growing plain; altogether these four tax farms remitted 265 qurush annually to the treasury.<sup>363</sup> This amount was fairly modest, if we compare them to the amount under dispute in Sahnaya in the last chapter. The issue of course was not how much went to the treasury, but how much over this amount he was able to collect from the peasants and what the return on the investment was. His investment in these farms and villages may have reflected that this

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<sup>359</sup> Metin Kunt, *The Sultan's Servants: the transformation of Ottoman provincial government, 1550-1650* (New York: Columbia University Press, 1983) shows the straightened circumstances of the minor *umera*, the *sancakbeyi*, or district governors in the seventeenth century, and shows that with increasing frequency benefices were handed out to the followers of provincial governors rather than those who served admirably.

<sup>360</sup> James A. Reilly, *A Small Town in Syria* (Oxford: Peter Lang, 2002), 97-98 shows that this same pattern was equally, if not more true, of Hama.

<sup>361</sup> DSC, v. 5, no. 247

<sup>362</sup> Halil Sahillioğlu ed., *Şam Şehirinin XVII. Asırda Sosyal ve Ekonomik Yapısı 1777 Numaralı 'Avârız Defteri'ne Göre* (Istanbul: IRCICA, 2005), 47; MAD 9866, f. 32; A. DFE 186, f. 4

<sup>363</sup> MAD 9866, f. 32, 38, 53

area of Wadi al-Ajam and Iqlim al-Darani was where he had some kind of rural base, for his benefice, or a part of it, lay nearby in the village of Shaqmiya.<sup>364</sup> His holdings suggest that he was involved in the grain trade, but the court record alerts us that he had also had a thriving business in sheep.<sup>365</sup> His various activities suggest that he was a wealthy man, but from piecemeal sources.

While the majority of tax farms were in the hands of combatants, other groups were represented. In 1670, the share of tax farms belonging to the *ulama* and the *ashraf* was 8%, which had shrunk to 3% by 1687. The difference is largely explained by the presence of two individuals who held multiple tax farms in 1670, while the *ulama* and *ashraf* of 1687 were largely investing in one tax farm apiece. A more amorphous group that always had a modest presence were those individuals identified as ‘shaykhs’. The title ‘shaykh’ is slippery, as it can refer to a Sufi master, a headman of a village, the head of a tribe, or an *alim* with a modest position. Of the 3% of people who were identified as shaykhs in the 1670 register, 2 were identified as the shaykh of a village, but it is unclear which subgroup the other three fell into. In the 1687 register, the number of shaykhs owning tax farms had increased to 5%, but the register gives virtually no information about them, only one is described as a shaykh of the district of Zabadani. What is clear is that neither of these groups accounted for a sizeable slice of the tax farming population.

Who then possessed the remainder of the tax farms? The answer brings us back to the protagonists of chapter one, the people of the village. Chapter one demonstrated that assigning tax liability within the village was the uncontested responsibility of the people of the village in this period. Additionally, in the early and mid seventeenth century, they not infrequently bought their own villages’ tax farmed collection rights from the finance ministry. This trend had abated somewhat by the period under study, for the villages themselves had become lucrative commodities that interested many investors, wealthier and better-connected than the villagers. In the 1670 register, only 8 villages were tax farmed by the people of that village. However, there were other tax farms connected with rural production, and in these, the people of the village continued to have an active hand.

These tax farms included holdings described as the cultivated land between two villages, which was frequently jointly tax farmed by the people of those villages; ‘satellite’ farms, that is, a specific expanse of farmland that was cultivated exclusively by the people of a particular village even though it was not considered part of the village lands; and gardens and orchards on the outskirts of the city that were subject to a tithe. The cultivators held 37 tax farms for collection on these small holdings, meaning that in total, cultivators held a full 24% of the province’s rural tax farms. That number had not changed a great deal by 1687, and remained at 22%. Again, most of the tax farms they possessed were for the small holdings, but 7 of these were villages. Interestingly, only 2 of

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<sup>364</sup> A. DFE 186, f. 4

<sup>365</sup> DSC, v. 5, no. 247



those villages held by their own people in 1670 were identical with those that appeared in the 1687 register. Not all of these villages were solely under contract to their people, sometimes the people of the village were named as a partner in a shared arrangement. Qasimiyeh, for example, was under contract in 1670 to “a group of soldiers and others and the *reaya*.”<sup>366</sup> The most complex arrangement of this sort ever to be seen was that of Jaramana in 1687, which described the host of those responsible for the tax remittance as the *ulama* Asad Efendi al-Bakri and Abd al-Rahman al-Qari, the local janissaries Süleyman Tarjumanzade and Murad Serboluk, and the cultivators and people of the village.<sup>367</sup>

In both 1670 and 1687, the people of the village possessed the second largest share in the overall number of tax farms. They possessed more tax farms than the benefice officers, but fewer than the local janissaries. Even when we examine the value of the tax farms for which they were responsible in relation to those held by the combatants, the dominance of the latter was less decisive than we might expect. In 1670, the average tax farmer of a village was responsible for turning over 150-400 qurush to the Damascene treasury. A few villages were worth much more: Kafr Souseh remitted 855 qurush, and Jaramana 666 qurush, but these were the exceptions. The village of Hirjilla, which was tax farmed by the people of the village in 1670 and in 1687, was one of the most valuable tax farms in the province, at 820 qurush.<sup>368</sup> Satellite farms, on the other hand, were typically worth only about 10-30 qurush. While the people of the village were more likely to possess collection rights on farms than entire villages, so were the combatant tax farmers, for the number of satellite farms far outnumbered the villages. Additionally, most tithes on orchards and gardens were held by their cultivators, and the taxes on the produce from these was substantial, ranging from 88.5 to 328 qurush per tax farm.

In summary, the people of the village were an important part of the rural collection market, even though they were becoming increasingly confined to tax farms for satellite farms and tithes on orchards. Put together, the shares of the people of the village, the local janissary regiment and the benefice officers accounted for at least 68-74 percent of the rural tax farmers in the inner subdistricts of Damascus from 1670 to 1687. What these statistics demonstrate is that despite the military fiscal transformation and the growth of tax farming, the primary participants in rural tax collecting were not terribly different than those of more than a century earlier: soldiers and peasants. True, it is likely that more janissaries were involved with the decrease in benefice. In this sense, the group that benefited most directly from the transformation in the late seventeenth century was the local janissary regiment. However, there is no denying that the benefice officers also made out well.

Mehmed Pasha, whose career at the treasury began in 1671 and ended

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<sup>366</sup> MAD 4181, f. 11

<sup>367</sup> MAD 9866, f. 37

<sup>368</sup> MAD 4181, f. 15

shortly before his death in 1716, suggests that the predominance of combatants in tax farming was no accident, but rather a consciously enacted policy based upon the continuing belief that state resources should be distributed first and foremost upon the maintenance on the military, ensuring its strength. However, the tax farming records suggest that most tax farms were held by combatants by default rather than design. As the demography above makes clear, tax farming was not an all-military preserve. On the contrary, the Treasury did not appear to discriminate against bidders from among the *ulama*, and as we saw in the previous chapter, even seemed at times to favor them. In these years, the sale of tax farms was the closest the Ottoman Empire ever came to something like a free market in land revenue contracts. There appeared to be little scrutiny of the buyers; so long as they had the capital for the down payment, a bid was accepted. The tumult of these years, many of which coincided with the war of the Holy League (1683-1699) when the need for cash was dire, is evident in the registers. Some sense of this tumult was conveyed in chapter four by the story of Sahnaya, which changed hands so frequently in the late 1680's and early 90's that no one held the contract for more than a few months at a time. Not all villages were as hard hit as Sahnaya, but there were a number that suffered similar circumstances.

One could point to the rare exceptions to the rule such as Asad Efendi al-Bakri, whose nearly two-decade long monopoly over the tax collecting rights of the mostly Christian village of Jaramana was entirely unique and a testament to his status and power.<sup>369</sup> In 1695, Asad Efendi formally cemented his control over the village's finances by buying its collection rights as a *malikane*.<sup>370</sup> No one else managed such a feat; most tax farmers, if they were lucky, might hang on to their collection rights for a year or two. Likewise, the experience of Hamza Efendi is instructive. Although he demonstrated a remarkable ability to take care of himself, it is certainly understandable why other *ulama* or non-military people were hesitant to get involved in tax farming. Hamza Efendi may have come out on top, but it was at the price of a bad beating and a stint in prison, a prospect that surely had something to do with the prevalence of combatants in tax farming. Military men were not only tough, they lived a life full of insecurity and reversal of fortune. The risks associated with tax farming were never higher than in this period. In the intense competition for the tax farms and the real possibility of not recouping their down payment before the tax farm was awarded to someone else, the majority of people willing and ready to make such a bet on a regular basis were the men of the sword. Still, it would be difficult to argue with Mehmed Pasha that for many soldiers, the extra income was a helpful supplement to their diminishing salaries.

He correctly identifies that with the appearance of the *malikane*, a new

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<sup>369</sup> According to MAD 9866, f. 37, in 1688 Esad Efendi was one of 5 partners that together held the tax farm for Jaramana. But by 1695, Esad Efendi held it alone: MAD 9486 f. 162.

<sup>370</sup> Özvar, 125, 214

class of imperial investors—rich men who were not combatants—had come into existence. The short-term tax farms, whatever evils they might have fomented, had at least tended to benefit military men. More so than before, the *malikane* had severed the connection between rural tax revenues and deserving military beneficiaries. Looking to the data in the 1695 Damascene tax farm register, some new demographic trends are clearly afoot. Unfortunately, the greatest lack of clarity in the register concerns the fortunes of the janissaries because the 1695 register on average gives far less information about the tax farmers than those of 1687 and 1670. Of the roughly 120 individuals named as tax farmers in the register, there are for instance, fifteen individuals identified only as “*agha*” with no indication of which force they belonged to. Even worse, a full 41 individuals with Muslim names have no title at all recorded, rendering it impossible to make even an educated guess regarding the percentage of the rural economy that was dominated by the janissaries.

While the 1695 register is unable to shed a great deal of light on the changing constellation of power between the janissary groups, it is more helpful for identifying other demographic trends. Starting in 1695, the inaugural year of the *malikane*, we find a marked expansion in the numbers of *ulama*, *ashraf* and shaykhs investing in rural tax collection. Together, the *ulama* and the *ashraf* had accounted for only 4% of tax farms in 1687. In 1695, they commanded 11%, more than doubling their holdings. The percentage of tax farmers with the title of ‘shaykh’ also doubled, increasing from 5% to 10%. At least four or so of the 13 shaykhs in the register are tied to learning or to Sufism—there are several references to a Shaykh Murad who may very well be the Sufi master Murad al-Muradi of Bukhara, who was given *malikanes* at the sultan’s order to honor him when he chose to settle in Damascus in the last years of the seventeenth century.<sup>371</sup> Without exception, every single tax farmer in 1690 had been male and Muslim, while in 1696, for the first time ever, we find religious minorities becoming tax farmers: a Christian and a Jew purchased a tax farm together.<sup>372</sup> Demographically, those involved in the rural economy were becoming more diverse. The most probable reason for this newly diverse group of investors was the new security of the asset they were purchasing; with the advent of the lifelong tenure of the tax farm, the prospect of collecting goods or cash from peasant cultivators suddenly looked attractive to a far wider array of social groups with money to invest.

A number of non-military groups clearly gained in terms of their representation, but only one experienced a striking attenuation during this period, namely, ‘the people of the village.’ There is not a single tax farm registered to the people of the village between 1695 and 1702. The collection rights to the village of Qasimiye, tax farmed by its own people since at least 1670, was purchased by

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<sup>371</sup> Karl Barbir, “All in the Family: the Muradis of Damascus,” in Heath Lowry and Ralph Hattox eds., *IIIrd Congress on the Social and Economic History of Turkey* (Istanbul: The Institute of Turkish Studies and the French Institute of Anatolian Studies, 1990), 330

<sup>372</sup> MAD 9486, f. 166

a *sipahi* and a partner in 1698.<sup>373</sup> Tax collection on the farms that were worked by the people of a particular village were now consistently purchased by the same investor who purchased the village, rather than the cultivators. But the most striking discontinuity is in the collection rights for the tithes of orchards and gardens. These relatively lucrative tax farms, previously the responsibility of their cultivators, were grouped together and sold as a single tax farm in 1697 to Ruznamcheji Ahmad Efendi, the account book keeper at the Damascus treasury whom we met briefly in chapter four when he attempted to deliver Sahnaya from the control of Hamza Efendi.<sup>374</sup> The value of this tax farm was a staggering 2,882 qurush yearly.

The people of the village, previously the second largest group of investors, were now completely excluded from rural tax farming. In the wake of the *malikane*, the tax farmers had become as a whole, a far more elite group of people. They were a more diverse set of elite when it came to profession and religion, but they were no longer economically diverse, for everyone was quite wealthy or if not quite wealthy at least prominent and well connected. How did this happen? A straightforward hypothesis would be that because the tax farms of 1695 and afterwards were sold as life tenure tax farms, that villagers were unable to muster the large down payment required to buy the new *malikane*. Down payments on *malikanes* were supposed to be, and often were in fact, close to double the amount of the yearly tax remittance of the farm or village.

However, another factor may very well relate to another part of Sari Mehmed Pasha's critique of the *malikane*. *Malikanes* were awarded, he had maintained, not only to people with money, but to people who had status. In fact, an investor with a great deal of the latter rarely had to part with as much money as a less connected investor. It is clear that a number of *malikanes* were sold wherein the down payment was quite low, sometimes scandalously so. On the enormous *malikane* of orchard tithes mentioned above, Ahmad Efendi paid only 135 qurush as a down payment. Asad Efendi al-Bakri purchased the *malikane* for Jaramana after paying only 365 qurush for a village that annually remitted 710 qurush to the treasury.<sup>375</sup> Even when the down payments were not scandalously low, a number of them were only slightly higher than the amount of the yearly tax remittance, showing plainly that some *malikane* applicants received far better terms than others. These phenomena suggest that being well-connected was a crucial part of receiving a *malikane* contract as well as determining its down payment terms.

Given the new security of the tax farming investment, there were more people with means and/or clout who wanted to become rural tax farmers than in previous years. Competition had been fierce for the short term tax farming contracts, yet the stakes were different. While anyone with cash for a down payment and a willingness to take the risk was able to get the short term

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<sup>373</sup> MAD 9486, f. 170

<sup>374</sup> MAD 9486, f. 164

<sup>375</sup> MAD 9486, f. 162

contracts was guaranteed to obtain a contract at some point, the long term nature of the *malikanes* meant that the commodity of tax farms were about to become far more scarce just as the terms made them more appealing to a wider group of moneyed individuals. Obtaining a *malikane*, especially on favorable terms, almost certainly required connections (and quite possibly bribery). In this new set of circumstances, the modest soldier or villager was at a great disadvantage. It is hard to imagine that someone who did not have a longstanding relationship with the treasury and its officials in Istanbul could have obtained the terms that Ruznamcheji Ahmad Efendi managed to acquire for the orchard tithes. As the example of Ismail al-Azm—explored below—will show, in a number of cases it is known that obtaining a very profitable *malikane* required a patron in Istanbul. This conclusion would also explain the expansion of other demographic groups at the expense of the people of the village. The new stability in tax farming favored the entry of a money elite and its consolidation of the rural tax farms.

Ultimately, the demography appears to corroborate Mehmed Pasha's critique that the *malikane* diverted the rural surplus away from combatants and towards wealthy individuals who would use the surplus returns for their own self-interested consumption rather than the good of the state and body politic. The nature of this critique returns us to the *timar* controversy at the beginning of the chapter. The question of who benefited from *malikane* revenues harkens back to the question of distribution so prominent among the critics of the downsizing of the *timar* system: who deserves to have access to state revenues? The *malikane* has been referred to as a privatization of state assets, a development that was in many ways typical of finance in the early modern period and which proved to be a bridge to capitalism and private property.<sup>376</sup> However, contemporary observers could not have known that the budgetary pain they were witnessing would be the crucible of modern state finance; in the Ottoman Empire as elsewhere such practices had numerous detractors, for whom they signified an imbalance in the affairs of state that was dangerous for the long term. The necessity for plotting a sustainable course of financial action and for not allowing one member of the body politic to prosper at the expense of the others was a high priority for the dissident bureaucrats. If the self-interested actions of any group were not controlled by the head in the interest of all, the result eventually would bring suffering to everyone and paralysis to the state, which would then collapse. The *shariah* not only imposed self-restraint upon individuals, but made it incumbent upon those in positions of authority to restrain soldiers if they abused peasants, or officials if they sapped resources reserved for combatants.

The ways in which the *shariah* was deployed to discuss the legitimacy of tax farming could be quite different one from another. The *ulama*, frequently presumed to be opposed to it, were not in fact the state's main critics. In this

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<sup>376</sup> For tax farming as privatization of state assets and its similarity to trends in countries such as France, see Salzmann, *Tocqueville in the Ottoman Empire*. For the newest assessment of tax farming as the forerunner of private property, see Mundy and Smith, chapters 3-4.

instance, their approach to the question of what the *shariah* allowed was more hospitable to the dynasty's tax collecting practices than that of loyal opponents within the bureaucratic ranks. For that matter, the Damascene *ulama* and the bureaucrats could not even agree over what kind of tax farming was most disturbing. The provincial *ulama* looked askance at renting a *timar*, but the bureaucrats were primarily concerned with the tax farming conducted by the treasury. Both bureaucrats relied primarily, although not exclusively, on ethical arguments that emphasized sustainable production or equitable distribution as the measure of the *shariah's* application. Although one criticized short-term tax farms and the other defended them, both had a similar vision of how the state and its component subjects should work. The *ulama*, although focused primarily on the question of how to apply the categories of jurisprudence to the practices they witnessed, also considered the ethical consequences of tax farming, as the *taqriz* of the *malikane* demonstrates. The issues raised in these critiques shows that contemporary Ottomans could approach the legality of an action in two starkly different ways and come to equally different conclusions about it.

## Part II

The rights over the peasants granted to the *sahib al-ard* and the other various agents who collected rural revenues had one common denominator: all empowered the tax collector to watch over the productive capacity of the land. The question was, what measures did the *shariah* allow state agents to employ in order to keep the land under continuous cultivation? That this necessity was widely conceded is visible first by the universal accord on the majority of administrative rights over the villagers that the *qanun* granted to the *sahib al-ard*. However, consensus disappeared with respect to more coercive rights granted to the tax collectors by the state. Differing views revealed that some believed that the *shariah* stood ultimately for social order and harmony, while others believed that it limited the demands of persons, and the state, upon individuals.

### Uncontroversial Legal powers of Grant Holders and Tax Farmers

We turn now to the *Qanun-i Jadid* and the legal character that it bestows on the *sahib al-ard*. Other than collecting the appointed taxes, the primary right granted to a *sahib al-ard* was that of *tafwid*, or, the power to appoint a new *mutasarrif* when lands on the *timar* became vacant. More than any other, this right defined the *sahib al-ard's* responsibility to watch over the productive capacity of the land and ensure that the land remained cultivated. If a *mutasarrif* died and none of the canonically appointed successors (sons, daughters, brothers, sisters, etc) survived him, then the *sahib al-ard* appointed a new *mutasarrif* and was able to take the fee (called *tapu*) for his recognition of the peasant's new right. If a cultivator died and someone among the appointed successors was present, it was the *sahib al-ard's* responsibility to see that it went to the correct successor according to the line of succession spelled out in the *qanun*. If there were no eligible successors, he could choose whomever he saw fit, although he was

forbidden to give it to himself or to immediate members of his family.<sup>377</sup>

Additionally, if a *mutasarrif* failed to plant the land for three years consecutively, then the land was considered vacant and the *sahib al-ard* also had the right to choose a new *mutasarrif* for it and collect the tapu fee.

In the introductory section of the *Qanun-i Cedid*, Ebu Suud states with regard to transactions between the peasants that “all transactions that are without the *sipahi*’s permission are invalid.”<sup>378</sup> That is, peasants needed the permission of the *sipahi* (the *sahib al-ard*) to attain *tasarruf* in a new location or to renounce the right in favor of someone else. Because *miri* land could not be bought or sold, if a peasant wanted to renounce his right of usufruct and allow someone else to take it, either freely or for a fee, he could do so as long as the *sahib al-ard* gave permission for the transaction, which was called either *firagh/tafarrugh* or *tafwid*, roughly ‘devolution’. Here too, the *sahib al-ard* could take a tapu fee from the new *mutasarrif* for his recognition. These powers over peasant transactions allowed the *sahib al-ard* some control over the allocation of land resources on their *timars*; if a peasant wished to transfer his/her usufruct to a person who was not capable of cultivating, or unlikely to cultivate, the *sahib al-ard* had a right to refuse such a transfer. In this way, he was in a position to oversee the continuity of cultivation that was necessary both for the state coffers and the individual cavalryman. He did not have limitless license to meddle in the mechanics of cultivation, his powers were balanced by those granted to the peasant, who as long as he labored and paid his tax share, was to be left alone.

The Damascene jurists refer to the *sahib al-ard* as the *mutakallim ala al-ard*. Their fatwas are very similar to those in the *Qanun-i Jedid*, affirming that the *mutakallim* of *miri* land is both the rightful recipient of the tax revenues, and the authority invested with *tafwid*. More so than the seventeenth-century Shaykh al-Islams, the Damascene muftis emphasize that the *sahib al-ard*’s right to choose the *mutasarrif* is paired with an obligation to choose as *mutasarrif* someone capable of the labor of cultivation who will keep the land productive.<sup>379</sup> The famous seventeenth-century mufti Ismail al-Hayik says, “*Miri* land is the land of the treasury and he to whom the sultan has appointed its care directs it to those among men who are capable of its good usage.”<sup>380</sup> Moreover, there was no question among the Damascene *ulama* that the *sahib al-ard* must give his consent, explicitly, for a transfer of usufruct between two peasants to be valid. Asked if Zaid the *mutakallim* must give permission for a usufruct transfer in order for it to take effect, the eighteenth-century mufti Hamid al-Imadi answers in the affirmative. He then points to an array of authoritative sources that corroborate this ruling, citing both the local (Abu Suud al-Imadi) with the imperial (Ebu Suud Efendi) alongside the late classic Hanafi authorities (Ibn Bazzaz and Ibn

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<sup>377</sup> The fact that peasants came to the muftis to ask whether this was permissible suggests that it did happen.

<sup>378</sup> MTM, 52

<sup>379</sup> See chapter 2 for a fuller discussion of this phenomenon

<sup>380</sup> Ismail al-Hayik, “Fatawi al-Shaykh Ismail al-Hayik,” Zahiriyah MS 5677, f. 9b

Nujaym).<sup>381</sup>

In a similar vein, those *mutasarrifs* who wished to build a building on *miri* land or reorient the use of the land by planting trees or vines on it required the permission of the landlord. The *Qanun-i Jadid* fleshes out this prohibition, stipulating that when *reaya* fail to get the permission of the landlord and build some kind of building, the *sahib al-ard* has a choice. He can either charge a 'new house' fee (*tam tapusu*) or he can raze it. The same *firman* states that if there was a house in the same place previously that became ruined and was rebuilt, then no fee should be taken.<sup>382</sup> The purpose of requiring permission and a fee is clear: the peasants should be discouraged from building something on productive land if it means a reduction in the amount of land under cultivation. The rule for planting trees and vines is slightly different, as it allows the *sahib al-ard* to destroy the new plants so long as they are not yet bearing fruit and no longer than three years have passed. But if the garden or orchard is older than three years and is bearing fruit, the *sahib al-ard* cannot uproot it, but he can take a tithe from it.<sup>383</sup> Unlike the house, the new vines or trees do not reduce the amount of land under cultivation, and hence are not to be destroyed if they have already become productive. This power to intervene in the freehold property of the peasantry was not altogether undisputed in Damascus, and the nature of the dispute foreshadows those of a more acrid nature. Hamid al-Imadi cites ibn Nujaym as granting the right for peasants to build buildings or plant trees or vines without the permission of the landlord, so long as no damage is done to the *timar*.<sup>384</sup> Implicit in this ruling is the recognition that if the grant holder's revenues are decreased (ie damaged) by peasant action, then the grant holder has the right to intervene. Imadi thereby upholds the *timariot's* concern with maintaining the *timar* revenues as valid and necessary. The question is how much authority over the peasant's actions that the *timariot* needs in order to look after the productivity of the *timar*. Despite this discrepancy, the attitudes on this issue were still extraordinarily similar in Istanbul and Damascus. Ismail al-Hayik writes that *timar* holders or the officer of a *waqf* can take a fair rent value from any building that the peasants build on *miri* or *waqf* land, in a general confirmation that the *sahib al-ard* has a right to benefit from any productive activity on the *timar*.<sup>385</sup>

Grant holders obtained these powers of regulating peasant activities as a rule, but it is unclear if, and under what circumstances, tax farmers exercised these rights over the peasantry.<sup>386</sup> In the Shaykh al-Islams' fatwas, the tax

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<sup>381</sup> *Uqud*, 2:201

<sup>382</sup> MTM, 73

<sup>383</sup> MTM, 87-88

<sup>384</sup> *Uqud*, 2:203 has a *waqf* example as does Hamid al-Imadi, "Fatawa al-Hamidiyah," Zahiriya MS. 5656, f.462a

<sup>385</sup> *Uqud*, 2:208

<sup>386</sup> According to Baki Çakır, there were no 'military privileges' automatically granted to the tax farmers of *miri muqataas*, rather, the tax farmer would include in his bid or



farmer of a *miri* village frequently does have some powers associated with the *sahib al-ard*. The clearest such example occurs in the fatwas of Shaykh al-Islam Çatalcalı Ali Efendi, wherein the mufti rules that if the *mutasarraf* fails to work land for ten years, the '*sahib al-muqataa*' (ie the tax farmer) may legally give the cultivation to another peasant, who after asking the *sahib*'s permission, plants grape vines.<sup>387</sup> This ruling demonstrates quite clearly that a tax farmer could wield a similar status to the *sahib al-ard*: he is shown here exhibiting two of the *sahib al-ard*'s principal powers, that of '*tafwid*' when the land needs a new *mutasarraf*, and that of granting permission for altering the land's usage by planting vines on it.

Furthermore, it is clear from a complaint recorded in a manual for the imperial chancery officials that dates to 1121 H/1709-1710 AD that the tax farmer could be legally recognized as the *sahib al-ard*. The complaint was presented by two peasant brothers who were the joint *mutasarrifs* of land held as a *muqataa*, or treasury administered tax farm. They maintained that the *sahib al-ard*, as the petition refers to the tax farmer, was not content to demand the sum appointed in the tax register (*defter*) but demanded more.<sup>388</sup> The peasants in this instance were from the province of Hercegovina in Eastern Europe.

Because the *sahib al-ard*'s legal powers over the peasantry allowed him to take extra fees from them for usufruct transfers or the erection of unauthorized buildings and the like, the tax farmers had a material reason to desire such powers. We find particular evidence of this in the fatwas that address the situation where a grant holder such as a *timariot* or *zaim* subcontracts revenue collection to a tax farmer. The early eighteenth-century Sheykh al-Islam Abdürrahim has an entire chapter of fatwas titled "when the landlord's *wakil* (agent) makes *tafwid*" that describes disputes arising in these circumstances. Zaid the *zaim*'s village has a *multazim*, Amr, who is permitted to *tafwid* the land that no longer has a *mutasarraf*. If Amr *tafwids* the lands to a new *mutasarraf* and collects the tapu fee, can Zaid the *zaim* take it away from the new *mutasarraf* and give it to someone else? The answer to this question was no, that the *zaim* must acquiesce in the *multazim*'s decision because he permitted the *multazim* to have the power of *tafwid*.<sup>389</sup> For our purposes, it shows that by the early eighteenth century, a tax farmer was legally capable of exercising some of the *sahib al-ard*'s administrative powers as well as collecting taxes. Such powers were neither an exception nor a rule, one fatwa suggests that the *multazim*'s powers were attributable solely to whatever arrangement had been made between him and the *sahib al-ard*.<sup>390</sup> Adding to the confusion was that a different provincial official, the

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petition the powers that he sought to obtain. It is unclear whether by 'military privilege' Çakır refers to the administrative powers of the *sahib al-ard* or other status perquisites associated with the military such as tax exemptions.

<sup>387</sup> Çatalcalı Ali Efendi, "Fetava," Süleymaniye MS Esad Ef. 1072, f. 309a

<sup>388</sup> Anonymous münşeât, Süleymaniye MS. Esad Ef. 3835, f. 111

<sup>389</sup> Abdürrahim, 2:513

<sup>390</sup> Ibid.

subashi, might also have the power to give land and take tapu fees. In one fatwa, a *sipahi*, a *multazim* and a subashi are all present in a village and contend with one another over the appointment of a new *mutasarrif*.<sup>391</sup> In short, while the *timar* or *zeamet* holder remained the *sahib al-ard*, the question of what official could actually exercise the administrative prerogatives, particularly that of *tafwid*, might be difficult to ascertain for all involved. This confusion, resulting from the ability of the grant holders to alienate and sell or rent their perquisites to others, may remind us of another Ottoman military group famous for alienating and selling its legal privileges in this period—the janissaries.

It is difficult to know if the tax farmers in the province of Damascus had these specific powers over their peasants. Sources suggest that tax farmers located relatively further from the provincial center of Damascus, in the Lebanon or Nablus areas, for instance, could be appointed as the administrative leaders of the villages in their tax farms with broad governing rights over the villagers.<sup>392</sup> However, most of these tax farms were located in hard to govern peripheries, not in the rural areas easily accessible to the city. Mundy and Smith, on the basis of the Damascene fatwas, argue that tax farmers in the countryside surrounding the city did not have the rights of the *sahib al-ard* and were not deputized to look after the land and the treasury's interest in it.<sup>393</sup> However, the Damascene muftis address the rights of tax farmers on *miri* land in only a handful of cases, and their verdicts, cautiously expressed and replete with caveats, are at best ambiguous.<sup>394</sup> More convincing is Mundy and Smith's conclusion that tax farmers on *waqf* land had no powers at all over the peasants and were merely tax collectors. Both the Shaykh al-Islams and the Damascene muftis were in agreement that a tax farmer on *waqf* land had no administrative powers.<sup>395</sup> All such powers were reserved for the appropriate officer of the *waqf*, who acted as the *sahib al-ard* upon the land and looked after its long term productivity on behalf of the primary beneficiary, the *waqf*. On *waqf* land, the tax farmer was to

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<sup>391</sup> Ibid. 2:514

<sup>392</sup> Nagata ed., 89. According to Furuk Hublus similar documents inscribed in the court records of the neighboring province of Tarablus show that tax farmers had administrative rights in many areas on the coast and in the Lebanon mountains. See idem, "Nizam al-iltizam wa ishkaliyah al-ta'ifiyah al-siyasiyah," in Mohammad Afifi et al. eds., *Sociétés rurales ottomanes/ Ottoman Rural Societies* (Le Caire [Cairo]: Institut Français d'Archéologie Orientale, 2005), 41-42.

<sup>393</sup> Mundy and Smith, 25

<sup>394</sup> Ibid. Mundy and Smith themselves acknowledge that while one fatwa appears to allow that a *malikane* holder has some sort of governing right, another suggests otherwise. Among the fatwas, my personal favorite is a ruling by Muhammad Efendi al-Imadi, who is asked "If Zaid holds a piece of land via *malikane*, and the *nazir* of a *waqf* claims that [the land] is currently [held] by the *waqf*, who has the power of its oversight (wilayat al-khusuma)?" To which Muhammad Efendi cryptically replies "The oversight in *miri* land is for he whom the sultan, God grant him victory, has appointed. And God knows best." See idem, "Nur al-Mubayn," Zahiriyah MS 7508, f. 72b.

<sup>395</sup> Abdürrahim 1:397; see note above for Damascenes

collect the appointed taxes in an orderly way and otherwise refrain from interfering with the peasants.

Whether or not the tax farmers on *miri* villages held exactly the same powers as the *sahib al-ard* or were in some cases the actual *sahib al-ard*, there is indisputable evidence in the tax farming records from the 1610s-1630s that the Ottoman treasury officials looked to this group to perform a similar service: in addition to collecting taxes, they were obliged to look after the villagers, see that they were able to cultivate, and to provide them with security. Almost as a matter of course, tax farmers of *miri* villages in the near vicinity of the city were given the contract under the explicit order told to acquire seed, dispense it to their villagers and to see that the villagers went about the business of planting secure in their persons and property.<sup>396</sup> Another condition frequently attached to the bestowing of a tax farm contract is the tax farmer's obligation to take a village that is described as either weak or having fallen into ruin, and making it "populated and flourishing" once again.<sup>397</sup> Whether or not these obligations were accompanied by any legally enforceable rights over usufruct transfer, they were unquestionably connected to the need to promote productivity on the land. Hence, whatever his legal position, the tax farmer was generally entrusted with the task of making sure that the land was sown and the revenue base remained stable, and in this sense he functioned much like a *sahib al-ard*.

In review, the principal rights of the *sahib al-ard* granted in the old *qanun* and reaffirmed and often more precisely defined in the *Qanun-i Jadid* were the power to collect taxes; the power to recognize a new *mutasarrif* when land was vacant; the power to approve a transfer between cultivators; and the power to approve a change in usage of the land. No one, either bureaucrat or *alim*, Istanbulite or Damascene, contested any of these rights. The Damascene muftis, who protested the taking of any fees from the peasants that had no place in the *shariah*, did not at any time protest the right of the *sahib al-ards* to take the fees in the circumstances specified above; quite the opposite, Hamid al-Imadi specifically approved them and noted that all muftis, whether Damascene or imperial, were in agreement of the lawful nature of the fee. Tax farmers, whether they wielded these rights or others, were also charged with ensuring productivity. Their contracts were granted on the condition that production flourish under the tax farmer. Taken together, these facts show a wide consensus across the Ottoman Empire that maintaining productivity levels was the job of the tax collector, and that he had some amount of authority over the villagers to ensure productivity of the land. To this end, both muftis and bureaucrats, imperial and local, judged such powers to be appropriate and consistent with the *shariah*. Additionally, the *sahib al-ard* retains two other rights that we will discuss below.

### **Legal Opposition to the Rights of the *Sahib al-ard***

Far more controversial than the legality of tax farming were two rights granted to

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<sup>396</sup> e.g. Nagata ed., 95, 96, and 98, 109

<sup>397</sup> e.g. Nagata ed., 281 and 113 for the village Kafr Tuffah.

the *sahib al-ards* in the old *qanun* and reaffirmed in the new: the first of these was the taking of the 'plough breaking' fee levied on peasants who did not plant the fields under their care (Turkish: *çift bozan resmi*, Arabic: *rasm kasr al-feddan*). The second was the forcible resettling of the peasants back in their original villages if they ran away and attempted to settle elsewhere.<sup>398</sup> The *sahib al-ard* had only ten years in which to exercise these rights after which, if he had not located his runaway peasant or collected his fee, he could no longer make any demand on the peasant. While the Damascene muftis abhorred these practices, the *Qanun-i Jadid* was clear in embracing their legality. One of the *Qanun-i Jadid*'s few *firmans* that dates to the second half of the seventeenth century is the 1071/1660 *firman* that introduced updated rates for the *chift bozan resmi*.<sup>399</sup> The primary question in this controversy is how much coercive power the dynasty could grant its administrators in order to secure that the land would remain under cultivation at all times. From the standpoint of the treasury bureaucrats and other proponents, these two measures were fully in line with the other powers given to the *sahib al-ard* that were defined above: they gave the *sahib al-ard* the necessary tools to ensure the land's continuous productivity year after year. For the Damascene *ulama*, these measures were needlessly oppressive and entirely incompatible with the *shariah*.

The "plough breaking tax" was allotted to the *sipahi* because he was in effect penalized if his peasants failed to produce. Without their tax revenues he would not have the means to equip himself for war; the war effort would suffer as a result. It was therefore seen as a justice to the *sipahi*, who had to do his own duty to the state (going on campaign) whether or not the peasant did his (planting and harvesting). A similar logic underlies the power to repatriate runaway peasants. As Katib Çelebi explains, the *reaya* are the source of the state's wealth, and as such, they cannot be permitted to leave their appointed villages, especially if they attempt to move to the city and take up other occupations. "If a *reaya* of one place escapes oppression and comes to a different place, that place's hakim (ruler or judge) must send him back again to his original place, in order that the country (*memleket*) not be ruined."<sup>400</sup> As far as Katib Çelebi was concerned, the *reaya* were a formative part of the state. He likens the role of the peasants to black bile, which in medieval medical theory filled the stomach and gave the body energy. The part which the peasants play in the political life of the protected domains is that they supply the treasury and make possible the state's military activities. Also, keeping the social ranks distinct so that each person

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<sup>398</sup> Such powers over the cultivators resemble those of the feudal lords of Europe, some of which were applied throughout the eighteenth century. Alexis de Tocqueville recounts that in the German states in 1788, peasants were forbidden to leave their lord's estate. If they did so, they could be pursued and forced to return. See idem, *L'Ancien Régime et la Révolution* (Paris: Michel Lévy Frères, 1857), 58

<sup>399</sup> MTM, 111

<sup>400</sup> This line is identical in Hüseyin Hezarfen, 273 and Sarı Mehmed Pasha, *Zübde-i Vekayiat*, 119

knew the nature of his political obligation was an oft-expressed priority in the political literature. If peasants became urbanites or soldiers became tradesmen it was unclear what obligations each person had to the state, which could end only in the state's paralysis. Abou-El-Haj has pointed to such sentiments as evidence of an elite class feeling threatened by upstarts.<sup>401</sup> Nevertheless, political commentators such as Katib Çelebi saw social mobility and arrivistes not as simply a personal threat but a threat to the state and order, peace and security in general.<sup>402</sup> Therefore, they reasoned, the *reaya* must stay where they are for everyone's benefit, including their own.

Katib Çelebi asserts that in Süleyman's time not even one village was allowed to become ruined; he finds this fact to exemplify of the wisdom and good management of that era's policy decisions.<sup>403</sup> There were pragmatic considerations that buttressed Katib Çelebi's belief that this policy was the best path to solvency. The *qanun*'s emphasis on keeping peasants quite literally in their places should be understood as the continuing priority of maintaining the viability of each village as a financial unit. In order for the treasury to function optimally, each village had to be able to remit the taxes assessed upon it. The question for the Ottoman treasury officials was this: if a village was ruined or too de-populated to pay its full share of taxes, where was the shortfall going to made up? If the villagers abandoned the village, it was far easier to bring them back rather than to reapportion the tax liability by reducing it in one area and then attempting to raise it somewhere else. Tax registers could not be updated at frequent intervals to correspond to major fluctuations in peasant movement; detailed revenue surveys took time and were costly.

The practical limitations on the treasury meant that if a village population disappeared or through attenuation was unable to meet its full assessment, the shortfall would not be made up some other way, it would simply be lost. Hence, rather than dealing with changing population figures in the village, it was simply more efficient to try to see that as little population change as possible took place.

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<sup>401</sup> Rifa'at Ali Abou-El-Haj, "The Ottoman Nasihatname as a Discourse over 'Morality'," in *Mélanges, Professeur Robert Mantran*, ed. Abdel-jelil Temimi, (Zaghouan, Tunis: Centre d'Études et de Recherches Ottomanes, 1988).

<sup>402</sup> Similar fears were present in other Ancien Regimes. In 1633 an anonymous treatise was published in Spain maintaining that the kingdom's economic situation was threatened by the high number of Spaniards learning to read and write rather than engaging in profitable activities like trade and farming. Historian Fernando Bouza interprets this treatise as exhibiting anxiety over the social changes wrought by rising literacy; he is undoubtedly right, but I am struck by the author's belief that the result of literacy will be financial ruin of the kingdom. The fear that the author articulates in his defense of a traditional social hierarchy is not that he will lose his privilege, but rather that the eradication of that hierarchy will be the end of order itself. Fernando Bouza, *Communication, Knowledge, and Memory in Early Modern Spain*, trans. Sonia Lopez and Michael Agnew, with a foreword by Roger Chartier, (Philadelphia: University of Pennsylvania Press, 1999), 47

<sup>403</sup> Katib Çelebi, *Düstûr el-'Amel*, 127

The tax farming contracts are a superb witness to the measures that Ottoman financial officials deemed feasible for dealing with a depleted tax base. Numerous tax farmers were charged with the responsibility of rounding up peasants who had run away and resettling them in the village in addition to providing seed for the villagers to sow, and seeing to it that they cultivated.<sup>404</sup> Each village, forming the base of the treasury's revenue, had to be maintained and populated in order for the treasury to flourish.

From Katib Çelebi's point of view, wherein the *shariah* enjoined political participation upon each individual in the way appropriate to his place within the political entity, there was no conflict between *shariah* and powers such as that of runaway peasant repatriation. Again, such an understanding was based on an ethical interpretation of the *shariah*, and a belief that it would not foist standards upon the state that were so onerous that the state's well-being would be imperiled. It is clear that some *ulama* saw it likewise; the venerable mufti of Skopje, Pir Mehmed Efendi threw his support wholeheartedly the plough breaking fee, while the *Qanun-i Jadid* associates the names of Ebu Suud and various other muftis in support of forcible repatriation.<sup>405</sup> Yet for Ebu Suud the matter was not one of ethics alone, for his own particular mission was to square state practice with the requirements of Hanafi jurisprudence. As was previously noted, the mainstream of Hanafi thought agreed that *miri* land was the land that belonged to the treasury and was administered by the sultan for the benefit of the Muslim community. By the sixteenth century the jurists of the Hanafi school largely considered the rights and responsibilities of the sultan and the peasantry on *miri* land to be analogous to those of a landlord and tenant. In theory, *miri* land was administered by the sultan for the benefit of the Muslim community, and the sultan was therefore analogous to a landlord, while the peasants were analogous to renters. Many jurists referred to this arrangement as a defective lease (defective in that the number of years in which the peasant was to rent were unspecified, as was the amount of the rent) but they accepted it.<sup>406</sup>

While Ebu Suud applied this rental metaphor in his earlier work, his later work abandoned it. The peasants did not rent land from the treasury, rather, the sultan had loaned its usage to them by way of a revocable loan.<sup>407</sup> As we will see, what appears to be a minor change in the formulation turned out to have significant consequences for the state's powers over the peasantry. This move was in keeping with Ebu Suud's general objective of broadening the possibilities for state action within the framework of jurisprudence, which we encountered already in chapter two. Just as Ebu Suud had carved out a terrain through the concept of *miri* land that was not subject to the taxation limits on freehold land, he

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<sup>404</sup> e.g. Nagata ed., 95, 96, 98

<sup>405</sup> MTM, 112

<sup>406</sup> Baber Johansen notes that Qadikhan (, *The Islamic law on land tax and rent: the peasants' loss of property rights as interpreted in the Hanafite legal literature of the Mamluk and Ottoman periods* (New York: Croom Helm; New York: Methuen, 1988), 100

<sup>407</sup> Imber 123, Mundy and Smith, 16

described the relationship between the treasury and peasants in such a way that it would not be subject to Hanafi rental law. In both cases, the result was that the sultan had more leeway to legislate as he saw fit, or (more often) to validate longstanding custom deemed to be favorable to administration. Like other imperial bureaucrats, Ebu Suud and his successors in the office of Shaykh al-Islam were not averse to taking into account the idea of what was feasible for the state, and by extension, what was in the interest of the community of Muslims as a whole. Not surprisingly, Katib Çelebi was an admirer of Ebu Suud and wrote that he and Kemal Paşazade, “harmonized most of the man-made legislation of the Ottoman State with the sacred law, and remedied the defects in both the civil and religious administration. Thus they put the state in order.”<sup>408</sup> In general, the Hanafi rite was known to be more open to facilitating temporal authority than other rites; it was for this reason that the dynasty has chosen it as the official rite of the empire.

It bears mentioning that the Ottomans were not the only Muslim dynasty convinced that some amount of peasant coercion was in conformity with the *shariah* so long as it was aimed at ensuring cultivation. The Mughal emperor Aurangzab (r 1660-1707) instructed his officials to admonish and beat peasants that neglected their fields “if after inquiry it is found that, in spite of their being able to till and having had rainfall, they are abstaining from cultivation.”<sup>409</sup> The anonymous commentary upon Aurangzab’s order explains the rationale for such coercion in words that might have come straight from Katib Çelebi or Sarı Mehmed Pasha: “This second clause proves that the only business of peasants is to cultivate and so pay the revenue of the State and take their own share of the crop...And threatening, beating and chastisement are [ordered] with this view that, as the king is the owner, [and] always likes mercy and justice,--therefore it is necessary that the ryots too should, according to their own custom, make great exertions to increase the cultivation, so that the signs of agriculture may daily increase. This is the cause of the gain of the State and the benefit of the ryots.”<sup>410</sup> As in the Ottoman case, the commentator affirms that the *reaya* (ryots) needed to do their duty not only for the good of the state, but also for themselves. Later in the same text Aurangzab proclaims, “If anybody leaves his land untilled, in spite of his ability to till it and the absence of any hindrance, then take the revenue [of it] from some other [field in his possession.]”<sup>411</sup> This order mandates a tax extremely similar to the ‘plough breaking tax’ of the Ottomans and suggests a similar purpose: cultivators who have land at their disposal and do not plant it must be fined to create an incentive to plant. It bears mentioning that the text in which these orders appear is extremely concerned with putting all aspects of rural administration in conformity with the *shariah*. The similarity between the Ottoman and Mughal conceptions of the latitude allowed within the *shariah* for

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<sup>408</sup> Katib Çelebi, *The Balance of Truth*, 128

<sup>409</sup> J. Sarkar, *Studies in Mughal India*, (Calcutta: M.C. Sarkar, 1919), 171

<sup>410</sup> *Ibid.*, 171-2

<sup>411</sup> *Ibid.*, 179

looking after the 'gain of the State and the benefit of the ryots' is striking. It suggests that among the political elite across the Islamic oecumen, there was a consensus that the *shariah* did not forbid the state from exercising such powers, whatever the *ulama* might say to the contrary.

There is no question that fining the villagers for 'plough breaking' and the repatriation of runaways were both practiced in Damascus throughout the seventeenth and eighteenth centuries. There are a number of cases that reached the Damascus *Shariah* Court pertaining to the right of the *sahib al-ard* to force a peasant to return to his village of origin and to fine them for lack of planting. In all the cases that came to court from the 1680s to the 1720s, the statute of limitations had expired. In one case Uthman Aga, the *sipahi* of the village of Ayn Hur in the *nahiye* of Zabadani just to the city's northwest, harassed the family of Mikhail walad Ibrahim, whose members claimed several generations of residency in Damascus. As seems to have been uniform in these circumstances, the burden of proof was on the *sipahi* to show that the people in question actually had resided at one point in the village. In the case of Ayn Hur, the judge told Uthman Agha to produce either a witness or the sultan's *defter* to prove his claim, but the *sipahi* was able to do neither, and after having already lost a previous case he had brought against Mikhail's family, he was forbidden once again from interfering with them.<sup>412</sup>

In a more complex example, the *sipahi* of Ayn Hilya, a village in the Biqa' Valley, accompanied to court a peasant named Ferhat who claimed to be resident in the town of Tarhim. Ferhat said that both he and his father had been resident in Tarhim for more than fifty years. The *sipahi* conceded that Ferhat and his father had not lived in Ayn Hilya for fifty years, but insisted that Ferhat's father was inscribed in the sultan's *defter* as a resident of the village of Ayn Hilya. The judge then counseled the *sipahi* that by his own admission, fifty years having passed, he had no right to demand repatriation or the *çift bozan resmi*. However, he adds that if it is proved that the father's name is indeed in the *defter*, then the *sipahi* could take a tithe and *resim* (scheduled fees) from the father and son, according to the Ottoman *qanun*.<sup>413</sup> If the ruling seems somewhat contradictory, it is because the judge adheres scrupulously to two important principles of Ottoman governance. On the one hand, the statute of limitations had passed, limiting the *sipahi*'s demands on the peasant. Nevertheless, the judge refused to quibble with what was in the *defter*, which remained the ultimate authority in tax liability. If the name is there, he rules, then the *sipahi* can demand the yearly taxes to which he is entitled. It is worth remarking that the judge could have ruled that one right negates the other, and Ferhat's residence elsewhere for fifty years frees him of any obligations to the *sipahi*. However, Ottoman judges generally interpreted two rights as being compatible whenever possible, especially when a revered authority such as the sultan's *defter* was invoked.

Mundy and Smith argue that Damascene mufti opposition to these rights of

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<sup>412</sup> DSC v. 18, f. 19, n. 34

<sup>413</sup> DSC v. 20, f. 70, n. 238



the *sipahis*, while always present, escalated during the eighteenth century.<sup>414</sup> What is crucial to understand is that the newly embittered denunciations of that century occurred during an era when attempts to repatriate peasants became more widespread in the province. Rafeq has documented that across the eighteenth century, the judges continued to hear cases brought by *sipahis* and *zaims* against runaway peasants.<sup>415</sup> The appearance and proliferation of the *Qanun-i Jadid* from the 1720s onward, with its unequivocal support for these practices, may have meant that judges were more consistent about their application than in previous centuries. In the eighteenth century, any number of people who had a vested interest in the peasant's tax payer status might come to court demanding that a peasant return to his previous abode, whether it be fellow villagers, *waqf* administrators or a *sipahi*.<sup>416</sup> In the late seventeenth century, not only did *sipahis* and village headmen in the vicinity of Damascus attempt to levy the tax and forcibly return the peasants, but on at least one occasion, the muteveli of the Umayyad Mosque *waqfs* tried to charge the 'plough breaking fee' from a villager; the judge ruled for the peasant because the *mutawalli* had no proof to support his claim that the man had ever resided in the village or owned any property there.<sup>417</sup> Tax farmers, as noted above, also had such powers and were empowered by their contracts to find and resettle peasants who had become "scattered" prior to their administration of the tax farm.<sup>418</sup> If anything, the right to seek repatriation of peasants seemed to have moved from being a right of the *sahib al-ard* to a generally established right of anyone who was affected by the attenuation of the village tax roll. The Damascene *ulama* found it to be extremely heavy-handed and tyrannical, but it is important to note that on this issue they could find themselves in opposition to the majority of the province's rural residents, as was noted in chapter one. Because the villagers shared the tax obligation collectively, the remaining villagers had to pay more money if their co-villagers left and reduced the number of those sharing in the tax liability. It was therefore in the interest of the villagers, as well as *sipahis*, tax farmers or other administrators, to see that everyone stayed put.

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<sup>414</sup> Mundy and Smith, 32-37

<sup>415</sup> Abdul-Karim Rafeq, "The Syrian 'Ulama', Ottoman Law and Islamic Shari'a," *Turcica* 26 (1994): 22-3

<sup>416</sup> Ali al-Imadi, "Nur al-mubayn", *Zahiriya* MS 7508, f. 69b cites an instance where the judge hears the complaint of a shaykh of the village that tries to have a peasant returned. The judge rules for the peasant when the latter takes the oath that he has been gone for fifteen years, hence, it is beyond the statute of limitations for repatriation. The mufti, Ali al-Imadi, confirms the judgment. He gives a similar ruling on f. 68a, when the 'ustadh' or headman of the village attempts to have a peasant returned to his original location.

<sup>417</sup> DSC v. 20, f. 66, no. 221. The fact that the mutewali did not attempt to have the peasant forcibly returned in addition to levying the fee suggests that he knew something about the legal limitations: the *qanun* specifically exempted peasants on *waqf* land from the repatriation law, see MTM, 305

<sup>418</sup> e.g. Nagata ed., 98 for the village of Ghuzlania

As unpopular as these policies were with the local *ulama*, they continued to be enforced in Damascus, leaving a trail of voices deploring them across an expanse of three hundred years. Examining the commentary of Ibn Abidin in the early nineteenth century upon the late seventeenth-century text *al-Durr al-Mukhtar* by Ala' al-Din Haskafi, we find a convenient summary of this three hundred year conversation. Haskafi writes that forcing payments from peasants who did not plant, or forcing them to reside in a specific place and to cultivate there, is "forbidden (*haram*) without a doubt".<sup>419</sup> He points to several other *ulama*, all of whom find a common precedent in Ibn Nujaym's *al-Bahr al-Ra'iq*, which Haskafi here quotes: It has come to pass that Egypt is no longer *kharajiyah* but rather rented, so there's nothing [assessed on] he who did not plant and is not a tenant, and he cannot be forced to relinquish [such a payment] so that what the oppressors do in terms of damage thus is haram, especially if [the peasant] wants to pursue knowledge.<sup>420</sup>

Ibn Abidin further clarifies Ibn Nujaym's explanation, stating categorically that these practices are haram: state interest does not necessitate them, nor do they conform to Hanafi jurisprudence, in particular rental law. First of all, he says, such measures are not necessary to ensure the productivity of the land. Earlier in his commentary, he affirms that the sultan has the right to see that *miri* land remains productive. He notes with approval that the *qanun* allows for the sultan to appoint someone else as the *mutasarrif* of *miri* land if a cultivator fails to plant it for three consecutive years.<sup>421</sup> He returns to that point, noting that if the land is not under cultivation there is no need to punish the absent or unproductive peasant, the sultan or his agent can give its care to someone else who will plant it. He also notes that the land in question is not liable for *kharaj muwazzaf* but for *kharaj muqasam*. This distinction is necessary because, as Khayr al-Din Ramli concedes, peasants are indeed liable for paying their taxes in full whether or not they actually plant when the tax assessed is *muwazzaf*.<sup>422</sup>

But the final reason he gives is that land that belongs to the treasury is rented to its peasant cultivators for the price of the tax on crops. This amount, like all rents, can only be charged of someone who meets the definition of actually using the rental property in question. That is, if there is no contract that shows that the peasant has undertaken to be a renter, then he must be involved in the activity of cultivation that substitutes for a contract, and for whose usage he can be charged. If he has neither a contract nor actual usage of the property, he cannot be charged for renting it.<sup>423</sup> The proper relationship between the treasury

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<sup>419</sup> *Hashiyat*, 12:708

<sup>420</sup> *Hashiyat*, 12:709

<sup>421</sup> *Hashiyat*, 12:675

<sup>422</sup> Khayr al-Din al-Ramli, *Fatawa al-Khayriyah li-naf' al-bariyah* (Bayrut: Dar al-Ma'rifah, 1974), 1: 96. The reason for this is that *kharaj muwazzaf* is a tax on cultivators, regardless of what they produce. *Kharaj muqasim*, on the other hand, is a tax levied on the produce itself. If there is no produce, there can be no tax.

<sup>423</sup> *Hashiyat*, 12: 708-9

and the peasant is, contra Ebu Suud, still one of rent. The consequence of defining that relationship in such terms is that the landlord's rights are constrained by rental law. The state or agents acting on its behalf had no more right to the wealth of the peasantry than a rental property's owner had to the wealth of his tenant. Furthermore, the state had no right to force a peasant into renting the land and plowing it; neither could it punish him for declining to do so.

Ebu Suud's contention that the peasants are not really renters but rather holders of usufruct through a revocable loan never found any adherents in Damascus. If Ebu Suud had hoped to fend off legal challenge to the *chift bozan resmi* inherent in the concept of rent that was the dominant Hanafi paradigm he did not succeed. In other words, unlike the example in chapter two, the Damascene muftis refused to concede that the sultan had authority to make his own rules on this issue that diverted from precedent. Unlike the right of women to succeed to usufruct, the right of the *sahib al-ard* to forcibly return his peasant and charge him a fee for not planting never received sanction in the academic tradition of the Hanafis of Damascus. The sultan could make it incumbent on the judges to hear such cases, but he could not force the jurists to accept it. The latter were united in rejecting it, and all of them considered it oppression to force anyone to live in a place against his will. Especially, as Khayr al-Din al-Ramli pointed out, if he had left his village of origin to escape oppression.<sup>424</sup> There is some temptation to see this matter as one wherein the *ulama* of Damascus resisted the rapacious grasping of the center, as Baber Johansen's famous study of this doctrine maintains. Johansen writes, "In this relationship between the peasant and the state the last vestiges of the legal emancipation of the peasants that must have been connected with the old Hanafite doctrine on tax and rent can still be found."<sup>425</sup>

On the other hand, we must consider the fact that the Damascene villagers were often allied with the rapacious center rather than their runaway colleagues. Additionally, there is the question of who in this equation represented the center and who represented the periphery. The Damascenes were, on this matter, entirely within the mainstream of Hanafi thought. It was the imperial muftis who had tried, and in this instance, failed, to move the currents of Hanafi thought towards justifying imperially sanctioned norms. The imperial *ulama*'s sanction of such practices remained peripheral to Hanafi opinion; moreover, it is nearly certain that later Shaykh al-Islams were aware of the marginality of Ebu Suud and Pir Mehmed's justifications, just as they were familiar with the work of their eminent Arabic speaking colleagues. The broad nature of Hanafi discontent with these practices had implications for the future, albeit not until the middle of the nineteenth century.

Never in this acrimonious disagreement did the Damascenes question the need for overseeing continuous productivity of the land. The meaningful distinction that they made is that the need to ensure productivity of the land

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<sup>424</sup> *Hashiyat*, 12:708

<sup>425</sup> Johansen, 101

should not extend to forcing individual peasants to produce in specific locations. The first argument Ibn Abidin employs in his analysis above is directed at dispelling the argument of Katib Çelebi and Ebu Suud that the two controversial powers are necessary for ensuring productivity: the country will not be ruined by a mobile peasantry, for someone else can always be found to keep the land busy. Here, Ibn Abidin follows no less an authority than Ibn Nujaym, who deems it appropriate for the sultan to delegate the land to someone who is able to plant if its current holder cannot make use of it himself. Ibn Nujaym concedes, far more explicitly than his later Hanafi colleagues such as Haskafi and Ibn Abidin, that keeping the land busy is a matter of critical importance: “There is a general benefit for the Muslim community in *kharaj* (the tax on agriculture), and if it’s attenuated, there is a general harm to the Muslim community. Hence it is permitted to deflect such harm by renting the land [to someone else] or giving it to sharecropping.”<sup>426</sup> The land should remain under cultivation for the good of all, but the state’s power to delegate the land to some other peasant is, in his view, sufficient to deal with that issue. Realistically, the state does not need further powers to ensure that the land remains active, for the power of delegating usufruct suffices. Suggesting that he did not believe a labor shortage to be a real possibility, Ibn Nujaym suggests that there is always a peasant willing and able to cultivate more land.

The jurists conceded the necessity of peasant labor for the survival of the state and the common good. There is no question that the dissenting jurists were prepared to admit the validity of the state’s concerns for the revenues, and that the ultimate desire of the state—continual production—was entirely reasonable. The question was one of what was an appropriate response. The Damascenes insisted that state’s compelling interest in the productivity of the land could be accommodated without undue coercion. Furthermore, they did not agree that there was any duty—political, ethical or otherwise—of the peasant to sow and harvest: the peasant was free to sow or not to sow, and the state was not allowed to compel him.

As noted above, the criticism in Damascus became more strident starting in the late seventeenth century and continuing into the eighteenth as the power to repatriate peasants expanded. Martha Mundy and Richard Saumarez Smith’s analysis of this phenomenon amply demonstrates the jurists’ new concern with elaborating on the nature of the freedoms guaranteed by the *shariah*. No one, the Damascene muftis proclaim, including the sultan, had the right to stop another person from living wherever he or she wished to reside, or to insist that he or she follow one profession instead of another.<sup>427</sup> It is an individual’s God given right—be he Muslim or otherwise—to make such basic decisions about his life. Some muftis go so far as to maintain that freedom of movement is a right

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<sup>426</sup> Zayn al-Din ibn Ibrahim ibn Nujaym, “al-Tufah al-Mardiyah fi’l-aradi al-Misriyah,” in *Rasa’il Ibn Nujaym*, ed. Khalil Mays, (Bayrut: Dar al-Kutub al-‘Ilmiyah, 1980), 53.

<sup>427</sup> Mundy and Smith, 34-37

positively established in Islamic thought and history.<sup>428</sup> What is strikingly new in this discourse is that in no previous century had jurists gone so far in defining the right to be left alone or elaborated at such length on rights intrinsic to human beings that the state was not to violate. Such developments speak to the commonalities of early modern transformations and their consequences. It was in similar circumstances at roughly the same time that doctrines of constitutionalism and nascent discussions of liberty arose in Western Europe, as reactions to newly invasive powers assumed by increasingly powerful states.<sup>429</sup> In the Middle East, those concerned about the abuse of the state's subjects insisted that state power be confined to the powers granted by the contractual framework of rental law. Such developments are highly reminiscent of the role of contract law in European history, which gave shape to a newly ascendant paradigm of subject and state relationships in Europe.

The tension between these two conceptualizations of peasant labor and the state's permissible demands upon it found no easy resolution. There was no bridging of the gap between these two positions in the period under study. Steadfast in the belief that both jurisprudential and ethical arguments supported the plough breaking fees and peasant repatriation, the dynasty's policy of enforcement quietly ignored its critics, while the critics thundered but effected no change in dynasty policy. Although the Damascene critics may have had little impact in the seventeenth or eighteenth centuries, their arguments were widely known, and would inform a key element of reform in the 1858 Land Code.<sup>430</sup> In that landmark legislation, all of the powers over the peasant that had belonged to the *sahib al-ard* were assigned to the newly professionalized corps of salaried treasury officials. Hence, even as legal evolution turned from treasury ownership towards private property, the necessity of state oversight of productivity at maximum capacity was affirmed. Only two of the *sahib al-ard's* powers were not granted to the treasury officials: the power to fine the peasant for not cultivating, and the power to return runaway peasants to their village of origin. The oppositional Hanafism of the Damascenes, steadfast in its insistence on the limits of the state's powers over individual cultivators, paired well with the liberal sensibilities of the empire's legal reformists. In a reversal of fortune rarely found in the imperial legal tradition, the 1858 Land Code abandoned Ebu Suud for Ibn Nujaym.<sup>431</sup>

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<sup>428</sup> Mundy and Smith, 35-6

<sup>429</sup> This instance speaks to the thesis of Baki Tezcan; there is no question that the Damascene *ulama* saw the *shariah* as forbidding the unwarranted powers over the peasants that the state claimed for itself.

<sup>430</sup> Mundy and Smith, chapter 4

<sup>431</sup> However, anecdotal testimony from many parts of the Ottoman Empire suggests that the landlord class that survived (or was incidentally created by) the 1858 Land Code continued to force peasants back to their villages if they tried to leave. According to the novelist Yaşar Kemal, such peasant repatriation was still practiced in Anatolia well after the founding of the Turkish Republic. See his popular novel, *Ince Mehmed*.

## Conclusion

As should be clear, concern about the Ottoman state's compliance with the *shariah* was not limited to the *ulama*, but widespread among men of state. Nor did adherence to the *shariah* appear only in texts criticizing state actions and seeking to abolish them. It appeared in the defense of controversial practices as well as in their critique. It is interesting to note that both the *ulama* of Istanbul as well as the bureaucrats supported the strong arm rights of the tax collecting class, finding reason both in jurisprudence and in ethical considerations for their position. That is, there was not an *ulama*/bureaucrat divide so much as a Damascus versus Istanbul approach. However, the scrupulousness that the Damascene muftis showed in adhering to the main currents of Hanafi thought are not very accurately described by the term 'conservative', for if anything they took a turn towards the liberal, becoming more insistent that the state had no right to interfere with basic, God-given rights of cultivators. Their arguments too were both juridical and ethical.

I have also argued that the disagreement of the Damascene muftis should not be emphasized without also pointing out the extent of harmony and overlap. Ottoman legal practices were not, at least in regard to rural administration and taxation, considered illegitimate in Damascus. The primary rights of the *sahib al-ard* were quite acceptable to the muftis. The practice of tax farming, for the most part, was also acceptable. It was only on the issues of forcible return and plough breaking fees that real opposition manifested. All things considered, it would seem that the legality of Ottoman rural taxation was a domain characterized by a broad consensus. Perhaps most importantly, the belief that the state did have a legitimate need to oversee the productivity of land was common to all. The *ulama* of Damascus, strong believers in the value of law and order, had no desire to undermine the state even when they felt the responsibility of protecting the *reaya* from encroachments on their rights.

## Chapter Four

Much of the revenue produced by the lands around Damascus went not to the state treasury but to the thousands of *waqfs*, or endowments, of the city and province. Although the proceeds of a *waqf* could be used to support the family of the endower, the kind of *waqf* we will be dealing with in this chapter is what is usually called a 'charitable *waqf*', wherein the endowment of a productive resource supports a particular enterprise that benefited the Muslim community. Mosques, schools, hospitals, soup kitchens, caravanserais, public drinking fountains, and any number of other institutions were funded by charitable *waqfs*. In the Ghuta oasis that surrounded the city, a large amount of the fertile land was held as *waqf*. These revenues supported a number of institutions that were essential to civic life in Damascus. The poor, the sick and the needy benefited from them, as did travelers and ordinary men and women. Arguably, the primary beneficiaries were the *ulama*, the men of learning whose scholastic and pious activities were by and large funded by the charitable *waqfs*. This chapter will investigate how the revenues distributed through the *waqfs* bound together the *ulama*, the sultan's government and the peasant cultivators.

Most studies of Damascus in the Ottoman period, or any other city in the Islamic world during the same era, presume that the temporal ruler sought (but did not necessarily receive) the legitimizing support of the local *ulama*. Before we proceed, it is worth ruminating on what kind of authority the *ulama* possessed, what the sultans sought from their support, and what kind of relationships the *ulama* maintained with other Damascenes. As was described in chapter two, the *ulama* were men learned in the sciences specific to Islam and the impact of its revelation, primarily jurisprudence but also the traditions of the prophet, Quranic exegesis, and mysticism. These were known as the transmitted sciences. Most *ulama* also had some knowledge of poetry and poetics; they often composed their own poetry to commemorate important events and occasions, or, in a time honored poetic tradition, to express the emotional turmoil of love.<sup>432</sup> They also might have made a wider study of literature, geography, mathematics, and history; subjects that were known as the rational sciences. However, not everyone who was learned was an *alim*. Only those who had thoroughly mastered the 'transmitted' sciences were *ulama*. Other learned people who might have some knowledge of the transmitted sciences but focused their endeavors primarily on the study of literature, poetry, history or ethics were known as *udaba*, or men of letters. When someone was known as an *alim* (the singular of *ulama*), the knowledge that he was presumed to have was that of Islam, although he might know a number of other things besides. This knowledge was revered because it was the current community's link with the

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<sup>432</sup> For a fascinating discussion of love poetry and its social context, see Walter Andrews and Mehmed Kalpaklı, *The age of the beloveds: love and the beloved in early-modern Ottoman and European culture and society* (Durham: Duke University Press, 2005).

prophet. The *ulama* transmitted from one generation to the next the knowledge of how to conduct their affairs in a way that was in accordance with the will of God.

Yet as Talal Asad has pointed out, this knowledge was not that of merely being able to distinguish the forbidden from the permitted, or the meritorious from the reprehensible.<sup>433</sup> Rather, to know what God had commanded was also to do it. The *ulama* were considered qualified to teach about virtue, prayer, and correct piety and it was presumed that they would practice these things. Their conduct was to be a demonstration of their knowledge of how human beings were to conduct themselves in accordance with the *shariah*. The *ulama*'s authority and social status derived from the value of their learning and piety, embodied not only in their scholarship, but in their relationships as well, be they social, familial, political, or economic. As Brinkley Messick notes "knowledge and ignorance, and scholar and commoner distinctions were part of a wider social world of status ranking in the Muslim community according to honor, descent, occupation and wealth...Status could be achieved through an acquisition of either knowledge or wealth."<sup>434</sup> The knowledge of the *ulama* not only set them apart from other people, but in some sense, above other people. "The *ulama* are distinguished from the illiterate and the commoners and benefit them just as the body benefits from the spirit of life. Just as the spirit is the reason that the body retains its stature, knowledge is the reason for the continuity and shape of the community," says Katib Celebi.<sup>435</sup> In his image of the body politic, he ascribed to them an elevated role, that of the sanguine humor, or blood, without which no part of the body can function. Of the four social groups (*ulama*, military, merchants, and cultivators) that are the pillars of the body politic, the *ulama* are the foremost.

The character of the *ulama*'s authority and to what extent it was political in nature rather than a softer sort of 'moral authority' is difficult to parse; one reason for its difficulty is that the seventeenth-century Damascenes and other Ottoman subjects did not use the same concepts or vocabulary as we do today when we analyze who holds authority and how such authority is wielded. What is clear is that the *ulama* did not derive their authority from the dynastic state but rather from learning and piety. How this intersected with the authority of the dynastic state was complicated in both political theory and praxis. While their relations with temporal authorities varied quite a bit from time to time and place to place, Tarif Khalidi points to the rise of Turkish and Mongolian quasi-feudal dynasties as marking an important disjuncture. Although this trend had started before the destruction of the Abbasid Caliphate by the Mongols in 1258, that event marked the destruction of the one person, the caliph, who in theory united the authority of both knowledge and executive power (frequently referred to in Islamic political

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<sup>433</sup> Talal Asad, *Formations of the Secular: Christianity, Islam, Modernity* (Palo Alto, Cal.: Stanford University Press, 2003), 248-252

<sup>434</sup> Brinkley Messick, *The Calligraphic State: textual domination and history in a Muslim society* (Berkeley: University of California Press, 1993), 160

<sup>435</sup> Katib Çelebi, *Düstûr el-'Amel li-Islâh el-Halel*, (Istanbul, 1280/1832-33), 127



theory as the pen and the sword). In the post-Abbasid world of the newly formalized separation of the powers of pen and sword, writes Khalidi, the *ulama* were increasingly regarded as “the true guardians of religion” while the sultan was conceived as “an instrument of public order.”<sup>436</sup> The latter wished to possess the support of the former in order to lay claim to legitimate authority. Legitimate sultans occupied a sacred task: they protected the Muslim community, fought its enemies, and saw that the *shariah* was adhered to in the lands under their control. Men of the sword who showed no concern for *shariah* or the counsel and support of the *ulama* were tyrants who could expect, at best, lack of cooperation and at worst, insurrection.

Returning to the specific case of the Damascene *ulama* in the late seventeenth and eighteenth centuries, historians have posited a number of prevailing dynamics to describe their views of the Ottoman dynasty and their relationship with its officials. No one doubts that the Ottoman dynasty sought to co-opt the local *ulama* rather than antagonize them, the question has been what means did the dynasty deploy and how successful were such means? One of the most enduring assessments of the *ulama*’s role was formulated by Albert Hourani, who stated that the local *ulama* as well as other prominent Damascenes played the role of mediating between Ottoman officials and the local population.<sup>437</sup> Deeply influenced by Max Weber’s elaboration of the social role played by Italian *honoratiore*s, or notables, he concluded that the *ulama* played an intermediary role in the politics of empire. While they were dependent on the empire in order for access and appointment to revenues, the empire was in turn dependent on them because of their standing among the local people and consequent ability to extract revenues and to keep the local peace. As Barbir puts it, “They taxed the peasantry and derived social and political power from the urban areas. At the same time, they derived their positions, their authority, from the central government.”<sup>438</sup> While Hourani was not speaking only of the *ulama*, but also of other prominent Damascenes who were wealthy and powerful, the *ulama* seem to fall into the paradigm very handily. There are certainly many instances when the *ulama* appeared to be the representatives of the city when dealing with a temporal authority or invading force. When Sultan Selim arrived in 1516, it was the *ulama* who surrendered the city. In 1298, when Mongol forces had seized the city from the Mamluks, it was the famous *alim* Ibn Taymiyah who attempted to broker an amnesty for the people of the city and who took to

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<sup>436</sup> Tarif Khalidi, *Arabic historical thought in the classical period* (Cambridge: Cambridge University Press, 1994), 205

<sup>437</sup> Albert Hourani “Ottoman Reform and the Politics of the Notables” in William R. Polk and Richard Chambers eds., *Beginnings of Modernization in the Middle East: the nineteenth century* (Chicago: University of Chicago Press, 1968), 1-64.

<sup>438</sup> Karl Barbir, *Ottoman Rule in Damascus, 1708-1758* (Princeton, N.J.: Princeton University Press, 1980), 70

restoring order when the Mongol troops withdrew.<sup>439</sup> When the people of the city felt intimidated or threatened by the troops stationed there, it was the *ulama* who would ask the governor or the leaders of the battalions to reign them in.

Other historians such as Wajih Kawtharani largely agreed with Hourani, and viewed 'notables' such as the *ulama* as being in theory dependent on the will of the sultan for access to revenues, yet in fact as limiting the state's power because they were in a position to force the sultan to act through them.<sup>440</sup> A number of historians, though in agreement with Kawtharani and Hourani that the *ulama*'s support was essential to the Ottomans, have posited that the central state managed to effectively limit the powers of the *ulama* in their capacity as notables during the eighteenth century. John Voll, Karl Barbir and Moshe Maoz have all suggested that the Ottoman government's careful management of the revenues associated with scholastic appointments helped the Ottoman state keep the *ulama* from becoming obstructionist and pursuing their own interests at the expense of the state.<sup>441</sup> Voll documented the increasing numbers of those *ulama* who adhered to the Hanafi school, drawing the conclusion that the *ulama* were so eager to obtain imperial revenues that they changed their affiliation in order to give themselves greater opportunity. Ottoman control over religious life, Voll felt, had greatly increased.

Barbir adds that "the inducements, prestige, and preferential treatment afforded the notables on state incomes were, then, one means of state control, albeit indirect."<sup>442</sup> Abd al-Karim Rafeq agrees that the number of Hanafi scholars increased and that half of the *ulama* of the eighteenth century were partly educated in Istanbul. Nevertheless, he believes that the *ulama* frequently withheld their support from the dynasty and were largely critical of it. "The Syrian *ulama* did not compromise their Islamic principles and their sense of justice and acquiesce in the abuse of power as practiced by the Ottoman feudal land-holders and administrators alike. Their stand in upholding the Islamic Shari'a against the unjust notwithstanding the sultan himself is reminiscent of the early days of Arab-Islam when the Shari'a was fully implemented."<sup>443</sup> Whatever inducements to obedience the *ulama* faced, he feels, they were above all concerned with local welfare according to the rights granted in the *shariah*.

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<sup>439</sup> Nicola Ziadeh, *Damascus under the Mamluks* (Norman, Oklahoma: University of Oklahoma Press, 1964), 114

<sup>440</sup> Wajih Kawtharani, *al-Sultah wa-al-mujtama' wa-al-'amal al-siyasi : min tarikh al-Wilayah al-'Uthmaniyah fi Bilad al-Sham* (Bayrut: Markaz Dirasat al-Wahdah al-'Arabiyah, 1988).

<sup>441</sup> Barbir, 67-88; Moshe Maoz, "Changes in the Position and Role of the Syrian 'Ulama' in the 18<sup>th</sup> and 19<sup>th</sup> centuries," in *The Syrian Land in the 18th and 19th Century: the common and the specific in the historical experience*, ed. Thomas Philipp, (Stuttgart: F. Steiner, 1998), 109-122; and John Voll, "Old Ulama Families," *American Journal of Arabic Studies* vol. 3 (1975): 48-59

<sup>442</sup> Barbir, 81

<sup>443</sup> Abdul-Karim Rafeq, "Relations between the Syrian 'Ulama' and the Ottoman State in the Eighteenth Century," in *Oriente Moderno* 28, no. 1, (1999): 86

What all of these analyses have in common is the underlying belief that Damascene political relations were deeply imbued with a sense of “us” versus “them” whether that axis is understood as Turk versus Arab or center/empire versus periphery/province. The presumed dynamic is primarily characterized by the attempts of the former to control the latter, and the attempts of the latter to resist such control. This chapter will provide an alternative analysis, by examining the delegation of the rural revenues channeled through the *waqfs* to the *ulama*, and how the *ulama* fared as managers of lands under *waqf* control. The chapter is divided into two parts, with part I demonstrating that for the *ulama* of Damascus who wished to receive *waqf* appointments, it was necessary to seek relationships of patronage with Ottoman officials and to travel to Istanbul. I will show that this process did not increase the Damascene *ulama*’s loyalty to the ‘state’ in some general way, but rather created a sense of common cause and common interest between specific members of the Ottoman *ilmiye* and their Damascene *ulama* clients.

I then compare the views of two very different *ulama* contemporaries and their views of why it was or was not appropriate for the Damascene *ulama* to enter into relationships of patronage with Ottoman officials. While the intransigently scrupulous Abd al-Ghani al-Nabulusi saw this system of patronage as impeding the *ulama* from performing their obligations to the Muslim community and the state, the majority of *ulama*, represented in this study by Ismail al-Mahasini, did not. What Nabulusi and Mahasini agreed on, however, was that it was the duty of the *ulama* to oppose tyranny and oppression. Despite Nabulusi’s belief that it compromised, or might compromise, the *ulama* to seek favor from the sultan’s government, the networks of patronage that the Damascene *ulama* acquired through the process of seeking favor provided them with the means to boldly defy tyranny, as the example below will illustrate.

In part two, we follow the story of a conflict between one village and one *alim* over a decade in order to probe the potentially vexed relations that arose between village cultivators and the *ulama*. We also investigate the role of government intervention in these relations. On the whole, historical literature has not critically examined how consistently the *ulama* lived up to the task of defending the villagers from oppression. The examples in part one will show that many *ulama* took this responsibility seriously, even if there were disagreements among them about the extent of these responsibilities. Generally, contemporary historians as well as seventeenth-century Ottoman statesmen presume that those responsible for oppressing the villagers are the class of violent military tax collectors who served as *timar* holders or tax farmers. However, as we will detail below, many of the *ulama* were themselves tax collectors or direct beneficiaries of the taxes collected through their employment via the *waqfs*. These *ulama* also had strained relations with the villagers, and the villagers not infrequently accused them of corruption and over taxation practices entirely analogous to those of their military counterparts. When the interests of the *ulama* and the villagers clashed, both parties strove to impress upon the relevant authorities that

they were in conformity with *qanun* and *shariah* while their opponent was not. Part I of this chapter demonstrates that a discussion of legal and moral right dominated the access rights of the *ulama* to *waqf* monies. Part II shows how that same discussion was extended in defense of the *ulama*'s management of *waqf* resources. While the Ottoman system of justice was equipped to respond to complaints from villagers about unruly men of the sword, dealing with allegations of corruption against an *alim* presented a bit of a dilemma. How this dilemma played out is a testament to the privilege that the *ulama* enjoyed in the Ottoman Empire.

To begin with, let us sketch the scale of the rural revenues that were held in the *waqfs*, beginning with some of the largest and oldest. The *waqf* of the Haremeyn (the *waqf* supporting the prophet's mosques in Mecca and Madina) was a sprawling giant, with yearly revenues of 13,010 qurush asadi in the year 1079 H/1668-9 AD.<sup>444</sup> The account made for the *waqf* that year described the revenue sources one by one, in a survey that required 80 pages to fully document it. It did not own villages in their entirety, but rather owned small parcels of land in numerous villages throughout the province. For instance, it owned land in 9 villages and 8 farms in the Ghuta oasis alone.<sup>445</sup> The same pattern of land holding also characterized the Ummayyad Mosque *waqfs*, the city's other ancient giant that had been in existence for nearly a thousand years.<sup>446</sup> The relatively modest size of its individual land holdings meant that urban revenue sources like markets and bath houses were definitely the top earners for the mosque. The market revenues were particularly lucrative; in 981 H/ 1573-4 AD, stores in the textile and gold markets brought in 34, 216 aqches and 12,000 aqches respectively.<sup>447</sup> The average parcel of village land typically brought in no more than 500 aqches.<sup>448</sup> While the land holdings did not contribute as much to the bottom line as the urban revenues, in aggregate the sheer number of holdings (more than 150 discreet plots or tracts ranging from a few aqches to several hundred in income yearly) were extensive and formed an important part of the mosque's revenues. In the year 1072 H/1661-2 AD, the Ummayyad Mosque employed 11 officers and administrators to oversee its operations, 15 preachers and imams to lead its worship services, 42 professors or *mudarrisin* to teach a number of subjects, 21 teachers of hadith, and 6 lecturers.<sup>449</sup> These were the only the principal employees. There were an additional 192 other scholars hired to teach or recite only particular lessons, and a further 174 other

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<sup>444</sup> MAD 1156, f. 2

<sup>445</sup> TT 656, f. 2

<sup>446</sup> According to Van Leeuwen, 8-9 the conversion of the Basilica of St. John into the Ummayyad Mosque, with lands and other revenue sources sequestered to fund it, began between 705-715 AD. At this time, the law pertaining to *waqf* had not yet been elaborated.

<sup>447</sup> TT 656, f. 42

<sup>448</sup> TT 656, f. 46-47

<sup>449</sup> MAD 4868 f. 2-3

men were on the payroll for services ranging from cleaning to assisting professors.<sup>450</sup> While the number of the mosque's employees was unusually large, reflecting its special status as the city's oldest mosque, it only drives home the point that this institution played a crucial role in supporting the numerous members of the city's scholastic community.

The *waqfs* founded by the Ottoman sultans, such as the Selimiye (established by Selim I d. 1520) and the Süleymaniye (established by Süleyman I d. 1568) were far more dependent on agrarian wealth than the Haremeyn or the Ummayyad Mosque *waqfs*. The Ottoman sultans' ability to endow entire villages reflects the new consensus arising in the thirteenth century that land and its revenues were largely at the disposal of the sultan on behalf of the treasury.<sup>451</sup> Incidentally, the position of professor at both the Selimiye and the Süleymaniye madrasahs was quite prestigious, as we will see below when we examine who held such positions. In 1155 H/ 1742 AD, an account for the Süleymaniye establishes that of the 33,638 qurush in income that the *waqf* received, 28,255 were remitted by the 31 villages and farms endowed to the *waqf*.<sup>452</sup> Most *waqfs* that supported schools or teaching had nowhere near this amount of revenue, whatever their sources.

However, most madrasahs were supported by *waqfs* that existed merely to support that madrasah, (rather than a madrasah, a mosque, a soup kitchen, and a hospital all at once) and did not need to have thousands of qurush yearly to meet their budgets. As we will see below when we examine the Madrasah Farisiyah later in this chapter, a madrasah could have a principal staff of five or six people, ten students on stipend, and a large number of part-time teachers on a yearly revenue that was under 500 qurush. While in the Madrasah Farisiyah's case almost all of that revenue was generated by villagers farming the *waqf's* land, it is hard to know whether this reliance on rural, as opposed to urban, revenues was typical of the *waqfs* supporting the numerous schools of Damascus. That they were numerous, and that they employed a vast number of the *ulama*, is indisputable. Ibn Kannan (1074H/1663 AD to 1153 H/1740 AD) writes that in his day there were 57 madrasahs that he classifies as Shafi'i, 46 as Hanafi (though he mentions a 47<sup>th</sup> and notes that it no longer has a professorship), 3 as Maliki, and 18 as Hanbali.<sup>453</sup>

The *ulama* of Damascus were dependent on salaries such as these for their livelihood, and vied with one another to gain access to them. However, the only path to the wealth of the Damascene *waqfs* was quite literally through Istanbul. Appointment to the position of *mutawalli*, the executive officer of a *waqf* who was in charge of operating the *waqf*, the *nazir*, or trustee who was responsible for seeing that the operations were in conformity with the law and the

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<sup>450</sup> MAD 4868 f. 3-9

<sup>451</sup> see my discussion of this phenomenon in chapter 2

<sup>452</sup> MAD 20541 f. 4-5

<sup>453</sup> Muhammad ibn `Isá Ibn Kannan, *Hadaïq Al-Yasmin Fi Dhikr Qawanin Al-Khulafa Wa-Al-Salatin*, ed. `Abbas Sabbagh, (Bayrut: Dar al-Nafais, 1991), 146-157

specific conditions under which the *waqf* had been incorporated; or the position of *mudarris*, professor at institution funded by a *waqf*, all relied on a *berat*, or permit, issued by the imperial divan in Istanbul. The necessity of obtaining an imperial *berat* was the rule even for relatively modest *waqfs* that had few resources or staff.<sup>454</sup> Frequently, obtaining the *berat* from the imperial divan was a mere formality, and the *berat* was issued to the candidate whose application was supported by the provincial Ottoman officials. It is unclear if all three of the major Ottoman officials of Damascus (Governor, Judge and Treasurer) were required to support the candidate, or whether the backing of any of the three would do, or some combination. Although Barbir states that approved petitions originated in the Treasurer's office with his support, other evidence suggests that the judge was frequently the primary player in the process, although the governor might play a decisive role as well.<sup>455</sup>

Ismail Mahasini (d. 1102 H/ 1690 or 1691 AD), an *alim* who held several important positions at the city's mosques and schools, left a chronicle from the last quarter of the seventeenth century revealing that whenever he wished to take a newly vacant position, he enlisted the support of the judge.<sup>456</sup> In one such instance, the judge wrote a petition on his behalf to the imperial divan, a letter of support to the Shaykh al-Islam, and another letter to the governor of Damascus, who happened to be on campaign with the sultan at the time.<sup>457</sup> This flurry of letters suggests that the judge attempted to build support for his candidate, for the final authority lay with the divan, which sometimes rejected the judge's suggestion and chose someone else favored by a divan official. The governor's role, on the other hand, seems to have loomed large on a few occasions. Mahasini describes how, upon the death of Ala al-Din al-Haskafi, the governor Uthman Pasha simply reassigned Haskafi's posts on his own authority.<sup>458</sup> While it is not totally clear which official's backing was necessary, there can be no doubt that securing the support of at least one of them was crucial.

How did an *alim* convince local officials to support their bids for a post or, alternatively, convince imperial divan members to reject the official candidate and accept himself? Some of the *ulama* were born into families that were long established as dynasties of learned men. They moved socially in the highest echelons of society, and expected local officials to support their bids for prominent appointments. Ismail Mahasini was one of these. However, not

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<sup>454</sup> See, for instance, DSC vol. 18, p. 9, wherein two men come to court from the village of Daraya, and each claims to be the rightful *mutawalli* of the *waqf* for a local shrine. The resolution of the case centered on the *berats* presented by the parties.

<sup>455</sup> Barbir, 80

<sup>456</sup> Ismā'īl ibn Tāj al-Dīn al-Mahasini, *Kunnāsh Ismā'īl al-Mahasinī: safahāt min tārīkh Dimashq fī al-qarn al-hādī 'ashr*, ed. Salāh al-Dīn Munajjid, ([Bayrūt]: Dār al-Kitāb al-Jadīd, 1965), 86, 89, 107

<sup>457</sup> Muhammad Khalil al-Muradi, *Kitab Silk al-durar fī 'ayan al-qarn al-thani 'ashar* ([Cairo]: al-matba'ah al-Amiriyah al'Amirah, Bulaq, 1874), 1:250-1

<sup>458</sup> Mahasini, 90

everyone was as fortunate as Mahasini. As a large regional city that had been home to the prophet's family and companions as well as successive generations of great Muslim thinkers, Damascus was a city that attracted scholastic talent. Those who were intelligent and ambitious, though not from an established scholastic family, found opportunity for a career of pious learning. The case of Ala' al-Din al-Haskafi is here instructive. He was born to a line of learned men who never managed to earn much fame or wealth from their scholarship. His grandfather Muhammad bin Ali al-Haskafi (d. 1007 H/ 1598 AD) had a largely unsuccessful career as an *alim*.<sup>459</sup> This grandfather held minor positions at the Umariya, Jarkesiyah and Salahiyah schools, from which he never made enough money to live comfortably. Despite his constant attempts to get better positions, he remained poor and of lowly rank. His biographer notes that he was infatuated with alchemy, but notes caustically that it availed him nothing (*ie* he never successfully turned lesser metals to gold) and in fact this endeavor proved a great expenditure for a man of little income.<sup>460</sup> Ala al-Din's father Ali was apparently too obscure to earn a biographical notice in any of the standard works. All that is known of him is that he was the first of his famous son's many teachers.

Ali al-Haskafi's son Ala' al-Din (1025 H/1616 or 1617 AD-1088 H/1677 AD) was born into penury, and while he studied with many famous scholars—among them Khayr al-Din al-Ramli—for many years he endured a career that looked like a repetition of his grandfather's. But in 1073 H/1662 or 1663, according to his biographer, he resolved to end his poverty and went to Istanbul to seek recognition of his talents and appropriate remuneration.<sup>461</sup> In Istanbul he won the favor of no less a personage than the grand vezir Köprülüzade Ahmad Pasha. Ahmad Pasha was himself a deeply erudite man, and he recognized Haskafi's talent. When Haskafi returned to Damascus, he found that one of the most coveted professorships in the city awaited him; that of the Madrasah Jaqmaqiyyah. Haskafi continued to acquire the cream of the Damascene scholastic positions. As we will see below, his meteoric rise caused some resentment among the more established ranks of *ulama*, some of whom grumbled about him and caused him to be dismissed from the position of hadith teacher under the Nasr cupola at the Ummayad Mosque.<sup>462</sup> Angry and

<sup>459</sup> Najm al-Din Muhammad ibn Muhammad al-Ghazzi, *Luṭf al-samar wa-qaṭf al-thamar: min tarājim a'yān al-ṭabaqah al-ūlā min al-qarn al-ḥādī 'ashar*, ed. Mahmud Shaykh, (Dimashq: Manshūrāt Wizārat al-Thaqāfah wa-al-Irshād al-Qawmī, 1981), 133-4

<sup>460</sup> Ibid.

<sup>461</sup> Muhammad Amin ibn Fadl Allah al-Muhibbi, *Khulasat al-athar fi ayan al-qarn al-hadi ashar* (Bayrut: Maktabat Khayyat, 1966), 4: 64

<sup>462</sup> Muhammad Khalil al-Muradi, *'Arf al-bashām fīman waliya fatwā Dimashq al-Shām*, ed. Muḥammad Muṭī' Ḥāfiẓ, and Riyāḍ 'Abd al-Ḥamīd Murād, (Dimashq: Dār Ibn Kathīr, 1988), 73. The Ummayad Mosque had a number of hadith positions, as was noted above, and each teacher had a special niche of the mosque where he held his lessons. Some were known to be more prominent than others, and the Nasr cupola was one of the most prestigious.

undaunted, Haskafi returned to Istanbul around the year 1669 and complained to the Shaykh al-Islam Yahya Minkarizade about the lost position. His arrival coincided with the victorious return of his patron Grand Vezir Ahmad Pasha from Crete, where the fortress of Candia had finally fallen to Ottoman forces after twenty-four years of warfare. Pleased to see Haskafi, Ahmad Pasha invited the *alim* to give the sermon celebrating his victory in the mosque of Sultan Mehmed II in Istanbul.<sup>463</sup> This honor made him famous among the *ulama* of the capital, and Ahmad Pasha thereafter dispatched him to Hama as the imperial judge. Other honors followed, both in Damascus and beyond, for in 1086 H/1675 AD Haskafi made another trip to Istanbul and returned with the appointment of the imperial judge of Sidon.<sup>464</sup> His good fortune lasted unto his death in December of 1677. The lesson here was that if the highest officials of the empire were willing to exercise their power on an *alim*'s behalf, the way to prestige and fortune was wide open.

Although Haskafi was an unusually gifted individual, the means that he used to acquire prestigious and lucrative appointments were typical: he journeyed to Istanbul in search of powerful friends who could use their influence on his behalf. Just as there was no doubt that the holy cities of Mecca and Medina were the center of the spiritual universe, and a journey there was incumbent on the faithful who had the means, so the political ritual of the journey to Istanbul took on an aspect of a political pilgrimage. Istanbul was without a doubt the center of the political universe, and the holder of the purse strings to the wealth of the *waqfs*. What biographers and chroniclers between them make clear is that a very large number of Damascene *ulama* journeyed to Istanbul, and not generally to engage in formal study, but rather to know and be known there. The political pilgrimage was not only a means for raising oneself out of obscurity, as Haskafi did. Even *ulama* from prominent families with secure fortunes traveled there in order to see to it that they and their children would remain the recipients of imperial favor. The political landscape of the capital was always changing, and even the most powerful of Damascene *ulama*, the Bakris, visited Istanbul and benefited as a result.<sup>465</sup> Those such as Ismail Mahasini, who felt secure in his appointments because of his family's prominence, might choose not to go. However, Mahasini discovered to his chagrin that he was not as secure as he had thought, for in 1674, when he had requested the teaching post at the Taqwiya school and received the support of the judge, Mustafa Uskudari Efendi, the imperial divan passed him over in favor of Haskafi.<sup>466</sup> Of course it did not follow that if an *alim* made the journey to Istanbul he would necessarily find the patronage he sought. Haskafi's grandfather had, according to his biographer,

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<sup>463</sup> Muhibbi, 4: 64

<sup>464</sup> Mahasini, 101

<sup>465</sup> Mahasini, 95 recounts Asad Efendi's trip to Istanbul in Rabi' al-Awwal 1093/ March 1682, and the trip of his son Khalil will be discussed below.

<sup>466</sup> This incident is discussed further below. See also Muradi, *Silk al-Durar*, 1: 250-1 and Mahasini, 107



gone to Istanbul frequently but found, like so many of his ventures, that it availed him nothing.<sup>467</sup> A visiting *alim* had to be able to secure an audience with influential individuals, and this was no easy matter.

Perhaps the best way to demonstrate the importance of the ‘political pilgrimage’ and the networks established thereby is to examine the various career setbacks suffered by Abd al-Ghani al-Nabulusi, who ventured to Istanbul as an obscure young man in 1075 H/1664 AD, well before he had composed any of the works for which he would later be so famous.<sup>468</sup> He received a one year appointment as the Hanafi judge of the Maydan district, but received nothing further after its termination. He never returned, even when he had become highly regarded and could have easily obtained audiences with powerful men and received important postings. By the turn of the eighteenth century, Nabulusi was widely viewed as eccentric, proud and contrary, but his reputation for learning and his scholarly output meant that he was also acknowledged to be the foremost scholar of Damascus.<sup>469</sup> We may remember that Ismail Mahasini had held the appointment of professor (*mudarris*) at the Selimiye madrasah in Salihiyah in 1096 H/1685 AD. Shortly after Mahasini’s death in 1102, Abd al-Ghani al-Nabulusi was appointed to this position through the intervention of Ahmad Bakri, the local *alim* who had joined the *ilmiye* and become an imperial judge (see chapter 1).<sup>470</sup> However, in 1125 H/1713 AD Ismail Mahasini’s son Süleyman managed to wrest it from Nabulusi when an order arrived from Istanbul dismissing Nabulusi and appointing Mahasini the new professor.<sup>471</sup>

Mahasini managed to unseat Nabulusi by doing what Nabulusi refused to do: he sent his son Ahmad to Istanbul to see the Shaykh al-Islam Ataullah Efendi, who, like many Shaykh al-Islams in this period, had earlier served as a judge in Damascus and was acquainted with the Mahasini family. Ataullah Efendi was also acquainted with Nabulusi from his time in Damascus, and there existed a great enmity between the two men. It seems that during Ataullah’s tenure in Damascus, a disagreement between Nabulusi and Ataullah about the permissibility of smoking tobacco had escalated into a very public and very acrimonious row.<sup>472</sup> Süleyman Mahasini had his son Ahmad convey to Ataullah Efendi that the professorship of the Selimiye madrasah had been practically a family sinecure prior to the death of Ismail in 1102, but was now in the hands of Nabulusi. Süleyman urged the Shaykh al-Islam to use his influence to restore the position to the family, who were its rightful beneficiaries. Ataullah Efendi was

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<sup>467</sup> Ghazzi, 134

<sup>468</sup> Barbara Rosenow Von Schlegell, *Sufism in the Ottoman Arab World: Shaykh ‘Abd Al-Ghanī Al-Nābulusī (D.1143/1731)*, (Dissertation presented to the department of Near Eastern Studies, University of California, Berkeley, May 1997), 110

<sup>469</sup> Muradi, *Silk al-Durar*, 3:31-2

<sup>470</sup> Von Schlegell, 51

<sup>471</sup> This episode is recounted in Muradi, *Silk al-Durar*, 1:250

<sup>472</sup> Nabulusi wrote a treatise deriding Ataullah’s views on smoking called “The razor-sharp sword brought down on the neck of Ataullah.” See Von Schlegell, 109.

pleased to comply, for he not only gained a client, but punished an enemy. At some point thereafter, a compromise was struck and Nabulusi did keep the teaching position while Sulayman Mahasini became the preacher.<sup>473</sup>

Ten years later, a far more scandalous humiliation befell Nabulusi. When Muhammad al-Imadi, the Hanafi mufti of Damascus, died in 1135 H/1722-3 AD, “the consensus of the people of Damascus at that time was that Abd al-Ghani al-Nabulusi should be the mufti.”<sup>474</sup> A delegation of *ulama* came to him to ask if he would be mufti, and, in keeping with his pious disdain for government positions, he declined it. However, the biographer maintained that the delegation insisted until he had accepted. The *ulama* then petitioned Istanbul on behalf of Nabulusi and while they waited for confirmation of his appointment, Nabulusi began to take questions on jurisprudence from those who desired a fatwa. But when the order came from Istanbul, it was not Nabulusi who was appointed to the position of mufti, but Khalil Bakri al-Siddiq, the son of Asad Efendi, a man forty years Nabulusi’s junior who had been his own student. Khalil Bakri, himself an ambitious man, was nevertheless extremely embarrassed by the manner in which this honor had been bestowed upon him. As the son of Asad Efendi, he had been born into a family with numerous powerful friends in Istanbul. His father had died in 1120 H/ 1708 or 1709 M, and around the year 1130 H /1718 M, he had gone to Istanbul, presumably to renew acquaintance with the family’s friends now that he was head of the household, and to investigate the possibility of entering imperial service. He likely requested his allies to help with his advancement, and the fact that they obliged is evident from the appointment to the office of mufti. It was clear to all of Damascus, and even to the regretful Khalil Bakri, that Nabulusi was the more deserving and the more qualified of the two men for the position of mufti.

Barbara Von Schlegell regards both of these episodes as demonstrating that there were numerous *ulama* in Damascus who persecuted Nabulusi for personal reasons or who disapproved of sufism and opposed Nabulusi’s advancement because they looked askance at his mystic activities and lessons.<sup>475</sup> Certainly, Nabulusi had a fair number of people who disliked him, Ataullah Efendi for one. Yet the actions of the Mahasinis and Khalil Bakri suggest opportunism more than ill will. The former saw the chance to advance themselves at Nabulusi’s expense and elected to do so, the latter may not have intended to do so but ended up benefiting nevertheless from Nabulusi’s lack of highly placed protectors. The events speak to the importance of patronage networks at least as much as anti-sufi animus. Certainly no episodes could better illustrate that patronage networks trumped erudition in the process of selection to the mufti’s post, or the importance of the voyage to Istanbul. It is a remarkable commentary upon the importance of the ‘political pilgrimage’ that someone such as Nabulusi was not secure in his academic appointments. After

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<sup>473</sup> Von Schlegell, 109

<sup>474</sup> Muradi, *Silk al-Durar*, 2: 83.

<sup>475</sup> Von Schlegell, 107

all, his scholastic reputation in the capital was of the highest caliber, he sent letters of advice and praise to the Ottoman sultans and Shaykh al-Islams. and he enjoyed friendships with some imperial officials: while he made enemies out of powerful men like Ataullah Efendi, there were others in the imperial hierarchy who were impressed by his integrity and became his friends.<sup>476</sup> Yet he did not go to Istanbul, and those who did unseated him.

The movement of the greatest *ulama* from all over the empire to the seat of the sultanate was certainly a testament to the power of Istanbul, and the willingness of the provincial *ulama* to travel hundreds or thousands of miles to become supplicants there bespoke the power of empire. One could reduce the search for patronage to a very crude transaction: a sort of quid pro quo where the state offered access to *waqf* positions in return for the legitimacy conferred by its association with and patronage of the *ulama*. Undoubtedly, this picture contains more than a grain of truth. However, let us consider again the process by which the *ulama* applied for and received the *waqf* positions. Support was sought and secured from an official, petitions were written, other officials were either convinced to lend their support, or, some other official intervened and introduced a rival candidate. Who, in this process, represented the interests of the center, or the state? The Damascene *ulama* were courting the favor not of the 'state' but of specific individuals; efendis, pashas, or wazirs who made their decisions based on what was best for advancing their own careers. It meant not ingratiating oneself to the state or the 'center' but to a particular individual.

When Nabulusi lost the position of mufti to Khalil Bakri, he indicated in his writings that he suspected a conspiracy between Khalil and a former judge of Damascus named Husayn Efendi b. Ali Pasha.<sup>477</sup> When Ismail Mahasini lost the teaching position at the Taqwiya school to Ala' al-Din al-Haskafi he blamed the current Shaykh al-Islam for overriding his recommendation from the Damascene judge. Perhaps the most cynical collusion that the examples above have demonstrated is that between Ataullah Efendi and the Mahasini family, who had separate interests in seeing Nabulusi's career stymied, but who united towards the common goal of his dismissal. In all these instances, we see an alliance of self-interests between members of the *ilmiye* and their provincial counterparts that is counter intuitive if one assumes that the interests of provincials generally ran counter to those of the imperial. It is impossible to speak of any central authority that benefited from the distribution of *waqf* positions or that was able to impose its unitary will on the *ulama* because they were financially dependent upon it. Certainly the way that revenue benefits were distributed affected the way that the *ulama* interacted with those who wielded authority at an individual level, but it did not have much to do with loyalty to the dynasty, nor the dynasty's ability to control them or limit their influence. If co-optation by the central state

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<sup>476</sup> See Abd al-Ghani al-Nabulusi, "Safwat al-Damir wa Nazrat al-Wazir," Süleymaniye MS Esad Efendi 1572, f. 2b-3a, which refers to the Ottoman judge of Damascus Zayn al-Abidin, whom Nabulusi praises as a friend.

<sup>477</sup> Von Schlegell, 110

was not much of an issue in the distribution of the *waqfs*' bounty, and the growth of patronage relationships were its primary result, what did the *ulama* regard as the primary issues in pursuing imperial patronage?

As we have seen, Nabulusi stubbornly refused to seek favor from powerful office holders. But Nabulusi was in no way typical: as the other examples above demonstrate, most of his contemporaries did not share his repugnance for seeking official favor. This picture of the majority of the *ulama* eagerly competing with one another for imperially administered largess and paying homage in Istanbul in order to get it would seem to support the conclusion that the empire had indeed successfully co-opted the local *ulama* to serve its own ends. We could easily read Nabulusi's refusal to seek patronage as evidence of such a conclusion—as a refusal to be 'bought out' as so many others had been—while in fact, Nabulusi's views must be properly contextualized.

Firstly, Nabulusi himself did not disapprove of the Ottoman dynastic state, nor did he feel that his *ulama* colleagues abased themselves by seeking to serve it. Some historians have taken his disdain for pandering to officials as a general critique or rejection of Ottoman governance, but such a conclusion is unwarranted, for there can be no doubt that Nabulusi was a sincere supporter of the dynasty as an institution.<sup>478</sup> The poem that he wrote lauding the achievements of the Ottoman sultans and the Köprülü ministers was discussed in chapter one, wherein he eulogized their achievements and praised their rule, especially that of Grand Vizir Köprülüzade Ahmad Pasha, who "carried out the *shariah*" in his administration.<sup>479</sup> Additionally, he wrote letters of advice to the Ottoman sultans, including one to Sultan Mehmed IV in 1088 H/ 1677 or 1678 M that has an echo of Katib Çelebi about it, wherein Nabulusi referred to all Muslims as constituting one body, with the sultan as their head.<sup>480</sup> In that letter as well as another work celebrating the military victories of Ahmad III, he focused on the duty of the sultan to organize the military affairs of the Muslim community, to fight wars and to expand the abode of Islam.<sup>481</sup> It was primarily for success in battle that Nabulusi eulogized the sultans, and his advice to the sultans focused on cultivating the moral qualities necessary for success in battle. Nabulusi showed every sign that he wished to support the Ottoman regime in its military endeavors and in its efforts to rule its subjects with justice and morality.

Although his general regard for the dynasty was well-established, he spoke out when he felt that the dynasty or its servants claimed a power for itself

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<sup>478</sup> Von Schlegell perceptively writes that the aversion to Turks that appears in some of his more polemical work stems from the fact that many of Nabulusi's detractors were Turks who frowned on mysticism and the great mystic Ibn Arabi. She believes that Nabulusi was a loyal subject of the Ottoman sultan, 96, 101

<sup>479</sup> Abd al-Ghani al-Nabulusi, "Manzumah fi dhikr salatin Al Uthman", Zahiriya MS 6742 f. 56

<sup>480</sup> Abd al-Ghani Nabulusi, "Wasa'il al-tahqiq wa rasa'il al-tawfiq," Zahiriya MS 6078, f. 25-26

<sup>481</sup> Nabulusi, *ibid.*, f. 23-45

that he did not think it possessed. In a treatise criticizing the Ottoman practice of appointing the city's Hanafi mufti, he articulates how the danger of compromising oneself as an *alim* arises.<sup>482</sup> There is no question that this practice was an innovation introduced by the Ottomans upon arrival in Damascus, and that prior to that time, an *alim* became a mufti because his learning was widely reputed and people began to ask him questions.<sup>483</sup> Nablusi pointed out that there is no precedent in prior Islamic practice for appointing muftis, and asserts that doing so is an error. On the other hand, he agrees that it is certainly the sultan's prerogative to appoint judges. In fact, a judge becomes a judge and is able to issue rulings precisely because this power has been delegated to him by the sultan. However, *ifta* (the practice of giving fatwas) is not like *qada* (giving judgement in court), for what makes a mufti a mufti is not the sultan's permission, but the fact that he knows the rulings of his school of jurisprudence. There can be as many muftis as there are people who fit this definition, and any of them can give a fatwa.

It is important to note that Nablusi's objection to the sultan's claiming the power to appoint a mufti is not that it somehow limits the mufti's ability to do his job and his integrity is sacrificed. Rather, the complaint is that the sultan claims authority over an area of Islamic practice that does not concern him and in which he has no power to interfere. There is no objection about the sultan claiming this power in order to limit what we would today call 'freedom of thought'. Nablusi did not complain that the Ottoman government was trying to control the mufti's rulings or that appointment is contingent on the mufti's issuing "government friendly fatwas". Rather, the complaint is that one should become a mufti by virtue of knowing the jurisprudence of any of the four Sunni schools, and that no sultanic regulation ever had been warranted nor was warranted in his own time. He complains that even though the sultan's claim to possess such authority is clearly baseless, there are *ulama* (presumably he is speaking of Ala al-Din al-Haskafi in particular) who support the sultan's claim out of a pursuit for the "ill-gotten gains of the world."<sup>484</sup> While there is no incipient Ottoman plot to systematically deprive the mufti of his ability to use his judgment, Nablusi alleges that there is the possibility that on a particular issue, a mufti might be inclined to countenance a usage of imperial power that oversteps its bounds.

It may strike the modern reader as peculiar that the sultan asserted an unprecedented right to decide who would serve as mufti, but that he and his

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<sup>482</sup> Abd al-Ghani al-Nablusi, "Radd 'ala al-Haskafi", Süleymaniye MS Bağdatlı Vehbi 2112, f. 2a-5a. The title suggests that Ala al-Din al-Haskafi had written a treatise in favor of the Ottoman practice of appointing muftis, and that Nablusi had undertaken a refutation in response.

<sup>483</sup> Muradi, *'Arf al-Basham*, 2-3 notes that prior to Ottoman rule, when any of the *ulama* of a school could give a fatwa, there was always disagreement and rancor. Sultan Süleyman, he says, organized the giving of fatwas so that each school had only one mufti.

<sup>484</sup> Nablusi, "Radd ala al-Haskafi," f. 5a

government showed very little interest in the political convictions of the mufti or the content of the fatwas themselves. It is undeniable that the *ulama* differed on the limits of the sultan's powers; in fact, in chapter 3, we examined at length issues regarding taxes and forcible return of villagers that demonstrated these differences. Yet Nabulusi does not denounce the practice of appointing muftis because it requires ideological conformity with Ottoman practice, and little evidence suggests that the central bureaucracy sought to directly influence the fatwas of Damascene muftis at this time. There is no evidence that the bureaucracy conducted any kind of litmus test of an *alim*'s views prior to his appointment as mufti. Nabulusi's own experience with receiving and losing appointments is instructive in this regard: he was not passed over for the position of mufti or dismissed from the Selimiye post because he had denounced various dynastic taxation practices, or the forcible return of villagers, or even because he contested aspects of the sultan's authority. Rather, in the one case the powerful backers of Khalil Bakri overrode the recommendation of the city's *ulama*, and in the second, Nabulusi had made an enemy of Ataullah Efendi, who used his influence against Nabulusi. Similarly, *ulama* such as Ala al-Din al-Haskafi, Hamid al-Imadi and Muhammad al-Imadi, who like Nabulusi disputed the legality of the *çift bozan resmi* and peasant repatriation, all served as mufti. There was little to suggest that those who held only the right ideas were honored as mufti, rather, that honor fell to those who cultivated relations with the right people. What Nabulusi indicates is that currying favoritism could lead to a lapse of integrity.

The willingness of the *ulama* to serve the powers that be in return for material gain clearly troubled Nabulusi. While he was, as Von Schlegell rightly notes, a loyal Ottoman subject, Nabulusi also had strong opinions about the proper role that the *ulama* should play in a Muslim polity.<sup>485</sup> The role of the *ulama* was to advise the sultans and admonish them to rule with justice and morality. Following his own code of conduct, when Nabulusi saw reason to praise the sultans, he praised them, and when he saw fit to criticize he did so openly, as with the issue of forcible return of peasants (see chapter three). Hence, Nabulusi's distaste for pandering reflected no general disapproval of the dynasty, but rather a respect for the dignity of an *alim*, and the insistence that a proper decorum exist between state officials and *ulama*. When sultans or their servants made ill considered decisions, they needed to be admonished. When particular officials abused their powers or countenanced their subordinates to commit injustice, the *ulama* were to denounce them. Because it was the duty of the *ulama* to give well-reasoned, impartial advice to the sultan and his government—criticizing it when necessary—the *ulama* should not seek favor or riches, for it could impair their judgment, as in the example of the *ulama*'s acquiescence in the sultan's appointing muftis. Even an appearance of impropriety should be avoided, as Nabulusi himself demonstrated. When the newly arrived Ottoman governor Ibrahim Pasha sent the *alim* a ewe as a gift,

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<sup>485</sup> Von Schlegell, 103-4

intending to show respect, Nabulusi abused the young servant who brought the animal and furiously refused it.<sup>486</sup> Acceptance seemed to convey, if not exactly an openness to bribery, then a willingness to accommodate those with temporal power. Nabulusi felt that for the *ulama* to do their duty—something along the lines of what Foucault would call ‘speaking truth to power’—they needed to remain independent of any ties with government figures that could weaken their resolve to guide them rightly and with rigor. The *ulama* were to be loyal but critical subjects.

While he disapproved of pandering and seeking favor, Nabulusi could be coaxed into accepting positions under the right circumstances. Hence, he accepted the teaching position at the Selimiye Madrasah that Ahmad Bakri procured for him, a position which, given its proximity to the tomb of Nabulusi’s most revered influence, Ibn Arabi, meant it was Nabulusi’s natural home.<sup>487</sup> In general, when we examine Nabulusi’s protests towards the behavior of other *ulama*, we find that although he did not approve of the sultan or state representatives overstepping the bounds of their rightful powers or authority, he did not see this as protecting something local from something imperial. Rather his concern was the abuse of power and its prevention: safeguarding justice and righteousness from anyone who had the power to subvert it. If the local people were to be protected, as in the case of runaway cultivators, it was not because they were local, but because they suffered oppression at the hands of those far more powerful than they. If those oppressors happened to be Turkish, that fact was a contingency: it was the behavior that was objectionable, not the ethnicity of the oppressor. As was noted in chapter two on the other hand, Nabulusi maintained that the sultan must be obeyed in everything he commanded unless it contradicted the *shariah*. He did not believe there was anything wrong in the *ulama*’s cooperating with the dynasty and its officials, so long as they had determined that it was in accordance with the *shariah* to do so.

Nabulusi felt that the *ulama* could only fulfill their duties by maintaining a discreet distance from officials and guarding their independence. However, to read Ismail Mahasini’s account of his activities in these years and compare them with Nabulusi’s views is to encounter the difference between day and night. Simply put, Mahasini reveled in the attention that he received from the imperially appointed governors and judges, and he did so in a straightforward way, with no discernable thought that such associations might compromise the integrity so prized by Nabulusi. He was frequently found in the gatherings of the most powerful people of Damascus, and he clearly enjoyed being in such company. He carefully recorded in his journal every occasion in which he was able to socialize with the Ottoman judges and governors, the vast majority of which entailed invitations to spend time with them, either as they entertained other guests at home or for pleasure trips to the countryside.<sup>488</sup> His tone verged at

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<sup>486</sup> Ibid., 64

<sup>487</sup> Ibid., 105

<sup>488</sup> Mahasini, 83-84

times on the breathless. In the final days of the year 1672, he recorded that he received a letter from an Ottoman judge named Ahmad Efendi bin Hasan, known as Beyazi Qadi, who was leaving his old post in Bursa to take his new appointment in Mecca. He alerted Mahasini to his passing through Damascus, and Mahasini wrote the judge to assure him that he would be delighted to have him stay at his house, and that he would help provision him for the journey to Mecca. Of this communication he writes, "it was most noble in terms of its intimacy, especially because he honored us and our family this way without having previous honor of meeting. We attained the height of happiness because serving him was a great honor, for his knowledge and justice were famous to the ends of the earth."<sup>489</sup> Mahasini clearly felt that his association with such officials was a great distinction, and he showed evident pleasure that he was able to socialize with the most rarefied company in the city.

Mahasini came from a family that was renowned for its learning, and he had no need to seek positions at the schools in order to make a living; he was independently wealthy.<sup>490</sup> Nevertheless, acquiring posts—and then passing them on to his son Sulayman when he received a promotion or wished to retire—was a major preoccupation for Mahasini. In 1674, he made his ill-fated bid for the Taqwiya position, and felt bitterly humiliated when the divan gave the position to Haskafi. It is unclear when he took the position at the Jawhariya school, but he was the professor there when the Selimiye post became vacant in 1096/1685-6. Upon his promotion to the new post at the Selimiye, Mahasini requested a *berat*, via the judge, for his son Süleyman Mahasini to take his position at the Jawhariyah school.<sup>491</sup> The judge did so, and Süleyman duly took his father's old place. For many years Ismail held the position of preacher at the Ummayad Mosque, and in August of 1687, he asked to pass the position to his son Süleyman, which the judge and then the imperial divan approved.<sup>492</sup> Between his love of associating with the socially powerful and his desire to acquire prestigious positions for himself and his family members, he showed a comfort with ingratiating himself with authorities in a way that Nabulusi despised. It was probably of Mahasini that Nabulusi spoke when he complained in 1685 that "the perfect *ulama* have been passed over in preference for 'ignorant imams' because these imams use their wealth, associate themselves with corruption, and possess good chanting voices."<sup>493</sup> Mahasini, in his position as preacher, was known for his melodic voice.

In all of their efforts to win madrasah positions, the Mahasini family's chief ally was the Ottoman judge. His diary makes clear that Mahasini seized every opportunity to develop a personal relationship with the sitting Ottoman judge, and his writings suggest that the *ulama* of Damascus saw the Ottoman judges

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<sup>489</sup> Ibid., 109

<sup>490</sup> Muradi, *Silk al-Durar*, 1:250

<sup>491</sup> Mahasini, 89

<sup>492</sup> Ibid., 86

<sup>493</sup> Von Schlegell, 107



primarily as men like themselves, men who were first and foremost *ulama*, whatever their primary language and relationship with the dynasty. Mahasini wrote warmly of the judge known as Dabağzade Mehmed Efendi, who served a year in Damascus from April 1667 and eventually ascended to the position of Shaykh al-Islam. Mahasini considered Dabağzade to embody all the virtues of *alim*, he was virtuous, amiable, modest and learned. All of the most prominent *ulama* in the city assembled to hear his lesson on Baydawi's exegesis of the Quran.<sup>494</sup> Dabağzade came to Mahasini's home on four occasions, and Mahasini recorded the date and time of arrival and departure for each of these visits, noting that the judge had paid him an honor by visiting.<sup>495</sup>

There were also times when a military official, such as the governor or dizdar of the citadel, invited Mahasini to an event or an outing. Mahasini felt there was no dishonor in attending a military official who was honest and honorable. For his part, even Nabulusi would deign to answer some inquiries of Rajab Pasha, the city's governor in 1718, about a certain story in the Quran.<sup>496</sup> Mahasini was proud of these invitations as well, but it was clear that his identity was squarely built upon the status of an *alim*, and that associating with other prominent *ulama* was his main priority. The bulk of his diary consists of following the social lives and movements of prominent *ulama*, both those who were native Damascenes and those who passed through it, whether they were from the Arab lands on their way to Istanbul, or whether they were imperial *ulama* headed to provincial postings.

Given that a sense of *ulama* solidarity brought the judge and the Damascene *ulama* together as co-workers in the court and in social settings, the judge was the most natural liaison with Istanbul for the Damascenes. Mahasini at various points worked as a *naib*, or assistant to the judge. The most prominent Damascene *ulama* family of the time, the Bakris, also maintained close and longstanding ties with the court. Ahmad Efendi al-Bakri worked in the court until he began his career in imperial service in 1683, and his son Asad appears to have worked as a *na'ib*, an estate divider, or a temporary judge throughout the 1090's/1680's and 1100's/1690s.<sup>497</sup> It is interesting that in the one example that Ismail Mahasini cites of the great *ulama* of the city resisting repudiating *zulm* (oppression) and opposing an Ottoman official, the Ottoman judge and the *ulama* were squarely in the same camp.

Mahasini writes of how, in the fall of 1674, the new governor Husayn Pasha arrived and allowed his *kathuda* (lieutenant), Hasan Agha, free rein in the

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<sup>494</sup> Ibid., 73

<sup>495</sup> Mahasini, 84

<sup>496</sup> Von Schlegel, 98

<sup>497</sup> Ahmad Bakri's trip to Istanbul in 1094 set him on the path to becoming a high-ranking judge, see Muradi, *Silk al-Durar*, 1:149. For court records attesting to the many roles played by Asad Efendi see DSC vol. 16, p. 14-16, no. 24m; and vol. 20, all cases recorded during the week of Shawwal 24 to Dhi al-qa 'adah 2, 1102 (July 21-28, 1691).

city and countryside.<sup>498</sup> Innocent people were killed, goods were plundered, and decent women were harassed. It came to such a pass that on June 28<sup>th</sup>, 1675, the people of the city closed the warehouses and went to the judge Shahla Abdallah Efendi, to protest. For his part, the judge had attempted for some time to get the pasha to reprimand his kathuda, to no avail. When the townspeople closed down the city and clamored for justice, he sent a delegation of *ulama* to the governor to ask for his intervention. The governor refused to take action and the judge sent a petition to Istanbul on behalf of the *ulama* and military notables. The upshot was that an official was sent from Istanbul to investigate, and all those who had complaints against the pasha and his kathuda were invited to court to make their claims, the judge ordered compensation accordingly. The official took copies of the qadi's decrees to Istanbul. About a month later, the governor was relieved of his position.

Although Mahasini's precise role in this affair is unclear, it is clear that he was present for a number of events in the court and supported the petition and the judge. In other words, Mahasini too took seriously the *ulama*'s duty of opposing oppression. It is also easy to see why he did not feel that he was in any less advantageous position for doing so because of his penchant for seeking fame and fortune from the Ottoman authorities. Contrary to what Nabulusi suggested, Mahasini's quest for favor had not pushed him to close his eyes to oppression. However, this was oppression of the most egregious and undeniable type, perpetrated by men of the sword against those who were defenseless. Mahasini was safe in denouncing such doings, no one would deny that such behavior was intolerable. Hence while Mahasini and Nabulusi were able to adhere broadly to the same principle, that of defending the moral and legal rights of each person according to the *shariah*, Nabulusi saw this duty in more expansive terms, and felt that it was important to do what was right even if it was unpopular.

While Nabulusi was concerned that eagerness to win powerful friends could attenuate the independence necessary for an *alim*'s prudent judgment, the example of Asad Bakri suggests that the patronage networks that grew out of such relationships could give the *ulama* a different kind of power. Despite the fact that the Bakris had sought and found numerous friends with power in Istanbul, it would be impossible to say that they were too compromised to protect the weak or willing to overlook acts of tyranny. Rather, it was the strength of their influence in Istanbul that allowed more humble Damascenes to hope that the Bakris could protect them. In 1118/1707, Asad Efendi boldly defied the governor of Damascus, Baltacı Süleyman Pasha.<sup>499</sup> According to the biographer Muradi, the pasha had tried to extort money from the city's merchants, demanding that they give him a 'loan' and committing other unspecified acts of tyranny.

However, Karl Barbir has pointed out that the orders dispatched from Istanbul accused Asad Efendi of failing to deliver a loan that he had agreed to

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<sup>498</sup> Mahasini, 111-2

<sup>499</sup> Muradi, *Silk al-Durar*, p. 223

levy on the pasha's behalf because the funds for the pilgrimage had proved inadequate.<sup>500</sup> It is likely that this version of events originated in the complaint that Süleyman Pasha would later make to the imperial divan, and it is impossible to know whether the pasha's account or Muradi's was more accurate. In Muradi's version, Asad Efendi acted in concert with other prominent *ulama*, including Sulayman Mahasini, to prevent the pasha from taking the money from the merchants. Muradi does not present this event as a principled stand against the Ottoman regime generally—a moment of provincial defiance to the empire—but rather a principled stand against Süleyman Pasha specifically and his particular acts of tyranny. Enraged, the pasha petitioned the imperial divan, and managed to have Asad Efendi exiled to Sidon, where he was supposed to continue on to Cyprus. However, one may hazard a guess that the reason that Asad Efendi had the courage to defy the governor so openly is that he was confident that his own powerful allies in Istanbul would protect him from Süleyman Pasha's attempts at revenge. In the end, Asad Efendi's confidence in his allies and his own power proved warranted. Before he ever set sail for Cyprus, Asad Efendi had secured a pardon and in less than a year's time after the incident, he had arrived back in Damascus to a hero's welcome. In the presence of the throngs of Damascenes who had turned out to greet the return of Asad Efendi and his companions, Süleyman Pasha was forced to state his regret for their exile and publicly beg for their forgiveness.

Nabulusi, despite his integrity and scruples, could never have managed such a feat, for he did not have the power to prohibit the governor from taking action, even if he could publicly denounce it. Clearly, Ismail Mahasini had some cause to feel that his desire for the friendship and recognition of powerful state officials did not compromise his integrity as an *alim* nor impede his playing the role that Nabulusi too embraced: that of moral guide who denounced oppression. This priority was far more pronounced for both men than any sense of local interest that must be protected from a grasping central government, although Nabulusi's sense of what it was to uphold moral right was more expansive than Mahasini's. For Nabulusi, the limits of all authority must be vigilantly guarded, and only those who were disinterested in fame and fortune could be properly vigilant. On the other hand, the events associated with an *ulama* 'rebellion' of 1706 show that the building of patronage networks did not mean countenancing blatant acts of oppression, and could in fact be crucial for challenging oppressors. This was especially true when the oppression came squarely from the direction of the military, as all the *ulama* could agree that it was their duty to keep the men of the sword from abusing non-combatants. As a final note, the Ottoman dynasty as an institution enjoyed far wider support and legitimacy among the *ulama* than has been presumed, even its critics were loyal critics. Nevertheless, the giving of access to the revenues of the *waqfs* played only a minor role in perpetuating a general Damascene allegiance to the government, what was far more noticeable were that systems of patronage emerged, and that

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<sup>500</sup> Barbir, 83-4

these showed that the concepts of 'center and periphery' or 'imperial versus local' did not play a determining role in the resulting political alignments.

## Part II

Specifying legitimate taxation demands and forbidding illicit extractions was a religious as well as political duty. The primary definition of oppression (*zulm*) was an abuse of power in which a stronger party took by force something that rightfully belonged to a weaker party. The villagers of Damascus, and those in all corners of the Ottoman Empire, frequently went to the courts, the divan, and the mufti to complain of instances of *zulm* involving either the legally appointed tax collector or someone who claimed to be the legally appointed tax collector. No sultan wished to be seen as countenancing *zulm*; there was a widespread belief that governments that allowed oppression to go unchecked would foment unrest and eventually be overthrown. Responding effectively to complaints of over taxation therefore had implications for legitimacy. As the example of Asad Efendi and Baltaci Süleyman Pasha shows, the *ulama* could use their connections to mediate on behalf of or protect those weaker than themselves and spare them illegal extractions. The *ulama* in many cases saw themselves as the natural benefactors to benighted peasants, as we saw in the example of runaway cultivators in chapter 3.

However, little attention has been paid to the potential for adversarial relations between the *ulama* and peasants. The *ulama* did not always stand outside the relationship between the peasant cultivators and the state tax collector, using a position of moral authority to referee the disputes that arose between them. Rather, a sizeable number of *ulama* were thoroughly enmeshed in the extraction of wealth from the countryside and its division. Many *ulama* were dependent for their livelihood on village tax remittances to *waqfs* and had every interest in seeing that the village taxes were paid. Additionally, for those who served as the *mutawalli*, the chief officer of the *waqf*, they themselves were responsible for collecting the taxes due to the *waqf*. As with tax farmers, *timar* holders, and others who had direct access to the tax base coupled with the authority to collect revenue, these *ulama* found that they were in a position to enrich themselves at the expense of the villagers. Some did so. Nevertheless, the issue of unlawful extraction was laden with the weight of moral corruption, and some authorities clearly hesitated to ascribe a morally repugnant act to those who acted as the moral conscience of the polity and the people. The *ulama*, simply by virtue of their vocation, were generally presumed to be morally upright until proven otherwise. Military men and other tax collectors, in the other hand, did not have this benefit of the doubt. From that standpoint, the *ulama* had a great advantage in terms of credibility and were more likely to survive challenges to their management of revenue sources.

Between the years 1688 and 1695, a dispute erupted between the villagers of Sahnaya and the *mutawalli* of the *waqf* of the madrassah Farisiyah, Hamza Efendi al-Kurdi. At first, the conflict focused on the amount of tax to be

paid, and whether it was to be paid in cash or in kind; in other words, determining the legitimate tax liability of Sahnaya. However, determining tax liability was not as straightforward as might be expected. While the ultimate authority was agreed by all to be the *defter-i haqani*—or the *defter-i sultani*, as the Damascenes typically called it—deciphering the *defter* and showing compliance with it was not always an easy matter. Its numerous ambiguities had to be translated into the concrete reality at hand, a process that was open to interpretation. At first, this dispute appeared to fall into typical patterns of conflicts between tax collectors and villagers over the manner and amount of taxation. Shortly thereafter, the case evolved into charges of unusually blatant corruption for which the villagers demanded restitution. Before the question of implementing the court's order was resolved, a new arena of conflict opened between the villagers and Hamza Efendi when the latter sought to buy the tax farm for collecting the village's imperial taxes. In their correspondence with the central finance bureau, the villagers questioned Hamza Efendi's fitness to hold the tax farm. As his management of the tax farm came under scrutiny, he grew increasingly assertive about his membership in the '*zumre*' (group or class of people) of the *ulama* in order to deflect the villagers' criticisms and to support his claim to rightness of conduct. He presented himself as a person who embodied the moral qualities that set the *ulama* apart from other people and which made them unusually respectable: mercy, greater interest in the welfare of others than of the self, scholarship, and dedication to the greater good. As such, he could not be capable of committing the acts of which his enemies accused him; rather than a perpetrator of *zulm* (oppression) he was its victim.

According to Muhammad Kurd Ali, people disagreed about whether or not the village of Sahnaya was located in the Ghuta.<sup>501</sup> It was located on the edge of the oasis, just outside according to some reckonings and just inside according to others. Irrigated by the A'waj river, wheat and barley were grown there, as were other kinds of produce, probably olives and citrus.<sup>502</sup> In the revenue survey of 1086 H/ 1675 AD, Sahnaya was a village of 78 households containing 80 adult male tax payers.<sup>503</sup> A low estimate, assuming an average of three people per household, would put the population at 234 people. Many of those named in the register in 1675, such as Hasan bin Ahmad, Hasan ibn Muhammad and Sharaf al-Din ibn Abdallah, would appear in the records generated by the court cases that began some thirteen years later in Damascus. The villagers claimed to have twenty-seven feddans under cultivation.<sup>504</sup> As such, Sahnaya was a village that

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<sup>501</sup> Muhammad Kurd Ali, *Ghutat Dimashq* (Damascus: matba'at al-taraqqi bi- Dimashq, 1952), 117

<sup>502</sup> DSC v. 18, f. 33, no. 41 refers to wheat, barley and produce from trees.

<sup>503</sup> A.DFE 143, f.16-17

<sup>504</sup> DSC v. 18 f. 125, no. 192

was on the large side, in both population and the number of feddans that the villagers controlled.<sup>505</sup>

The other party to the conflict, known as Hamza Efendi al-Kurdi, was not Damascene by birth, but had come to the city looking to make his fortune as a teacher, and he was known primarily for the lessons he gave on Ibn Arabi's *Meccan Revelations* and the traditions of the prophet (hadith).<sup>506</sup> It was reported that he was born in the year 1038 H/1628 or 1629 AD, though it is not clear where. In Damascus, he held a dual appointment as professor at the Madrasah Farisiyah and *mutawalli* of the madrasah's *waqf*. His own testimony and that of the villagers indicates that he attained these positions about the year 1088 H/1677 AD.<sup>507</sup> At that time he would have been about fifty years old; it is unclear how long he had lived in Damascus prior to this appointment. Another factor that probably helped him attain the appointment in a city rife with competition over such posts, is that fact that he made the political pilgrimage to Istanbul in 1085/1674-5, returning in November of 1675.<sup>508</sup> His career in Damascus appears to have been successful on the whole, and when the famous sufi from Bukhara Murad al-Muradi adopted Damascus as his home around the year 1670, he gave one of his daughters to Hamza Efendi in marriage.<sup>509</sup>

The Madrasah Farisiyah was founded in 808 H/1405 or 1406 AD by Sayf al-Din Faris al-Dawadar al-Tanmi (d. 810/1407-8), the Mamluk deputy governor and was, at least from its origin and as late as the sixteenth century, a primarily Shafi'i institution.<sup>510</sup> The position of professor there was not as coveted as some of those at the city's other, more elite institutions such as the Süleymaniye, Selimiye, and the Jaqmaqiyah.<sup>511</sup> Nevertheless, the scholarly environment in Damascus was generally competitive, and it may have ruffled some feathers that this position was awarded to an outsider rather than a native son. According to the *waqf*'s account made on the 21<sup>st</sup> of August, 1689, Hamza Efendi earned 150 qurush per year as a professor along with 20 qurush yearly in his capacity as *mutawalli*.<sup>512</sup> He was by far the best paid member of the madrasah's employees,

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<sup>505</sup> TT 474, passim. See also DSC v. 72, f. 7, no. 11, which specifies the amount of straw demanded from each village by weight. Sahnaya supplies 168 qantars, as did its neighbor *Ashrafiya* and a few others. Some villages produce, roughly 189 or even 210, but most produce between 147 and 84. Only the enormous village of Daraya produced significantly more, a whopping 588 qantars.

<sup>506</sup> Muradi, 2: 75

<sup>507</sup> DSC v. 18, f. 125, no. 192

<sup>508</sup> Muradi, 2: 75 mentions a trip to Istanbul, and Mahasini, 101 gives the dates of the journey.

<sup>509</sup> Muradi, *ibid*.

<sup>510</sup> Abd al-Qadir ibn Muhammad al-Nu'aymi, *al-Daris fi tarikh al-madaris* (Dimashq [Damascus]: Matba'at al-Taraqqi, 1948), 1: 426-7

<sup>511</sup> Whether these madrasahs provided more lucrative stipends or were coveted for other reasons I have been unable to ascertain. However, only the most well-connected *ulama* were able to procure positions there.

<sup>512</sup> DSC v. 18, f. 19, item 28

the other principal staff (a servant, doorman, two revenue officers and a Quran reciter) made only 19 qurush between the six of them. The ten students received 4 qurush stipends each. It is also clear from this account that fully 84 percent of the *waqf's* revenues came from Sahnaya's tax remittances.<sup>513</sup> There can be no doubt that Hamza Efendi's fortunes were very directly tied to the villagers of Sahnaya, and that both parties knew this to be the case.

The first installment of the conflict between the villagers and Hamza Efendi of which a record survives is their appearance together in the head court of Damascus on Dhu al-Qa'adah 12, 1100 H/August 28, 1689. With Judge al-Hamam Efendi presiding, Uthman Efendi, the *waqf's* naib *nazir* (deputy auditor), together with Hamza Efendi maintained that the villagers had not paid the *waqf* the revenues to which it was entitled. The two men produced the most up to date copy of the *defter* sultani noting that the totality of the village feddans owed 88 ghirara of wheat and 30 ghirara of barley annually in taxes.<sup>514</sup> Since 21 of the feddans, or about 78 percent of the revenues, were designated for the Madrasah Farisiyah, this meant that the villagers owed them 63 ghirara of wheat and 21 ghirara of barley, they maintained, which the villagers refused to pay. The villagers for their part maintained that since olden times (*qadim-i zaman*) they paid the *waqf* 300 qurush. As for the current year, they noted that they had already paid Hamza Efendi 350 qurush, a fact which is corroborated by the accounting of the Madrasah Farisiyah in the court's register, which was recorded only a week previously.<sup>515</sup> The judge perused the copy of the sultan's *defter* and found the amounts of wheat and barley owed by the totality of the village feddans, but he noted that beneath the specified amount of wheat and barley were cash equivalents of 13,200 dirhems and 2,700 dirhems respectively. Once the fees (*rusum*) were added, the entire liability of the village was 18,400 dirhems. The judge then advised Uthman Efendi and Hamza Efendi that they could not force the peasants to pay them in kind, for they were permitted to pay the cash equivalents written in the *defter* in the proper amount.

The most obvious question that is never raised in the court record is whether or not 350 qurush is equivalent to what the *defter* specified that the peasants owed the *waqf*, either in kind or in Ottoman dirhems.<sup>516</sup> What the Damascenes call "Ottoman dirhems" was a unit of silver based currency called *aqche* in Ottoman Turkish. While other coins were present in Greater Syria in the sixteenth century, when the *defter* was composed in 1569 the *aqche* was the

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<sup>513</sup> Ibid.

<sup>514</sup> This record fails to make clear that the totality of the village land is 27 feddans, but this becomes clear in DSC vol. 18, f. 124-127, no. 192

<sup>515</sup> DSC vol. 18, f. 19-20, no. 28

<sup>516</sup> The *waqf* would not have been entitled to a share in the fees, but only to its share in the tax on the land's produce. Since the cash total of the wheat and barley is 15,900 dirhems, and the *waqf's* share was 21/27 or 78%, the *waqf* could lay claim to about 12,400 dirhems.

dominant currency throughout the empire, including in Syria.<sup>517</sup> Historians argue about the roots of the financial crises that began to destabilize this coin in the last quarter of the sixteenth century, but whatever the causes, the *aqche* experienced a number of devaluations beginning in 1585 and continuing throughout the seventeenth century. By the first half of the seventeenth century, the Ottoman currency had become so unstable that it began to disappear from the provinces, where more stable coins of higher value were preferred.<sup>518</sup> In the province of Damascus, the currency for all transactions had become the Dutch thaler, known in Arabic as the *qurush asadi*, or 'lion's *qurush*' because it depicted two lions. While official exchange rates were maintained in Istanbul between the *aqche* and the *qurush*, and presumably the judge was aware of these, it is interesting that, as far as we know from the court record, no one in the case expressed an interest in whether the value of the 350 *qurush* was equal to the amount of *aqches* specified in the *defter*. The focus of the case remained squarely on whether the villagers owed the *waqf* three items (wheat, barley and cash) or one (cash only).

The last *defter* surveying the countryside of Damascus was made in the year 1569 or 1570, meaning that by the year 1688, whatever payment arrangement existed between the villagers and the *waqf* may have had little to do with the *defter*, and was an accumulation of adjustments over the century as the currency changed and the size of the village either grew or shrunk. However, the *defter* was still the ultimate authority on liability, allowing a new *mutawalli* who did not like the customary arrangement to challenge it on the basis that it did not adhere to what was in the *defter*. It is impossible to know whether the sixteenth-century bureaucrats who had compiled these *defters*, also called *tapu tahrir defters* or survey registers, were attempting to make tax liabilities indisputably clear or whether they purposely introduced ambiguity into the *defters* to give the villages and tax collectors a number of equally authoritative options for payment. Whatever their intentions, they left quite a bit of room for interpretation. Typically the 1569 *defter* for Damascus starts by summarizing in *aqches* the entire productive liability of the village: that is, the number of *ghiraras* of wheat and barley with their cash equivalents, any additional sums of cash, and the tithe on fruit trees and vines. Beneath this breakdown of the productive taxes, the *defter* explains how these revenues were to be shared between the *waqf* and the state tax collector, either a *timariot* or tax farmer. Hamza Efendi, seeing the words 'wheat' and 'barley' at the beginning of the revenue summary, and knowing that the *waqf's* share in the tax revenues was based on the proportion of the village that belonged to the *waqf*, argued that he should take a proportional amount of the wheat and barley. The judge, on the other hand, pointed to the cash equivalents of the grains that were also inscribed, and maintained that it was not

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<sup>517</sup> Sevket Pamuk, "Money in the Ottoman Empire, 1326-1914," in H. Inalcik ed., *An Economic and Social History of the Ottoman Empire, 1300-1914* (Cambridge; New York: 1994), 2: 945-985

<sup>518</sup> *Ibid.*, 962



incumbent on the peasants to pay in kind. More frequently, at least in sixteenth-century sources, are peasant complaints that are the mirror image of this one, wherein tax collectors are demanding cash and the peasants would rather pay in kind.<sup>519</sup> As we will see, given that he always had military partners and wanted access to the tax farm, Hamza may have had a grain business on the side.

A new reading of the *defter* was frequently the cause of strife between villagers and tax collectors. A group of villagers went to the mufti Ismail al-Hayik complaining that they had from time out of memory paid a specified lump sum to the *waqf* and the *miri* tax collectors that had claims on the village revenues. Now, the two tax collectors demand that the villagers instead pay them half the village harvest, claiming that the *defter* sultani entitles them to it. The mufti ruled that since it had never been demanded before, then it should not be changed now.<sup>520</sup> What is interesting about this fatwa is that it captures another ambiguity in the *defter*: there usually is a rate given for the division of the crops, suggesting that the agricultural taxes will be levied on a proportional basis, rather than a lump-sum basis. Nevertheless, directly underneath this rate, a lump sum is usually prescribed as the full amount of tax liability. The confusion was certainly understandable. That past precedent generally determined the outcome was a nod to the fact that the *defter* might mandate a number of different things, but so long as the custom was not *unambiguously* refuted by the *defter*, then it was not to be changed. What this incident demonstrates is that custom, *shariah* and imperial law were not three separate kinds of law with different jurisdictions. They were woven together in an intricate fashion and all had some bearing on cases such as these. What happened in the court room, and in the mufti's fatwas, drew on all three as appropriate.

Thus far, the dispute between Hamza and the villagers was within the norm of typical village-*waqf* disputes. They preferred one payment arrangement, he another, with the judge ruling in favor of the villagers. The next installment took a surprising turn. The villagers of Sahnaya returned to court on Rabi' al-Awwal 4<sup>th</sup>, 1101/December 16, 1689, represented by Hasan bin Ahmad, the shaykh of the village, Hasan bin Muhammad and Shams al-Din bin Abdullah.<sup>521</sup> All of these individuals had been named as defendants in the first case, but this time they came as plaintiffs and as the *wakils*, or deputized representatives, of seventeen other men, all of whom were described as being cultivators (*zura*) of Sahnaya. Hamza Efendi attended the court this time as a defendant. The peasants made extremely damning accusations against the latter, testifying that for the last six years he had taken from them every year 550 qurush cash, of which 350 were for the *waqf* and the other 200 he kept for himself, calling it a service fee. The villagers maintained that its proper name was a bribe, a *rishwah*. Additionally, he had taken 54 ghirara of wheat and 18 ghirara of barley

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<sup>519</sup> Halil Inalcik, *The Ottoman Empire: the classical age 1300-1600* ([London] U.K.: Weidenfeld & Nicolson, 1973; London, U.K.: Phoenix Press, 1973), 112

<sup>520</sup> Ismail al-Hayik, "Fatawi al-Shaykh Ismail al-Hayik," Zahiriyah MS. 5677, f. 10b

<sup>521</sup> DSC v. 18, f. 24, item 192

despite the fact that from olden times the taxes were assessed upon the villagers in Ottoman dirhems and what is designated in the *defter-i sultani* for the *waqf* is the amount of 14,714 Ottoman dirhems. Adding the yearly 200 qurush service fees to the value of the grains, they calculate that, with wheat running ten qurush a ghirara and barley at six qurush a ghirara, over the last six years Hamza Efendi has illegally extracted 3,036 qurush from the village.

For his part Hamza Efendi denied having ever taken more than 350 qurush from the villagers, though he continued to maintain that the *waqf* was entitled to 63 ghirara of wheat, 21 ghirara of barley and 30 qurush cash annually. The peasants presented the judgment they had received a few months previously that stated that the *waqf* could not force the peasants to pay crops in kind rather than cash. They then brought witnesses forth to testify that according to the *defter*, the *waqf* is owed 14,714 dirhems rather than a combination of wheat, barley and cash. They also testified that the previous *mutawalli* of the Farisiyah *waqf*, Khalil Pasha bin Uthman, and those before him for the last forty years, took 350 qurush annually and no more. They testified also that Hamza Efendi had annually extracted the illegal amounts that the Sahnayans claimed. Thereafter, the villagers presented two fatwas supporting their claim that Hamza Efendi owed them 3,036 qurush and that he should pay it back to them. In closing, the judge ruled that Hamza Efendi should pay the peasants 3,036 qurush and cease to take anything more than 350 qurush annually from the villagers of Sahnaya.

This case is extraordinary for a number of reasons. Villagers were frequently overcharged, but rarely did they come to court, explain exactly how much had been illegally extracted, and then demand to have the sum restored to them. However, the facts of the case were particularly egregious. Moreover, still at issue between the villagers and Hamza Efendi is whether the latter had any right at all to their wheat and barley. In the first case they appeared unfamiliar with the exact terms of the sultan's *defter*, but by the second case they had realized that it contained yet another piece of information that was in their favor: whatever proportional amount of Sahnaya's crops or revenues from crops that was due the *waqf*, it additionally stated what the *waqf* was to be paid a cash amount. That amount was 14,714 aqches, which the previous *waqf mutawallis* had converted to 350 qurush. Custom was here invoked rather than any kind of exchange rate. There had been a general agreement for forty years that 350 qurush was the equivalent of the 14,714 dirhems in the *defter*, and that having been established, Hamza Efendi was wrong to challenge it. Furthermore, his demands of necessity must be limited to cash, and his taking any amount of grain was decisively ruled out. Hamza Efendi had struggled to show that his interpretation of the *defter* was the correct one, yet the villagers of Sahnaya were able to show even more definitively that time honored custom was in harmony with what the *defter* commanded. The authority of the *defter* and custom were simultaneously upheld; having reconciled the two, the villagers were assured that they would prevail.

Although Hamza Efendi was charged with unusually brazen illegal acts against the villagers, he was not the only *alim* who was accused of abuses towards the villagers whose labors supported a *waqf*. Ismail al-Hayik gave a fatwa in a case wherein a group of villagers complained that the *mutawalli* of a *waqf* was trying to lay claim to more feddans for the *waqf* than were denoted in the '*defter al-muhasibah*' (accounting *defter*).<sup>522</sup> Nablusi gave a fatwa in a similar case, wherein a *waqf* officer was trying to claim the *miri* revenues of the village for the *waqf*.<sup>523</sup> Another *waqf nazir* engaged in an act that directly contravened the *qanun* by trying to take cultivation rights away from the peasants with *mashadd maska* and give it to cultivators from another village.<sup>524</sup> There were also cases that went before the judge wherein no wrongdoing was proven, yet the circumstances suggested that misconduct had taken place. In one such example, a woman named Mufaddalah from the village of Ayn Tarma in the Ghuta oasis maintained that her two children were the rightful heirs of the produce of *waqf* land that their recently deceased father had cultivated.<sup>525</sup> But her brother-in-law and the *mutawalli* of the *waqf*, an *alim* named Muhammad Chelebi, insisted that the deceased had sold his share of the produce to the brother-in-law and surrendered his cultivation right to the *waqf*, and that the orphans therefore could inherit neither the produce nor the cultivation rights.<sup>526</sup> Although witnesses were produced to corroborate this narrative, the fact that Mufaddalah footed the expense of bringing two suits against the brother-in-law and the *waqf* suggests that she was convinced that nothing of the kind had taken place. Whether or not the orphans were unlawfully deprived of their father's resources, the preponderance of complaints against *ulama* acting on behalf of *waqfs* suggested that they enjoyed no greater respect or good relations with their village revenue payers than their military counterparts who collected revenues on tax farms and *timar* villages.

The villagers of Sahnaya were not alone in charging Hamza Efendi with malfeasance, and this fact would prove to be troublesome for him in the years to come. A few days after Hamza Efendi and the villagers of Sahnaya had concluded their first court appearance, a *jabi* (revenue officer) for the *waqf* of the Madrasah Farisiyah brought Hamza Efendi to court and demanded that the latter account for the *waqf's* revenues and expenditures from the year 1097 through the year 1099.<sup>527</sup> The judge dismissed the *jabi's* complaint because Hamza Efendi produced two accounts for the *waqf* that covered those years, noting that it had been duly checked and signed by the previous judge and the accountant (*muhasib*) for the *waqfs* of Damascus. This being the case, Hamza Efendi maintained, no further accounting could be required of him, and the judge agreed

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<sup>522</sup> Hayik, f. 10a

<sup>523</sup> Abd al-Ghani al-Nablusi, "Fatawa al-Nablusi," *Zahiriyah MS.* 2684, f. 75

<sup>524</sup> Ali Efendi al-Muradi, "Fatawi al-Muradiyah," *Zahiriyah MS.* 2642, f. 325

<sup>525</sup> DSC v. 18, f. 15-16, item 23 mukarrar

<sup>526</sup> Ibid., and DSC v. 18, f. 17-18 item 25

<sup>527</sup> DSC v. 18, f. 65-66, case 96

that the accounts having been thus verified, they should be treated as accurate. Yet the accusations continued to mount; perhaps the parties were emboldened by one another's claims. A number of students holding stipends at the madrasah appeared shortly after the judge ordered Hamza Efendi to pay the villagers 3,036 qurush. The students demanded an explanation of the revenues that the *waqf* had received since Hamza Efendi became the *mutawalli* twelve years previously that had been allocated for their stipends.<sup>528</sup> It was unclear whether they had not received the stipends or whether something about the manner of payment had been unsatisfactory, but the case again shows that a wide variety of Damascenes were convinced that something was amiss in Hamza Efendi's management.

Additionally, not two weeks after the judge ordered him to repay the villagers of Sahnaya, Hamza Efendi was again to be found before the judge complaining that he was unable to pay the villagers, as he was a poor man and unable to raise such an onerous sum.<sup>529</sup> The villagers maintained that he did have such resources and Hamza Efendi challenged them to prove that he had such means at his disposal. They replied that they would find witnesses to attest to it, and the case was adjourned. Less than a month later, the villagers returned and instead of renewing their demand for immediate payment agreed to a 40 day postponement to allow Hamza Efendi time to secure the money. While very few Damascenes would have had so large a sum as 3,036 qurush in cash at their immediate disposal, there is no doubt that Hamza Efendi had some access to cash, for it was at roughly this time that he and a partner named Ismail Abdallah together put in a bid for the *miri* portion of Sahnaya's tax revenues, which was sold as a tax farm by the treasury.<sup>530</sup> Their bid was successful, meaning that they must have had cash for the generally substantial down payment that was the condition of entering the contract, though the record does not specify the amount of the down payment.

Tax farming records indicate that there had been a bidding war over the Sahnaya tax farm starting no later than 1099/1687-8.<sup>531</sup> In a period of just under two years, between Safar 1099/December 1687 and the Dhu al-Hijja 1101/September 1690, Sahnaya changed hands six times, while the price of the tax farm rose four times, from 565 qurush to 575, then to 605, later to 610, and finally to 710 qurush.<sup>532</sup> Ismail Abdallah and Hamza Efendi controlled the tax

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<sup>528</sup> DSC v. 18, f. 302-3, case 488

<sup>529</sup> DSC v. 18, f. 286, case 460

<sup>530</sup> MAD 9866, f. 31

<sup>531</sup> Ibid.

<sup>532</sup> Suraiya Faruqi, "Crisis and change, 1590-1699," in H. Inalcik, ed., *An Economic and Social History of the Ottoman Empire, 1300-1914* (Cambridge; New York: 1994), 538 provides context for understanding this instability. There was a short-lived attempt in 1691 to see that each tax farmer was allowed to hold the farm for at least a period of a year, but in the end, the fiscal pressures of the war with the Holy League (1683-1699) pushed the Ottomans gravitated against any such safeguards.

farm for only a few months in the beginning of 1101, after which it was re-awarded twice to other investors. However, in the final contract awarded for the year 1101, Hamza Efendi, without a partner this time, pledged to pay 710 qurush for the *miri* taxes, raising the price of the tax farm in one blow by 100 qurush. We have already had occasion to meet the man from whom Hamza Efendi wrested the tax farm in that transaction, Ruznamcheji Ahmad Efendi, became a principal player in the events that followed.<sup>533</sup> The irony of the situation was that Hamza Efendi, who owed the villagers 3,036 qurush, was now in a position to take even more money from them.

Hamza Efendi's efforts to gain control of the Sahnaya tax farm inaugurated a new phase in the dispute between him and the villagers. The villagers had prevailed in court because documents as well as witnesses corroborated their version of events. The records left from the court do not suggest that Hamza Efendi enjoyed any sort of privileged position with the judge or was shown any deference because he was an *alim*. However, the next phase of the dispute would be mediated not by the court, but through an assembly composed of the Damascene treasurer, governor and judge, and which was probably synonymous with the Divan al-Sham, the assembly of government officials who met to address complaints and mete out justice (see chapter 2).

Tax farming complaints rarely went to court; far more frequently they were handled by this assembly, which would forward complaints and petitions to the central treasury in Istanbul. This assembly did not have the forensic requirements of the court, meaning that for petitioners the presentation of a plausible narrative was in many ways the crucial point. The question of what kind of person Shaykh Hamza was, and whether he was able or likely to exercise his powers in a morally and administratively proper way was to play a far more important role in this phase than it had in the courtroom. While twenty-first century readers are unlikely to be surprised that the *ulama* were no more scrupulous than others in their discharging of tax collection duties, it could be very difficult for a village to prove that an *alim* was just as rapacious as any other tax collector. This is not to suggest that the Ottomans were naive, for there was no shortage of judges accused of accepting bribes or behaving in other reprehensible ways. Nevertheless, in a system of governance where unauthorized tax extraction was an offence against God as well as the state, those people enjoying a generally higher level of moral capital enjoyed a considerable advantage, as we shall see.

Hamza Efendi's foray into the world of tax farming was most unusual. In general, in the late seventeenth and early eighteenth centuries, the Damascene *ulama* did not become tax farmers: the exception that proved the rule was Asad Efendi al-Bakri, the tax farmer of Jaramana, the village where he maintained his country estate and entertained friends and visiting dignitaries. But Asad Efendi was in a class by himself and his circumstances were scarcely comparable to those of a minor *alim* who was not native to the city like Hamza Efendi. Of the

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<sup>533</sup> For more on Ruznamcheji Ahmad Efendi, see chapter one

others who served as tax farmers of Sahnaya in that two-year period, those with titles are identified as serpiyade, *zaim*, chavush, and an agha of the janissaries, all of them military titles. Nevertheless, the man destined to become Hamza's chief rival, Ruznamcheji Ahmad Efendi, was not a combatant either. The title 'efendi' makes it clear that he made his living by the pen rather than the sword, although the title ruznamcheji indicated that Ahmad Efendi was employed in the Damascus office of the treasury keeping track of the province's income and expenditures. Because of his employment in the treasury, he was of the military class and had obtained military perquisites; he had been awarded a *timar* and was accounted as part of the military for tax purposes.<sup>534</sup> For a middling *alim* with no military status or connections Hamza Efendi was in strange company, yet his conduct shows that he was in no way out of his league.

The record of Hamza Efendi's debt to the villagers disappears from the court registers, but other records make it clear that the dispute between the *mutawalli* and the villagers showed no signs of abating. Tax farming records show that the years between the beginning of 1101/1689 and the end of 1103/1692 were difficult ones for the villagers of Sahnaya as Hamza Efendi, Ahmad Efendi and another tax farmer named Ismail Serpiyade battled each other for the right to collect Sahnaya's taxes through much of 1102 and 1103 H, driving the taxes ever upward.<sup>535</sup> The tax farm turned over five times in this period, and had reached a value of 735 qurush by Ramadan of 1103/May 1692. At that time, Hamza Efendi requested the tax farm again, but instead of offering a higher price, he maintained that he wished to restore the tax farm to 565 and a half qurush (its value as of four years previously)—as an act of mercy to the beleaguered villagers. The order bestowing the tax farm upon Hamza Efendi incorporated language that was probably taken directly from his petition; we can surmise this not only because it was standard practice for imperial orders to repeat the premises of the petitions that they responded to, but also because the facts as they are laid out are construed very much in Hamza's Efendi's favor.

The order summarized the history of the Sahnaya tax farm in the following way: Sahnaya's yearly taxes designated for the *miri* were recorded at 565.5 qurush, but later tax farmers drove the price up to 610 qurush.<sup>536</sup> At that point the village was becoming ruined and the villagers fleeing, so the tax farmers lost interest in it and no one would buy it. The *mutawallis* of the *waqf* therefore took the tax farm, and after they revitalized it, again the tax farmers desired it and drove the price up to 735 qurush. This was so great an amount that it was

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<sup>534</sup> In reference to the *timar*, see MAD 9866 f. 62. For reference to his belonging to the military class of estate (*chiftlik/falaha*) owners in Daraya, see DSC v. 18, f. 89, item 134. We know that the figure in court is the same as the figure in the finance documents because Muradi, 1: 97 uses the same extended patronym to identify the Ahmad present in the court record, and then notes that he was a scribe and finance employee at the treasury.

<sup>535</sup> For all references in the paragraph see MAD 9866 f. 62

<sup>536</sup> MAD 9866, f. 64

difficult for the *waqf* to extract its proper share of the revenues given the paucity of what remained after the *miri* taxes were paid. Therefore, the sum to be collected and turned over to the *miri* is once again inscribed as 565 and a half qurush and is awarded to the madrasah's *mutawallis*.

This narrative fails to mention that Hamza Efendi himself played a role in the escalating price of the Sahnaya tax farm, and it presents his interest in the *miri* revenues as primarily one of benevolence, as his motivation is portrayed as an interest in the welfare of the villagers and the *waqf*. Yet many events cast suspicion on such a narrative: the fast paced rate of the Sahnaya tax farm's turnover in the prior years suggests that there was never a time in the recent past that Sahnaya was unwanted by other tax farmers because it was ruined. Not only did no tax farmer serve out the full term of three years, most held the tax farm for fewer than three months. Hamza Efendi himself had never been able to hold onto it for longer than a few months at a time, and it is difficult to see how, if had been a broken and unwanted resource, he could have revitalized it given that his periods of authority over it were short and continually interrupted. Nevertheless, this narrative sounded convincing to the central treasury, which bestowed the collection rights upon him in Jamada al-Awwal of 1103/January 1692.<sup>537</sup> We may speculate that this move was a shrewd one on the part of Hamza Efendi; by pledging to deposit less money in the treasury than in the past, his own profit margin went up. Whatever the truth of his motivations, the petition shows that he presented himself as an ideal manager of imperial resources as well as embodying many of the key virtues of the *ulama*. He maintained that he had exhibited interest in the welfare of the village rather than greed in his dealings with it, a quality that meant he could be counted on to preserve the long term viability of the revenue source.

At the end of the next year, however, in Muharram of 1104/September 1692, a very different order arrived from Istanbul. This order was a response to a petition from the villagers of Sahnaya that had made its way to the central finance office in Istanbul. As such, the original complaint had been delivered either in writing or in person to the provincial branch of the treasury, most probably at the divan-i Sham, where we have reason to believe that taxation related complaints were heard.<sup>538</sup> The villagers maintained that on top of the 3,036 qurush that he had extracted from them in violation of *shariah* and *qanun*, Hamza Efendi had abused them (literally, he had committed oppression '*zulm*'; infringement of right '*taaddi*'; and transgression '*tajawuz*' against them) from the time he took charge of both the *waqf* and *miri* taxes.<sup>539</sup> Although he had been absent (during the

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<sup>537</sup> Ibid.

<sup>538</sup> The petition was submitted to the finance bureau by the governor, treasurer and judge of the city of Damascus, all of whom would have been present in the divan, and suggesting that the petition had originated there, see MAD 9866, f. 64. Additionally, Nagata ed., 94 records a case where a tax farmer seeks redress at the divan when the cultivators in his village are settled in a different village by an interloper.

<sup>539</sup> MAD 9876, f. 14

tenure of other tax farmers), he had managed to regain the right to the *miri* taxes by “presenting things contrary to the way they actually were” (*khilaf anha*). It may be the case that the villagers were referring to Hamza Efendi’s petition wherein he described himself as a benefactor to Sahnaya and blamed others for inflating the cost of the tax farm. On the other hand, they may be referring to something else entirely. One of the difficulties of the petitions and imperial responses is their lack of specificity. The language is vehement; the three words above (oppression, infringement of right, transgression) were so loaded each in its own right that together they constitute an all-out assault upon the conduct of Hamza Efendi. Nevertheless, the order does not state what he did beyond what we already know of his conviction for over taxation for the *waqf*.

The reply to the complaint mirrored the gravity of the accusations. In response to the villagers’ request that the tax farm be taken from Hamza Efendi, the order appoints the villagers themselves as responsible for submitting both the *miri* and the *waqf* revenues to the treasury. This measure was not particularly extraordinary and examples exist wherein other villagers complained of their tax farmer and were remedied by taking the responsibility collectively upon themselves.<sup>540</sup> However, the part that follows is extremely unusual, for the order then barred Hamza Efendi from having any access at all to Sahnaya’s revenues, including access to the portion of Sahnaya’s revenues that funded the *waqf*. The order specifies that the Damascus treasury will henceforth be responsible for the finances of the *waqf* that are ordinarily handled by the *mutawalli*. Not only is Hamza Efendi forbidden to collect taxes from the Sahnaya villagers for either the *miri* or the *waqf* but the treasury will take responsibility for seeing that the students and the *waqf* employees receive their payments. For the treasury to announce that it was taking over the financial affairs of a *waqf* was highly irregular, for unlike tax farms, *waqfs* were not under the direct supervision of the treasury. Nevertheless, the finance ministry completely stripped Hamza Efendi of all his financial responsibilities and deprived him of all rights of access to Sahnaya’s revenues. In one fell swoop, all of the aspersions cast on his management, and all of the lawsuits brought against him, both by the Sahnayans and the officers and students at the madrasah, came back to haunt Hamza Efendi.

What was striking in Hamza Efendi’s reversal of fortune is the role played in the background by his long-time rival for the tax farm, Ruznamcheji Ahmad Efendi. The finance bureau’s order specifies that it is Ruznamcheji Ahmad who will oversee the villager’s remittances to the treasury and the distribution of the salaries and stipends to those at the Madrasah Farisiyah.<sup>541</sup> In effect,

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<sup>540</sup> Nagata, ed., 453 recounts such an episode in Sbene Gharbiyah.

<sup>541</sup> MAD 9876, f. 14: the abridged version of the *firman* (order) that appears in the tax farming register MAD 9866, f. 64-65 does not contain this part about the role of Ahmad Efendi, but when the peasants lose the tax farm and later regain it at the end of 1104, the inscription from Jamada al-Awwal does specify Ahmad Efendi’s supporting role both with the *miri* and the *waqf*, see folio 65.



Ruznamcheji Ahmad managed to have all of Hamza Efendi's financial powers bestowed upon himself, even his financial powers over the *waqf*, with which neither Ahmad Efendi nor the Damascus treasury had any relationship. Ahmad Efendi's coup did not change business as usual at the treasury. In a matter of months, the tax farm was again sold to a tax farmer who had bid to increase the revenue by 10 qurush.<sup>542</sup> He in turn was replaced by another bidder. Towards the end of the year, Ahmad Efendi and the villagers of Sahnaya, agreeing to pay the yearly sum of 585 and a half qurush, managed to reinstate the conditions of the order, but they did not prevail for long, for another bidder raised the price yet again and took the collection rights from them.

Even though they faced competition from other tax farmers, the villagers and Ahmad Efendi may well have felt confident that they had managed to sideline Hamza Efendi. However, Hamza Efendi was nothing if not persistent, and the year 1105 saw the restoration of his fortune. Another *firman* from the finance bureau arrived on Jamada al-Awwal 28<sup>th</sup>, 1105 H/ February 24<sup>th</sup>, 1694 M.<sup>543</sup> The order was responding to a petition sent by the governor, treasurer and judge of Damascus, all of whom were new appointees who had not been involved with the petition of the Sahnaya villagers to have Hamza Efendi removed. It is clear that Hamza Efendi waited until those officials responsible for forwarding the villagers' complaint had been replaced, and then sought restitution through the divan that was now full of freshly arrived bureaucrats unfamiliar with past events. According to the finance bureau's response, some people of 'corrupt objectives' (*aghrad-i faside*) had become covetous of Shaykh Hamza's position at the *waqf* and control over the village of Sahnaya. Portraying things other than how they were (*khilaf anha*), these people sent a petition and had Hamza's duties taken away from him. So far, this narrative presents Hamza's version of events that we already know of; namely, that his rival Ahmad Efendi managed to displace him. However, the next part takes the story into new terrain: the petition states that Hamza Efendi's antagonists, with the help of "tyrannical men of authority" (*mutaghallibah ahl-i urf*) had him thrown into a common jail (*urf habsinda*) where, by insulting and tormenting him, they committed injustice and violence. If Ahmad Efendi and the villagers had conspired together to have Hamza Efendi thrown in prison because he had failed to repay his debt to the villagers, they had overplayed their hand.<sup>544</sup> While the villagers may have been relieved or felt that such an action was a richly deserved comeuppance, the spectacle of an *alim* in a common jail was one that Hamza

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<sup>542</sup> MAD 9866, f. 65

<sup>543</sup> Ibid.

<sup>544</sup> This dramatic turn of events may have been the consequence of Hamza Efendi's failure to pay his debt to the villagers of Sahnaya. Although I cannot establish with certainty that Ottoman officials could order debtors to prison, Amy Singer refers to an imperial order that authorizes cultivators to be imprisoned if they failed to pay taxes. See *idem, Palestinian peasants and Ottoman officials: rural administration around sixteenth-century Jerusalem* (Cambridge; New York: Cambridge University Press), 106.

Efendi was able to exploit effectively to gain sympathy and support his claim that it was he, not the villagers, who was a victim of injustice and oppression.

The petition alludes to the unwarranted nature of the harsh and humiliating treatment that Shaykh Hamza had suffered, by noting that he is “engaged in teaching the rational and transmitted sciences and strives earnestly to gather revenues for the *waqf*’s income and expenditures.”<sup>545</sup> In other words, Hamza is an *alim* not just in name but in deed, who is not only trying to execute his responsibilities faithfully, but is also engaged in a vocation that is a service to the community of the faithful. The dignity of belonging to the ranks of the *ulama* is here invoked—these are not the sort of people who belong in prison with criminals, for they educate Muslims and manage resources of the *waqfs* to ensure that the funding of education may continue. The petition then announces that since it is a sacred duty of the authorities to protect the *ulama* from oppression (*zulm*), Shaykh Hamza is to be restored to all his financial responsibilities as they were before. These responsibilities are enumerated: they include the collection rights for both the *waqf* and *miri* revenues, and additionally, the order specifies that Hamza is authorized to take these payments in the form of cash, barley and wheat!<sup>546</sup>

Hamza Efendi’s restoration was complete. He not only had regained collection rights, but had managed to procure in writing that he was entitled to payment in kind as well as in cash, which was the original bone of contention that had brought him into conflict with the villagers. With all outstanding issues resolved in his favor, Hamza Efendi found himself back in charge of Sahnaya’s revenues with a *berat*, or certificate, ordering that this state of affairs was to be maintained in perpetuity.<sup>547</sup> What is striking is how much Hamza Efendi’s petition against the conspirators mirrors the petition in which the Sahnayans denounced him. It was the villagers who had first invoked *khilaf anha* to describe the way that Hamza Efendi had managed to gain access to the tax farm. It was also they who had first invoked *zulm* in order to explain why the tax farm should be taken away from him. Ironically, Hamza Efendi would invoke *zulm* in order to get it back. It was as though Hamza Efendi, seeing that this formula was successful for the villagers, sought to replicate it as much as possible, simply changing his role of villain in the first telling to that of victim in the second.

It is significant that Hamza’s complaint that he had been slandered and oppressed did not blame the villagers for his sufferings. After all, the villagers too had a claim on the protection of the authorities, and if Hamza Efendi’s call for justice had shown antagonism toward them it would have supported their earlier contention that he was in conflict with the village and not fit to be re-instated. Instead, the language of the petition avoids leveling any accusations against the villagers and makes no suggestion that the interests of the villagers or their claim to justice ran counter to Hamza Efendi’s. Quite the opposite: the petition

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<sup>545</sup> MAD 9866, f.65

<sup>546</sup> Ibid.

<sup>547</sup> Ibid.

suggests that despite what slanderous people have said, the interests of Sahnaya are safe in Hamza Efendi's hands. Certainly the petition that the Sahnayans had delivered to the finance ministry in 1104 had stated quite openly that Hamza was the oppressor from whom they wished to be delivered, but Hamza's petition subtly refuted the Sahnayans' claims without impugning the veracity of the villagers. Hamza's petition suggested that the complaints about his management were not really those of the villagers, but rather a conspiracy of jealous interlopers and disreputable men of the sword. It is these latter who are responsible for having presented things as other than they are (*khilaf anha*); he also identifies them as the perpetrators of oppression (*zulm*) that he suffered, thereby not so much refuting the villagers' account of him so much as casting doubt that the villagers had actually lodged the complaints. The fact that the villains in Hamza Efendi's petition were tyrannical men of the sword turned the narrative into precisely the kind of event that a legitimate government was intent on preventing: a God-fearing, respectable *alim* had been molested by men of the sword. That this familiar and compelling narrative was able to adumbrate that of 'innocent villagers harassed by a rapacious tax collector' rests on the fact that the tax collector was an *alim* who was able to summon the authority of piety and learning.

As complete as his triumph was, it proved nevertheless ephemeral. In 1106/1695, the central finance bureau, in conjunction with the other highest ministers of state, revolutionized the practice of tax farming by introducing the *malikane*, or life tenure tax farm, whose importance has already been discussed in chapter three. All of the Damascus tax farm contracts were resold starting in 1106/1695 as *malikanes*. On the 20<sup>th</sup> of Dhu al-Qa'dah 1106/ 2<sup>nd</sup> of July, 1695, the Sahnaya tax farm was sold as a *malikane* to two Aghas, Ahmad and Husayn, who were probably janissaries of either the local or imperial variety.<sup>548</sup> These investors also purchased the collection rights for the villages of Dayr al-Qanun and Kafr al-Zayt, and for their three villages, made the substantial down payment of 1,430 qurush. While this turn of events represented something of a setback for Hamza Efendi, we would have to say that in the balance, he made out far better than the villagers of Sahnaya. He did not lose the restored right to collect revenues for the *waqf*, wherein the finance bureau had agreed that he could collect the wheat and barley he so clearly desired. A final sign of his determination to retain access to the *miri* revenues of the village was evident in Jamada al-Awwal of 1112/October of 1700. One of the Sahnaya *malikane* investors, Ahmad Agha, died in that year, leading the *malikane* back to auction. Hamza Efendi cobbled together a partnership with four brothers, and purchased the *malikane* with a down payment of 1700 qurush. There are no further entries in the tax farm registers for some time; presumably, Hamza Efendi held it until his death in Muharrem of 1120/April 1708.<sup>549</sup>

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<sup>548</sup> MAD 9486 f. 161

<sup>549</sup> Muradi, *Silk al-Durar*, 4: 75

Hamza's membership in the '*zumre*', the class, of the *ulama* was essential to his restitution in 1105. Spending time in prison for debt may not have been unusual for the majority of those who inhabited the rough and tumble world of Damascene military and financial rivalry. They were men of the sword, used to falling from fortune's favor and then being restored to it, only to find themselves fallen again. While those in the learned profession had their own cycles of receiving appointments and being dismissed from them, they were more secure in their persons and property as a rule. Hamza Efendi's successful navigation of the world of tax farming rested on his representation of his devotion to the moral qualities and pious duties that set the *ulama* apart from other people and entitled them to respect and trust. In his petition in 1103/1692, he maintained that he was merciful to the villagers where others had been greedy, that his concern was for the *waqf* as well as the villagers, and that he wished to see the village thrive. Such altruistic intentions were the hallmark of a pious and trustworthy individual. In the second petition, he portrayed himself as teaching and earnestly attempting to benefit the *waqf*, both of which were meritorious acts. In both cases, he prevailed because he presented himself as conforming to the expectations of an *alim*, and therefore could be trusted to wield his authority over the villagers in a just and moral way. Military tax farmers could not use their profession as evidence of their good character, and Hamza Efendi found that he was, in terms of credibility, at a distinct advantage.

### Conclusion

The question of what role the *ulama* played in legitimating Ottoman rule has frequently been posed in way that suggests a binary opposition. On the one hand, the *ulama* are portrayed as complacent, self-interested or the handmaids of imperial interests. The protector of local interests, those who limit the imperial gov. *Waqf* revenues have been seen as a bargaining chip in this binary game between center and periphery. But as has been shown above, the process is more accurately characterized by alliances between *ulama* across the center-periphery distinction in order to advance their interests at the expense of other *ulama* with whom they had personal or doctrinal rivalry. The overwhelming dynamic of rationing *waqf* posts is that of patronage ties that are a tie of mutual self interest rather than anything that can be easily described as the center/empire patronizing the *ulama*. If there was an element of center-periphery, it was in the political pilgrimage, though the efficacy of that, at the end, rested on patronage.

However, even though there was no clearly demarcated 'imperial' versus 'local' dynamic in the appointment of *waqf* revenues, there was definitely a concern that patronage ties could threaten to undermine the rigorous judgment of the *ulama*. Preventing the abuse of power, especially when that meant protecting the weak from the predations of the strong, was a responsibility that the *ulama* widely acknowledged to be their own. For someone like Nabulusi the *ulama* were to retain the utmost vigilance in their relations with the temporal

authority. To seek favor or money from the temporal authorities was, in Nabulusi's view, an invitation to a relaxation of such vigilance, and the path to corruption. But not everyone agreed that seeking favor and guarding against *zulm* were antithetical. For Ismail Mahasini there was no conflict of interest between honorable service—seeking and accepting appointments that he felt he well deserved—and standing against injustice. In fact in some cases, *ulama* who had powerful friends and patrons might be better placed to resist *zulm* because of their powerful connections. None of the *ulama* exiled for disobeying the governor were widely revered as living saints, as was Abd al-Ghani al-Nabulusi. Nevertheless, they were respected as civic leaders of integrity, and through their connections they were able to offer effective protection in addition to denunciation.

Similarly, the position of authority that the *ulama* enjoyed in Ottoman Damascene society translated into a form of privilege and immunity in the system of justice. Because the *ulama* were widely seen as guarding other people from *zulm*, they had more credibility when they denied that they engaged in *zulm* themselves. The troubles between the people of Sahnaya and Hamza Efendi reversed a number of common Ottoman conceptions about how abuse arose and who was likely to be an abuser. The Ottoman complaint system linked to the management of tax farming generally dealt with complaints of abuse at the hands of men of the sword, not *ulama*. While at first the villagers prevailed and were able to have Hamza Efendi removed, Hamza Efendi was later able to construct a narrative that better conformed to the expectations of social roles: he, the non-combatant man of religion and learning, was the victim of a scheme by military men with no scruples who had used violence to take what was not theirs by right.

The dynasty's commitment to the *ulama* and what they stood for—learning, piety, respect for divine injunctions—was not support that demanded a great deal in return, at least not in this period. It was simply expected that a legitimate dynastic enterprise would support learning, teaching, and preaching. It was true that the Ottomans did engage in some novel forms of control over the process of appointing *ulama* to positions. The appointment of a mufti, and the granting of a *berat* that allowed the mufti to give fatwas, was particularly novel. It is a bit surprising that more *ulama* were not troubled by this incursion of imperial power, which clearly worried Nabulusi. Even so, the control that the dynastic machinery claimed over this appointment was not the sort of control sought by the police states of the nineteenth century, where ideological conformity was surveyed and enforced. While it can be seen as laying the groundwork for future, more invasive forms of state regulation of Islamic practice that lay ahead, for the time being the *ulama*'s limitations on pursuing their interests were defined more by patronage than any systematic demands of loyalty from the state.

## Chapter Five

The question of whose interest the local soldiers served, those of the sultan, the local people, or simply their own, has long hung over the historiography of Ottoman Damascus. The *ulama* had a responsibility to upholding the *shariah* that could hypothetically run counter to serving the sultan. Did the soldiers have commitments that might put them in the same position? In general, the literature of the period emphasized the need for soldiers to have no loyalty to anyone except the sultan. The original janissaries had been troops assembled from Christian children taken from their families in the Balkans as an extraordinary tax upon villages that had been conquered by force. These young men were brought up within the sultan's household, in an attempt to create an army that had no ties or loyalties except to the sultan, having been severed from their roots. The ideal janissary was supposed to be childless, unmarried, and have no part in industry or trade. If the janissaries had ever conformed to this picture, they had long ago ceased to do so. Ottoman advice literature expressed deep misgivings over the de-professionalization of the janissary corps, emphasizing that those who put other responsibilities ahead of their military duties should be struck from the roles. Similarly, writer of advice and chancery bureaucrats agreed that officers with *timars* or *zeamets* who did not attend campaign should have their benefices taken away. *Avariz* taxes from rural and urban tax payers, or specially designated tax farms paid janissary stipends, while benefices were typically the tithe and various fees collected on the villages and farms in the *timar* or *zeamet*. Two related but distinct phenomena. These revenues were allocated to combatants for the legitimate purpose of defense and expansion of the sultan's domains, and it was reprehensible morally, politically, and religiously to pay them for this service if they were not providing it.

This chapter will examine the changing expectations of military service among the various troops stationed in Damascus in the seventeenth century. It will also investigate what sources of revenue the soldiers were able to control as either payment for or perquisite of their service. This chapter will demonstrate that all of the duties of the military groups present in Damascus province were becoming more tailored to the specific needs of the province over the course of the seventeenth century. As the century progressed, the pilgrimage began to absorb the entire military fiscal resources of the province of Damascus. During this time, the military forces of Ottoman Damascus found that secure access to the wealth of the province increasingly depended on the service that they were able to provide to the pilgrimage rather than imperial campaign.

However, the soldiers' access to revenues was ultimately dependent upon whether or not they performed their expected services in a satisfactory manner. Serving on campaign or on the pilgrimage was only part of the Damascene soldier's mission. Obeying the sultan's orders and keeping the peace in the city were also the soldiers' responsibilities, and failure to carry out orders from

Istanbul could have consequences for the military rank and file. When it came to identifying disobedience and meting out the proper punishment to military men who overstepped their bounds, officials in Istanbul sometimes made judgments that non-military Damascenes found just and fitting, although this was not always the case. For Damascenes, the question of how they viewed their military forces' intermittent conflicts with Istanbul was intimately connected with their perception of the soldiers' actions. Damascenes prized law and order; they did not always take the side of the local soldiers. If the soldiers disturbed public order with no goal except intrigue and hopes of self enrichment, they did not find support among the city's other residents. On the other hand, if the soldiers' actions were seen as protection of the city and the restoration of order rather than its disturbance, then they would indeed have the city's sympathy. Hence, the Damascenes did not always see their military forces the way that administrators in Istanbul saw them, but it was not because of an inevitable clash of interests between the two. Rather, both understood obedient service and the maintenance of order to be the rightful duties of the military; rather they might disagree about the interpretation of obedience depending on their vantage points.

### **The Rising Importance of the Pilgrimage**

In the sixteenth century, when Greater Syria was added to the Ottoman domains, the province's organization reflected two military priorities: supporting the sultan's campaigns like all the other provinces, and paying the tremendous costs associated with the pilgrimage.<sup>550</sup> In the sixteenth and seventeenth centuries, the governor of the city was expected to attend campaign with the region's benefice officers and a certain number of its janissaries every year. Despite its distance from both the European and the Asian fronts, the province of Damascus was treated like a standard Ottoman province in this respect. Of course, the province was not like a standard Ottoman province in Europe or Anatolia: the fronts were not only a long way off, but also Damascus had the additional burden of providing supplies and a military escort for the annual pilgrimage to Mecca. Even in the early decades of the seventeenth century, the province began to commit financial resources that had been allocated to campaign towards the pilgrimage. Dating to the first three decades of the century, the tax farm register edited by Nagata Yuzo is full of entries for villages that are being newly tax farmed having been converted from supporting a benefice officer to the sultan's domain. When *timars* were broken up and the village revenues added to the imperial domain, the revenues were invariably

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<sup>550</sup> The costs associated with the pilgrimage were substantial. The soldiers and officials who accompanied the pilgrimage had to be supplied with food and water, and the pack animals to transport it. The Bedouin had to be bribed to let the caravan pass unmolested. See Suraiya Faroqhi, *Pilgrims and Sultans: the Hajj under the Ottomans, 1517-1683* (New York: Tauris, 1994), 42-45, 54-58

earmarked for the pilgrimage.<sup>551</sup> As noted in the previous chapter, the reduction of benefice and the expansion of the number of villages in the sultan's domain along with their sale as tax farms were the standard features of the military fiscal transformation that were seen across the Ottoman domains. But in the case of Damascus it signified one thing primarily, the steadily increasing share of the region's financial resources that were allocated to the pilgrimage. While more financial resources were being allocated to the pilgrimage, the province still had a military commitment to imperial campaign, as it would have until the end of the seventeenth century.

Although the amount of resources committed to campaign and those who attended it was diminishing in this period, a certain number of Damascenes who took up a military career followed a path to fame and fortune that was indistinguishable from their peers in Europe and Anatolia. It is worthwhile to consider the career of Muhammad Agha Ibn Nashif (1007-1074 H, 1598/9-1663/4 M), a native of the province of Damascus who rose to the rank of *zaim*.<sup>552</sup> According to the biographer Muhibbi, Muhammad Agha's origins were humble, although he must have had some kind of education, because he joined the janissaries of Damascus as a scribe, indicating that he was literate. While serving as a janissary, he went twice on imperial campaign, and received a *timar* or *zeamet* in recognition of his distinguished service in battle. In this, we see that Muhammad Agha was promoted to the rank of *sipahi* because of service on imperial campaign, the 'traditional' route to becoming a *sipahi*. He became a respected and influential person in the province of Damascus and attended yet another imperial campaign, that of Sultan Murad's capture of Erevan, in present day Armenia. When he returned, he was appointed the Kethuda of the *Defterdar*, a position of great influence at the treasury, as it meant he was head of the financial affairs of *sipahis* and *zaims*. When one reads of ibn Nashif and how he achieved distinction, what is striking is that his story was a classic example of Ottoman military service and reward. Just as the integration of the Bakri family into the judicial apparatus of the empire demonstrated the willingness of Damascenes to enter Ottoman service, and the open nature of that apparatus, the career of ibn Nashif makes a similar statement about the nature of military service. The services that Damascene soldiers performed and their career trajectories were often indistinguishable from their peers elsewhere in the empire.

While Damascus province shouldered one military objective that was general to the empire—that of campaign—it was faced with another military duty that was specific to the province, that of providing protection to the pilgrimage. A century later, things had changed considerably, as Karl Barbir has shown. All the financial resources of the province as well as the lion's share of those around it

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<sup>551</sup> e.g. Nagata Yuzo et al. eds., *Tax Farm Register of Damascus Province in the Seventeenth Century: Archival and Historical Studies* (Tokyo: The Toyo Bunko, 2006), 89, 92, 94, 95, 97

<sup>552</sup> Muhammad Amin ibn Fadl Allah al-Muhibbi, *Khulasat al-athar fi ayan al-qarn al-hadi ashar* (Bayrut: Maktabat Khayyat, 1966), IV: 214-215



such as Tarablus and Sidon, supported some aspect of the pilgrimage.<sup>553</sup> Most of this financing was through the region's tax farms, which had expanded in number during the seventeenth century. However, even the revenues from the remaining benefices had become a major source of pilgrimage funding. Instead of attending campaign, the benefice holders paid a hefty fee known as *badla*: these fees contributed to the pilgrimage and its security. Like the *sipahis* and *zaims* of the province, the governor no longer attended campaign. Instead, his responsibilities were to collect the revenues from the tax farmers of the southern districts that were to finance the pilgrimage, return to Damascus with the necessary funds, and from there, lead the pilgrimage himself. A duty that had once been filled by minor provincial officials on the periphery of the province was now the primary duty of the chief military official of the province. Moreover, any governor who performed his role as pilgrimage leader effectively was allowed to continue in office. Hence, instead of rotating in and out every year, long tenures in office became normal for Damascene governors. The pilgrimage had taken over the entire fiscal military resources of the province.

Shortly after this consolidation of resources towards the pilgrimage, one family managed to consolidate its grip on the office for most of the century: the Azm family. The Azms were a family that had risen from the status of rural notability to provincial governorship without having been educated in Istanbul or serving in office there. Ismail al-Azm, who was governor from 1725-30, begat a dynasty of governors just as Mehmed Köprülü had begat a dynasty of grand vezirs. Ismail's brother Sulayman assumed the governorship in 1734-1738, 1741-1743, followed by Ismail's son Asad who held the governorship for most years between 1743-1758. Finally came Ismail's grandson Muhammad, governor in the years 1771-2 and 1773-83. Another governor, Uthman Pasha, 1760-71, had been the slave of Asad al-Azm and was an Azm family client.<sup>554</sup> Given the prior trend of reserving the governorship of important cities for Ottoman officials who had spent time serving in Istanbul and the former priority of rotating the governors in and out quickly to prevent them from setting down roots, this was quite a change. The rise of notable families who dominated the high offices of provincial capitals was a widespread phenomenon in the eighteenth century.<sup>555</sup> What is particular to the case of Damascus is that the rise of the Azms was intimately related to the increasing concentration of the region's finances and military assets into the pilgrimage. This concentration had been slowly gaining ground since the seventeenth century, and as we will see below, the increasing

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<sup>553</sup> Karl Barbir, *Ottoman Rule in Damascus, 1708-1758* (Princeton, N.J.: Princeton University Press, 1980), 191-5

<sup>554</sup> For a study of Damascus under Azm rule, see Abdul-Karim Rafeq, *The province of Damascus, 1723-1783* (Beirut: Khayats, 1966).

<sup>555</sup> For instance, Bruce McGowan refers to this period as the "Age of the *Ayans*," or the age of notables. See Bruce McGowan, "The Age of the *Ayans*," in H. Inalcik ed., *An Economic and Social History of the Ottoman Empire, 1300-1914* (Cambridge; New York: 1994), 2: 637-758

prestige of the office of Mir al-Hajj (pilgrimage leader) was a formative element in determining the fortunes of the janissaries in the second half of the seventeenth century.

### **Punishment and Redemption**

The years 1658-9 were not good ones for the regiment of janissaries stationed in Damascus. As described in chapter one, the regiment had not escaped the political leveling that the Köprülü family of grand viziers were meting out in the 1650's and 1660's. The biographer Muhibbi was an ardent admirer of both Mehmed Pasha and his son Ahmad, and displayed support of the measures that the elder Köprülü took against the janissaries. Like his peers in Istanbul who insisted that the dynasty needed to restore discipline to its ranks to arrest decline, Muhibbi saw the Köprülüs as just the people to perform such a task. There was no question in his own mind that the imperial government was in great upheaval at mid century. Instead of serving their master the sultan the great men of state now served themselves, he wrote. "Personal/selfish interests abounded, jewels were exchanged for honors...fitna flared up, dissension arose, and harmony (*wifaq*) was eliminated."<sup>556</sup> This analysis of the state's ailments had more than a little in common with the critiques offered by Sarı Mehmed Pasha and Katib Celebi in chapter four. Like the latter, Muhibbi identified a moral problem that threatened the political body as a whole: instead of resources being allotted on the basis of merit, or deservingness, or as the proper remuneration for service provided, resources were directed toward those who sought them for selfish reasons and through corrupt means. The good of the whole demanded that no one take more than their fair share of resources, yet many of the state's servants had lost sight of this truth, and sought not compensation that was a fair reward for their services, but rather used their influence to gain as much wealth and honor as possible.<sup>557</sup> People should behave appropriately to their station in the political body, for if they did not, they threatened the harmony that allowed the body to function, as Katib Celebi had warned, and the entire edifice was at risk of collapse.

Mehmed Köprülü responded to this threat, says Muhibbi, by executing great men of state one after another and brooking no opposition to his orders. What had to be reinstated was a respect for the rightful bounds (*hudud*) of personal conduct. Muhibbi describes how, while Mehmed Köprülü was on campaign with the troops at the European front, the governor of Aleppo Hasan Pasha revolted (*kharaja ala al-dawlah*) and the governor of Damascus supported him. Many soldiers also joined them. The purpose of this rebellion was to coerce Sultan Mehmed IV to dismiss the grand vizier, but the revolt backfired.

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<sup>556</sup> Muhibbi, 4: 309

<sup>557</sup> Sarı Mehmed Pasha has much to say to this effect in his discussion of bribes. See *idem*, *Ottoman Statecraft; The Book of Counsel for Vezirs and Governors (Nasa'ih ul-Vuzera ve'l-Umera) of Sari Mehmed Pasha, the Defterdar*, ed. Walter Livingston Wright, (London: H. Milford, Oxford University Press, 1935), 87-93

After executing the rebel governors, Muhibbi writes that Mehmed Pasha concluded that “the Shami soldiers were remiss in the orders to join in the protection of Damascus.”<sup>558</sup> They had sided with the rebel governor and disobeyed orders. They were not therefore troops that could be relied upon. Damascus was the high state’s stronghold in the area, reliable troops were a necessity; hence, Köprülü sent a new janissary regiment, the *qapiqulu*, to act as a reliable force for the high state and to keep the other regiment in check. Of the *qapiqulu* Muhibbi writes: “they arrived in Damascus and took up places in the citadel, and they took most of its dwellings and the gates of the city and the gate of the court and the market inspector’s office (*hisba*) and the horse market (*suq al-khayl*) and silk weighers (*mizan al-harir*), and the rest of the services that had been the specialties of the asker of the Sham. And with that, the soldiers of the Sham were reduced (*inhatta*) to some extent because of what had happened to them by way of self delusion.”<sup>559</sup> Shortly thereafter, Mehmed Pasha sent an order for the execution of a number of the highest ranking officers among them.

The self-delusion of which Muhibbi speaks would appear to be a reference to the soldiers’ belief that they could support a plot against this particular grand vizier and escape retribution. They had overestimated their own stature and underestimated that of Mehmed Köprülü. One of those executed, Abd al-Salam al-Marashi bears mentioning for just a moment because his life gives some sense of who the janissaries were. Historiography frequently asserts that Mehmed Pasha felt that the Damascus janissaries had become “Damascenes in uniform” and hence they could not be relied upon to defend the dynasty’s interests rather than those of the Damascenes.<sup>560</sup> But this interpretation does not seem to fit the incident above; there was no conflict between the people of Damascus and the Ottoman authorities that prompted the dispatch of the *qapiqulu*. Rather, it was the disobedience of the governor and the regiment’s choosing to back the wrong horse in the conflict that precipitated Mehmed Pasha’s conclusion about their lack of reliability. The janissaries’ sympathy for and identification with the local people, to the extent that there was such a sympathy, was not part of the conflict. Muhibbi gives no indication of either sympathy or identification with the janissaries during this event. The action that they took had nothing to do with the city or protecting its interests, the janissaries had meddled in an affair between a grand vizier and a rebellious governor, and they had reaped what they sowed.

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<sup>558</sup> Muhibbi, *ibid*.

<sup>559</sup> Muhibbi, 4:310

<sup>560</sup> Abdul-Karim Rafeq, “Changes in the Relationship between the Ottoman Central Administration and the Syrian Provinces from the sixteenth to the eighteenth centuries,” in Thomas Naff and Roger Owen eds., *Studies in Eighteenth Century Islamic History* (Carbondale: Southern Illinois University Press, 1977), 60 and *idem*, “The Local Forces in Syria in the seventeenth and eighteenth centuries,” in V. Parry and M. Yapp eds., *War, Technology and Society in the Middle East* (London; New York: Oxford University Press, 1975), 277-8

The prevailing consensus of today that the older janissary regiment was deeply rooted in Damascus and that it considered itself local, or protectors of the interests of the city, definitely has some basis in the sources. The eighteenth century refers to the older regiment as the “*yerliya*” forces, a word derived from the Turkish word *yerli*, which does mean local.<sup>561</sup> In the *mühimme* documents of the seventeenth century, there are references to the ‘*yerlu qul*’ to distinguish them from the *Qapiqulu*, the latter of which were frequently called “*al-qul*.”<sup>562</sup> In general however, this term was not applied in the seventeenth century. Far more common is the term *Ojaq al-Sham*, Turkish for ‘regiment of Damascus.’<sup>563</sup> Rafeq notes that the older regiment was often called “*dawlat al-Sham*” while the *Qapiqulu* were known as the “*dawlat al-qalah*” or the authority of the citadel.<sup>564</sup> In all cases, some sense of affinity between the city and the regiment was suggested. Following the dominant terminology in the sources of the seventeenth century, I will hereafter use the word *Ojaq* to designate the older regiment, and *Qul* for the new.

The rank and file of the *Ojaq* was interpenetrated with the guilds of craftsmen, as was the case in the janissary regiments throughout the empire. But many of those who were in the upper echelons of the janissary leadership appeared to be focused on a combination of military activity, tax farming, and office holding. Additionally, many of them were not of local origin. To return to the case of Abd al-Salam al-Marashi, we find that he was born in Marash, as his name indicates, to a father who had held a military position as a gatekeeper at the palace in Istanbul, but who ended up eventually in Damascus.<sup>565</sup> Abd al-Salam started his career in the retinue of a rural notable named Ibn Farukh who served a number of years as the pilgrimage leader. He served other great office holders, and went on imperial campaign to Erevan and Baghdad in the 1630’s. He returned to Damascus and settled there, rising to the apex of the janissary regiment and attaining the position of *mutawalli* at the *waqfs* of Sultan Selim. According to Muhibbi he amassed a number of offices and perquisites so that “his power (*dawlah*) grew great (*kabarat*) and his status high; there was a general consensus that no one could be appointed in his place for the affairs of the Sham

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<sup>561</sup> This term appears frequently, for instance in the eighteenth-century chronicle written by the famous barber, Ahmad Budayri. See idem, *Hawadith Dimashq al-yawmiyah 1154-1175 H 1741-1762 M*, arr. Muhammad Said al-Qasimi, (S.I.: matba’at lajnat al-bayan al-‘arabi, 1959).

<sup>562</sup> C.f. *Mühimme* v. 99, f. 65 and 89

<sup>563</sup> e.g. Ibn Kannan, *Yawmiyat Shamiyah: wa-huwa al-tarikh al-musammá bi-al-Hawadith al-yawmiyah min tarikh ihd `ashar wa-alf wa-miah : safahat nadirah min tarikh Dimashq fi al-`asr al-`Uthmani, 1111-1153 H/1699-1730 M*, ed. Akram Hasan al-‘Ulabi, (Dimashq [Damascus]: Dar al-Tabba’, 1994), 23, 25; and Muhammad Ibn Jumahh, “al-Bashat wa-al-qudah,” in Muhammad Ibn Jumahh and Raslan ibn Yahya al-Qari, *Wulat Dimashq fi al-`ahd al-`Uthmani*, ed. Salah al-Din al-Munajjid, (Dimashq [Damascus], 1949), 46.

<sup>564</sup> Rafeq, “Local forces,” 279

<sup>565</sup> Muhibbi, 2: 417

had been consolidated in him entirely.”<sup>566</sup> From Abd al-Salam’s story, we see that the local orientation of the great men of the regiment was not so much about being originally from the city or ‘one of the people’ so much as having a great deal of investment in the city’s social and economic life. The stable presence of the Ojaq in the city provided them the opportunity to develop such investments, when such opportunities could be difficult for the officers like the governor who were rotated in and out on short terms. Nevertheless, while the soldiers were a part of the city, this did not always mean that their actions were supported by other segments of the city’s population. As we will see, the soldiers might claim to act on behalf of the population of the city, but whether or not the city actually stood behind them is another story.

With the arrival of the Qul and the loss of many of the urban revenues that had sustained them, the Ojaq appeared to have suffered a decline in stature, as Muhibbi put it. Despite these setbacks, two trends converged in the 1660’s and in the decades thereafter that helped them regain their footing and allowed them to maintain a position superior to that of their rivals. The first of these was that the Köprülüs were intent on destroying the great families of the province’s remoter regions. As a consequence of this policy, the pilgrimage would lose its leadership, and the Ojaq’s leaders would frequently thereafter fill this position. The Ojaq’s second piece of luck came in the form of the expansion of rural tax farming from the early part of the century to the 1670’s, which provided them a means of sustenance after they lost their urban perquisites to the Qul.

### **The Pilgrimage Leadership**

The great families of the Sham were absorbed rather than destroyed when the Ottomans invaded Greater Syria in the sixteenth century. They had their own constituencies in areas that were hard to reach, and the Ottomans did not seek to eliminate them. The regions in question included the mountainous district between the city and the Mediterranean coast in the west that is today the modern country of Lebanon; the others lay primarily in the south, along the road to the Holy Cities in the Arabian Peninsula. According to Abdul-Rahim Abu-Husayn, the integration of families like the Qansuhs, Ridwans, Farukhs and Turabays into Ottoman institutions of rule was a sign of the regime’s pragmatic utilization of people who presented a potential threat to Ottoman authority and objectives.<sup>567</sup> He maintains that the Ottomans sought to foster competition between these great families for their patronage, using access to tax farms and offices as an incentive to win their cooperation. This description has a great deal in common with the dynamic that Ariel Salzmann and Dina Khoury identify as characterizing eighteenth-century provincial politics, notably that tax farms were

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<sup>566</sup> Ibid.

<sup>567</sup> Abdul-Rahim Abu-Husayn, “The *Itizam* of Mansur Furaykh: A Case Study of *Itizam* in Sixteenth-Century Syria,” in Tarif Khalidi, ed., *Land Tenure and Social Transformation in the Middle East* ([Beirut]: American University of Beirut, 1984).

key in rewarding cooperation and fomenting rivalry among provincial elites.<sup>568</sup> In Greater Syria, Abu-Husayn notes, tax farming was as much a part of the classical system of Ottoman military fiscal organization as the system of benefice characterized by *timar* or *zeamet* holding cavalry officers: “The fact that the *iltizam* system was already established in Syria from the earliest years of Ottoman rule does not support the commonly held view that it was devised as a response to the financial crisis resulting from the world inflation that began to hit the Near East towards the end of the sixteenth century.”<sup>569</sup> Long before military fiscal transformation or the invention of the life term tax farm called the *malikane*, he notes, tax farms were instrumental in dealing with the powerful ayan of the west and south.

By the latter half of the seventeenth century, the revenues from the tax farms that the Ottomans offered to the provincial ayan invariably financed the pilgrimage, including the large district wide rural tax farms of Nabulus, Jerusalem and Ajlun.<sup>570</sup> These revenues paid the salaries of the troops that protected the pilgrims and the caravan, provided fodder and water for their animals, and all manner of miscellaneous costs associated with the event. The great families that served as the *sanjaqbeyis*, or district governors, in the southern districts did not attend the governor on campaign, but they did provide a crucial military service to the dynasty: from the middle of the sixteenth century to the middle of the seventeenth, they led the pilgrimage caravan to the Holy Cities and back and defended it from the attacks of the Bedouin tribes. There was much sense in this, for these families were intimately acquainted with the areas between Damascus and the Arabian peninsula and the movement of the Bedouin across the region. More so than others, they had the local knowledge and stature to lead the caravan.

The work of Abu-Husayn, Suraiya Faroqhi, and Dror Ze’evi has given us a window onto the southern districts of Damascus province, the great families who lived there, and their important role in financing and leading the pilgrimage.<sup>571</sup> The province of Damascus was divided into a number of districts called *liwa* (in Arabic) or *sanjaq* (Turkish). In the outer districts, there were provincial seats such as Jerusalem, Nabulus, Balbek, Dayr al-Qamar and Ghaza with an appointed officer who oversaw the district. This official, called either the *sanjaqbeyi* or the *mirliwa*, was subordinate to the governor of Damascus. Many of those appointed to the position of *sanjaqbeyi* were from the great families that dominated the affairs in the districts to which they were appointed. A member of the Qansuh family, for instance, frequently held the position of the *sanjaqbeyi* of

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<sup>568</sup> see discussion about this issue in the historiography chapter, especially notes 45-51.

<sup>569</sup> Abu-Husayn, 250

<sup>570</sup> MAD 9866, f. 24-5

<sup>571</sup> Abdul-Rahim Abu-Husayn, *Provincial Leaderships in Syria, 1575-1650* (Beirut: American University of Beirut, 1985), 153-198; Suraiya Faroqhi, *Pilgrims and Sultans*, and Dror Ze’evi, *An Ottoman century: the district of Jerusalem in the 1600s* (Albany, N.Y.: State University of New York Press, 1996).

Ajlun, a district south of the city of Damascus, because they had extensive power in the areas to the south and held the position of pilgrimage commander until the 1620's.<sup>572</sup> While a *sanjaqbeyi* would be awarded a benefice called a *khass* that had higher revenues than either a *timar* or a *zeamet*, the *sanjaqbeyi* of districts such as Nabulus, Ajlun, and Kisrawan usually received as a perquisite of office the tax farm for the rural revenues of the entire district. Hence, the villages of Ajlun were not sold individually as tax farms, rather, all the Ajluni villages that were part of the sultan's domain were bestowed upon the *sanjaqbeyi*. This made such offices highly lucrative for their occupants.

In return for the tax farms and offices proffered by the high state, some of the provincial ayan provided the service of leading the pilgrimage, while others were merely expected to provide security in the lands under their protection. Despite the financial incentives to remain obedient to the sultan, the great rural families frequently interfered with one another's lands and revenues, feuded, raided livestock or pillaged crops in their competition with one another or with the governor of Damascus. Ensuring that the periphery did not erupt into violence was one of the governor's tasks, and if he was forced to go into the countryside to restore peace and order, for all of the seventeenth century, the city of Damascus served as his base and its troops, both cavalry and janissaries, assisted him. The city of Damascus was the dynasty's stronghold in the region, and the troops there were expected to reliably carry out the government's military orders.

When Mehmed Köprülü assumed the office of grand vizier, he not only punished the Damascene janissaries for their lack of reliability, but also the provincial nobility, all of whom he considered far too prone to insubordination and not nearly amenable enough to his demands. As we saw in chapter one, the campaign to eradicate the great families of the Lebanese mountains began while Ahmad Köprülü was governor of Damascus. After he had reduced the fortunes of the ayan of the west, he turned his attention to those in the south during his own tenure as grand vizier. Dror Ze'evi describes how one at a time, the family members of the Ridwans, Farrukhs and Turabays were arrested, died under mysterious circumstances, or were rendered economically and politically impotent.<sup>573</sup> Ahmad Köprülü had eliminated a group of provincial strongmen whose service was more on their own terms than on his, yet his actions had unwittingly led to a crisis that would reshape the military apparatus of Damascus province. With the traditional leaders of the pilgrimage eradicated, there began a period of continual conflict with the Bedouin that lasted throughout the century. The Köprülüs and other grand viziers of the late seventeenth century would struggle to find reliable replacements for the lost leadership; the Bedouin, for their part were determined to put each new leader to the test.

Despite the fact that Mehmed Köprülü had found fault with the janissaries of the Ojaq, its officers were increasingly entrusted with the task of leading the

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<sup>572</sup> Abu-Husayn, "The *Itizam* of Mansur Furaykh," 253.

<sup>573</sup> Ze'evi, 56-61

pilgrimage in the 1660's and 1670's. This development had something to do with necessity. Since the Köprülü governments were in the process of eliminating the rural families that had previously held the leadership position, they turned to the Ojaq as the logical alternative leadership pool. The Ojaq contributed the rank and file soldiers that made up the military escort. Experienced janissaries who had participated in the convoy for many years would therefore have known the routes, the Bedouin and the necessary precautions. There were several distinguished leaders of the pilgrimage that emerged from the local janissary regiment at this time, the first of whom were Hasan ibn Turkman and his son Musa, who took up the leadership of the caravan in 1660 and 1670, respectively.<sup>574</sup> The latter had attended the Ottoman siege of Crete in 1067. After having served with distinction on that campaign, he was rewarded upon his return to Damascus with the governorship of the district of Ajlun and the position of Mir al-Hajj.<sup>575</sup> The choice of Musa ibn Turkman is suggestive of what the Köprülüs were looking for a pilgrimage leader. They chose a man who must have had experience in accompanying the pilgrimage, but who had, so far as we know, no independent connection with the district of Ajlun. He had shown service to the dynasty by attending campaign. His credentials said at once that he was loyal, competent, and knowledgeable about the area without having his own vested interests in it. Unfortunately, his tenure as Mir al-Hajj was not a success, for the Bedouin leader Hamud al-Rashid attacked the pilgrimage caravan and killed, among many others, its leader Musa Pasha.<sup>576</sup>

Musa Pasha's successor was perhaps the most renowned among the janissary pilgrimage leaders, Khalil Pasha bin Kaywan (d. 1092/1681 or 1682). His career was quite indicative of the options available to those in the province of Damascus that were inclined towards the military career. Khalil Pasha had the advantage of coming from a military family: he was the son of a certain Osman whose nom de guerre 'ibn Kaywan' derived from the fact that he was a follower of the notorious Kaywan bin Abdullah, a strongman of the 1610s who was a sometime supporter of the Druze rebel Fakh al-Din al-Maani.<sup>577</sup> Like all the local youth who took up the military vocation, he began his career in the local janissary regiment. By the early 1660's he had inherited the rank of Yayabashi from his older brother Ibrahim, who had retired from service and passed the rank to his younger brother. This is not the only instance we will witness wherein family members hand down their military ranks to their younger siblings, nephews or sons. Such a practice appeared commonplace and served to create a few 'great' military families among the janissaries.

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<sup>574</sup> Nawfan Raja al-Hmud, *Al-'askar fi Bilad al-Sham fi qarnayn al-sadis 'ashar wa al-sabi' ashar al-miladiyayn/ The military in Syria in the sixteenth and seventeenth centuries* (Beirut: Dar al-Afaq al-Jadida, 1981), 103

<sup>575</sup> Muhibbi, 4: 434

<sup>576</sup> Ibn Jumahh, 40

<sup>577</sup> Muhibbi, 3: 299-303



Khalil Pasha served on the imperial campaign at Ayvar in the year 1664 under the command of Köprülüzade Ahmad Pasha, who was reportedly impressed with him.<sup>578</sup> While he did not receive a *timar* or *zeamet*, a 1670 tax farming register shows Khalil as having purchased twelve rural tax farms, the highest number held by a single investor. These consisted of farmland and villages across the eastern plain of Marj and the southern flank of the province.<sup>579</sup> He was particularly well represented in the Hauran, where the best and most valuable wheat of the province was grown.<sup>580</sup> He also possessed a large private estate in the village of Daraya, though the tax share assessed for it suggested that it was less than half the size of Asad Efendi's seven feddan estate in the same village.<sup>581</sup>

Coincidentally, one of the villages he tax farmed was Sahnaya; according to the court testimony of the Sahnaya villagers, he had also been the *mutawalli* of the Madrassah Farisiyah, and hence, like Hamza Efendi, had concurrently held collection on the *miri* and *waqf* portions of the village's taxes. In fact, when the villagers maintained that Hamza Efendi had deviated from the customary payment, they specifically invoked what the payment arrangement had been in the time when Khalil Pasha had been the *mutawalli*.<sup>582</sup> By 1675, he had retired from the regiment and turned over his janissary office to his nephew Ali. The pasha and his numerous kinfolk lived within a short distance of each other on Qanawat Street, one of the preferred districts of the military folk.<sup>583</sup> In 1679 he ended his retirement to become the leader of the pilgrimage, the Mir al-Hajj, because the sacking of the caravan under the leadership of Musa Pasha had been only the first of numerous attacks. For the two years following the death of Musa Pasha, the governor of Damascus had led the pilgrimage, but the caravan suffered another major attack in 1084, in which one of the major janissary leaders had been killed.<sup>584</sup> Five years later, another disastrous attack took place, in which a large number of people were killed.<sup>585</sup>

Efforts to find an effective leader had been to no avail, at which point the government requested that Khalil Pasha accept the office of Mir al-Hajj. It is clear from his biography that he was known and respected by the Bedouin, and he therefore made a natural choice for pilgrimage leader, whose primary function was to prevent Bedouin attacks if possible and to fight them if they did. The fact

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<sup>578</sup> Muhibbi, 2: 133-4

<sup>579</sup> MAD 4181, f. 12, 17, 19, 20, 26, 27, 29

<sup>580</sup> Linda Schatkowski Schilcher, *Families in Politics: Damascene factions and estates of the 18<sup>th</sup> and 19<sup>th</sup> centuries* (Wiesbaden: F. Steiner, 1985), 77 explains that Hawrani wheat was "exceptionally hard and high in protein in comparison to the white and mealy variety produced in the near vicinity of Damascus."

<sup>581</sup> A. DFE 143, f. 126

<sup>582</sup> DSC v. 18, f. 125, no. 192

<sup>583</sup> Halil Sahillioğlu, ed., *Şam Şehrini XVII. Asırda Sosyal ve Ekonomik Yapısı* (1977 numaralı 'Avarız Defteri'ne göre) (İstanbul: IRCICA, 2005), 124

<sup>584</sup> Ibn Jumah, 41

<sup>585</sup> Ibn Jumah, 43

that he was the tax farmer in four or five villages in the Hauran is a further testament that this was a man who knew his way around the regions to the south of the city. For three years he led the pilgrims safely to Mecca and back. He had set out upon his fourth venture as Mir al-Hajj when he died en route to Mecca with the caravan in 1092/1681 or 1682. It was an omen for the future that Khalil Pasha was allowed to remain in the office of Mir al-Hajj for four consecutive years because he was successful in the office. Khalil Pasha's career shows that the Köprülü campaign to eradicate the rural ayan had the unintended consequence of bringing an opportunity for redemption to the Ojaq's leadership. While their rivals the Qul were stuck garrisoning Damascus during the pilgrimage, the Ojaq leaders were able to use their own acquired knowledge of the desert, the Bedouin and the routes to win the gratitude of officials in Istanbul and acclaim in Damascus.

### **Fortune and Misfortune**

Leadership of the pilgrimage was not the only piece of good fortune to fall upon the Ojaq during this period. As was explained in the previous chapter, the number of rural tax farms in the agricultural land around the city had expanded. As was also made clear in that chapter, the main beneficiaries of these rural tax farms were the janissaries—and it was clear that the Ojaq, rather than the Qul, predominated. Let us consider which individuals had the largest rural tax farm holdings in the 1687 register, all of whom are local janissaries, most or all of whom belonged to one of three prominent military families: the Kaywanzades, the Tarjumanzades, and the Sadaqazades. One person whose identity is mysterious is Mustafa Serpiyade, who held the right to collect on 6 villages, a farm and a mill in the year 1687. He may very well have been one of the many members of the Kaywanzade family, one of whom, Khalil Pasha the pilgrimage commander, was discussed above. There was at least one and possibly two Mustafa Kaywanzades living in Damascus at the time, and one Mustafa Kaywanzade did have a father who was known to be a 'serpiyade', that is, a leader of a particular local janissary regiment, in the year 1675.<sup>586</sup> On the other hand, it is possible that the Mustafa in question is not part of the Kaywanzade family, for in general the records identify the family members as such. Between them, those identified in the register by the Kaywanzade surname held 7 tax farms between 1687 and 1692, comprising an array of villages and farms in the Ghuta, Marj, Wadi Ajam, and Iqlim al-Darani.<sup>587</sup> It is hard to tell if the entire family held positions in the local janissary garrison, but those with titles clearly did. Even after the death of Khalil Pasha and his brother Ibrahim Zaim, the family fortunes appeared to be prospering. In fact, Uthman Agha, the son of Khalil Pasha, played a part in helping the people of Sahnaya bring Hamza Efendi to account in court. At the session where the judge ordered Hamza Efendi to repay the Sahnayans for

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<sup>586</sup> Sahillioğlu ed., 122

<sup>587</sup> MAD 9866, f. 38, 41, 43, 52, 53

everything he had unlawfully taken from them, Uthman bin Khalil Pasha was named as one of the people of the village and a party to the dispute with Hamza Efendi. He must have owned property in Sahnaya, which, given his father's long acquaintance with it, was not terribly surprising.

Another family in the service of the local janissaries, the Tarjumanzades, made up an additional group of major rural investors. Between them, they held nine tax farms comprising numerous villages, farms, and an orchard in the Ghuta, the Marj, Wadi Ajam, and the Biqa' valley. But the final large holder is in many ways the most interesting. His name was Salih Agha Sadaqazade, and in the year 1099 he held the collection rights for 3 villages and 4 farms, most of them in the wheat-growing territory of the Hauran. This was the same year that Salih Agha was destined to become a major local celebrity, and to bring down the wrath of the imperial government upon the Ojaq.

Ibn Kannan states in his chronicle that the story of Salih Agha was well known; in fact it is a seldom discussed episode in the history of Ottoman Damascus. It is nevertheless of seminal importance, for it led to a new chapter in the history of the city's military configuration, and marked the end of the local janissaries as the dominant force in city. In the year 1688, a certain Hamza Pasha entered the city of Damascus to take up the office of governor, having previously served as the governor of Egypt. According to several different sources, Hamza Pasha was a tyrant, and he allowed the unruly men in his personal retinue to run riot in the city.<sup>588</sup> Neither men nor women were safe from their attacks and outrages, and the people of Damascus looked to the military ayan of the city to restore safety. The 'first among' these ayan was reportedly Salih Agha who led the city's troops in revolt against the governor, in the course of which, the governor was killed. According to one source, Salih Agha then called upon the soldiers of Wadi Taym to aid the Damascenes, and they left their garrison, came to Damascus, and slaughtered the soldiers who had been loyal to Hamza Pasha.<sup>589</sup> The result of this incident was that, according to the same source, Salih Agha became the most powerful man in Damascus. This state of affairs did not last long; in 1689, the Qul janissaries, in league with the new governor of the city Ahmad Pasha, had Salih Agha strangled.

A certain amount of intrigue surrounds the Agha's death. The facts outwardly look quite understandable: Salih Agha had become the most powerful person in Damascus, and he was the head of the rival janissary faction, hence the Qul would have been happy to eliminate him. Ahmad Pasha's concern is also easy to comprehend. Salih Agha had openly and without imperial sanction killed his predecessor, the highest office holder in the province. Not only was he possibly a danger to the current governor, but to tolerate an example of such brazen insubordination undermined Ottoman authority. Ahmad Pasha's decision to do away with Salih Agha may have been on the orders of the sultan rather

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<sup>588</sup> Ibn Jumahh, 45; Ibn Kannan, 23-26

<sup>589</sup> "al-Aqd al-sanni fi Mazaya al-Shaykh Abd al-Ghani" cited in footnote 1, Ibn Kannan, 23

than his own initiative, for it was not the Ottoman policy to acquiesce in the murder of its provincial governors, even those that behaved badly. The 'right way' for residents of an oppressed city to behave was to do as the judge, *ulama* and others of the city had done in 1674 when they sent word to Istanbul of their sufferings so that they could be dealt with through official channels.<sup>590</sup> Vigilante justice against Ottoman officials was not countenanced unless the circumstances made it completely impossible to punish the offender; if such violations went unpunished, the high state looked impotent.

An odd sidenote in this incident is that Ibn Kannan insisted that it was not merely the Qul and the new Ottoman governor who were behind the murder of Salih Agha, but also his own comrades from the local janissary corps.<sup>591</sup> Jealous of his newly eminent stature, they conspired against him with his enemies, Ibn Kannan maintained. While later events make it seem unlikely that Ibn Kannan was correct in this assessment, it does make one thing clear. Whatever rivalry existed between the two janissary groups, it nevertheless seemed quite plausible to Ibn Kannan that the Ojaq could conspire with the Qul to murder one of their own. Ibn Kannan surely knew that factionalism was rife between military men, but in his mind, politics was driven not only by personal interests that could easily cut across factional lines, but also by personal foibles. A man who did good things and had much to show for it would attract the envy and malevolence of others, and Salih Pasha having been a rich man who had piously built a mosque had attracted the enmity of a number of people.<sup>592</sup> Ibn Kannan's accusations also bring to light the fact that many 'political' actions taken by the imperial government or in its name remained open to interpretation by onlookers. No one knew exactly who had been involved in the decision to assassinate Salih Agha, all that was known is that he had become too powerful and had overstepped his authority, which had guaranteed that some or another authority would see to his demise.

This quality of openness to interpretation continued to be evident when the assassination of Salih Agha proved to be the beginning of a full scale purge of the local janissary leadership. Ibn Kannan reports that the governor appointed to Damascus in 1691-2 arrived with a *firman* ordering the execution of more than 12 aghas of the local regiment. Among these aghas were three members of the Kaywanzade family--Mustafa Agha, Ismail Agha, and Qasim Agha—and two members of the Tarjumanzade family, Muhammad and Sulayman.<sup>593</sup> Only two of the *firman*s ordering these executions are to be found in the Ottoman government's *mühimme* "important affairs" registers from the year 1103 (September 24, 1691-September 12, 1692). Between them, these orders specified only ten individuals, so there may be another of which no copy survived. As tended to be the case in such orders, the language was formulaic,

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<sup>590</sup> see chapter four, above

<sup>591</sup> Ibn Kannan, 26

<sup>592</sup> Ibid., 24

<sup>593</sup> Ibid., 25-26

and rather than pointing to specific acts that had caused them to fall from the sultan's favor, they were charged with "continual iniquities" and corruption (*fasad*), sedition (*fitna*), and disturbing the peace of the country.<sup>594</sup> Exactly what they had done that fit this description was left for each Damascene to ponder. In Ibn Kannan's opinion, it meant that they were being punished for their alleged involvement in the death of Salih Agha. But if that was the case it begs the question of why the local janissaries were being punished when the Qul, who were known to have carried out the agha's execution, were not.

The *firman* that condemned to death the father and son Sulayman and Muhammad Tarjumanzade began with an idiomatic phrase, which reads literally that they "were not in their own/proper places."<sup>595</sup> The sense of this phrase is that they had overstepped their boundaries and were doing things that they had no rightful power to do, without specifying what these things were. It brings us back to the issue of proper boundaries and the necessity to stay within them, a priority that was vocalized in this instance by the imperial writ, but which was also supported by Damascenes such as Muhibbi. The order that spoke on behalf of the high state maintained that they had usurped powers beyond their rightful reach. Were the men punished for killing the governor more than two years prior? Or were they executed for killing the governor's killer? Or for some other reason? For anyone who remembered the events of 1658, it may have looked like *deja vu* all over again. The high state once again accused the Ojaq leaders of letting their power go to their heads. They had forgotten, as it were, their place. Once again, the high state reminded the Ojaq and everyone else that disobedience and insubordination came with a heavy price.

A number of those condemned were in fact executed, including a member of the Tarjumanzade family whose name had not even appeared in the *firman*.<sup>596</sup> One Tarjumanzade, Muhammad, did escape, as did one of the Kaywanzades, Ismail, who together made their way to the Druze controlled territory of Mount Lebanon where they sought asylum from the Amir Ahmad ibn Maan.<sup>597</sup> It was in some sense the renewing of old acquaintances; the Kaywanzades took their name from the dreaded Kaywan who had been the confederate of Fakhr al-Din ibn Maan in the first part of the century. Now, they looked to the Maans for protection from the Ottoman governor's troops, and the Maans for their part resolved to provide it, even though it meant a battle with a contingent of the governor's men that were sent out to bring back the fugitives.

One surprising element in these events is how it was received by literate Damascenes. The biographer Muhibbi, as will be recalled, felt that the slaughter of the Ojaq's leaders in 1660 was due to the delusion of the latter in thinking that they could improve their lot by disobeying Mehmed Köprülü. He did not evince any sympathy for the Ojaq or its leadership in what befell them. However, the

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<sup>594</sup> *Mühimme* v. 102, p. 47

<sup>595</sup> *Mühimme* 102, p.102

<sup>596</sup> Ibn Kannan, 25

<sup>597</sup> *Ibid*, 26

Damascene writers who have left a record of the incidents from 1688-92 described above took a very different tone. Ibn Kannan lauded Salih Agha as respectful of the *ulama*, gracious in his charity to the less fortunate and of sound judgment.<sup>598</sup> Ibn Jumah, more sparing in his remarks about Salih Agha's character, nevertheless made it clear that he thought that Hamza Pasha and his unruly followers got exactly what they deserved. "In the year 1099, Hamza Pasha took rule of Damascus, having been retired from [the position of governor] in Egypt. When he entered Damascus and settled in, he became arrogant and overweening (*takabbar wa tajabbar*) and he and his followers became tyrannical (*tagha*), beating and cursing everyone they saw. So the sons of Damascus rose up against them and killed them and humiliated them until God almighty subdued them and they became like dogs."<sup>599</sup> The difference in tone surely had something to do with the fact that while the Ojaq of 1660 was disobeying orders to attempt personal gain, the Ojaq of 1688 was slaying an oppressor who had abused the entire city. From the perspective of the high state's ministers, the janissaries had killed the city's pre-eminent military officer, but for the residents who had had to live with the outrages of Hamza Pasha, it was less clear that Salih Pasha and the Ojaq were transgressors.

Ibn Kannan also heaped praise in nearly equal measure upon the aghas condemned in 1691, which was strange given that he held them responsible for the death of the much loved Salih Agha. He treated the death of all of these men as instances of a great tragedy. Of them he wrote, "They had far reaching power in mobilizing devoted troops, and their words were heard on sea and on land and in the far reaches of the country. Their missives to any town or city executed the order of the imperial writ, so that anyone who faced difficulties in the country would come to Damascus [to seek a solution] because of their importance and power."<sup>600</sup> Furthermore, Ibn Kannan relays a sampling of the poetry that was written about these tragic events by other Damascene *ulama*, the gist of which was that the aghas had not deserved their fate and that they were men worthy of their social stature. What is particularly interesting is that Muhibbi, the enthusiast of law, order, and obedience, was the author of one of these doleful elegies.<sup>601</sup> A great sense of sadness seemed to envelop the event, and the sympathy for these men appeared to be widespread. What surprises about the reaction is that military men frequently had a bad reputation among learned men. That military men were of violent and wicked character and that their wealth was that of ill gotten goods, were not infrequently expressed views among the *ulama*. However, it is clear that something in this situation aroused a different reaction.

Perhaps the most affecting writing by an *alim* on this subject is that of Ahmad al-Manini, who wrote a book that had been commissioned by one of the

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<sup>598</sup> Ibid., 23-4

<sup>599</sup> Ibn Jumahh, 46

<sup>600</sup> Ibid., 27

<sup>601</sup> Ibid., 26-7

Ottoman Shaykh al-Islams entitled “Al-Alam fi Fada’il al-Sham” shortly after this incident. The subject of the book was the important role that Damascus held in the Islamic faith; the words that the prophet and his companions had spoken about the city, and descriptions of the city’s sacred geography—namely, its mosques and the tombs of the prophet’s family and companions. While the book had ostensibly nothing to do with the Damascene military, the entirety of Ahmad al-Manini’s introduction is a plea for the imperial government (the high state, as it is usually referred to) to have mercy on the local janissary regiment, or as he put it “the old soldiery”.<sup>602</sup> He suggested that the high state’s wrath had been understandable given the violence that had beset the city, but reminds the reader that this regiment has generally brought order to the city and dealt with its affairs admirably. They have faithfully guarded the fortresses along the pilgrimage road and repelled “the wickedness of the [Bedouin] Arabs who were willful and relentless.”<sup>603</sup> His account also notes that these were the soldiers whom Sultan Selim placed in the city, and after noting their service and the commendation they had earned from olden times, he closed by saying that he asked for pardon for them.

The Damascenes appeared to have a shared understanding that the high state was bound to punish disobedient and disorderly soldiers. Muhibbi suggested such, as did Ahmad al-Manini in his plea for the Ojaq’s pardon. But there were mitigating circumstances in the 1690’s that had not existed in 1660, and they grieved for the leadership in 1690’s who had on the whole acted honorably, they believed. What both of these writings emphasized is that the Ojaq did know its place. It served the dynasty, executing its orders with their great prestige and authority and itself fulfilling its mission of providing order and protecting the pilgrimage. Whatever the prejudices of the men of the pen with regards to the men of the sword, many of the former wielded their pens in defense of the latter after the suppression of the local janissaries’ leaders. When this episode is compared with the earlier one, we find that the opinion of the *ulama* towards the soldiers’ behavior, and perhaps others as well, was not one of instinctive solidarity. Muhibbi had shown little sympathy for the soldiers when they engaged in harmful and self-interested intrigue against such a commendable figure as Mehmed Pasha Köprülü. When they protected local people against an oppressive and corrupt official, on the other hand, the Damascenes stood behind them, petitioned for their pardon, and sought to remind the high state’s officials of their record of loyalty and service. The question was not one of supporting the local interests against imperial ones, but of supporting those who behaved rightly and in the common interest, whoever they were.

On the other hand, it is difficult to find any positive references to the other

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<sup>602</sup> Ahmad bin Ali al-Uthmani al-Manini, “Al-‘Ilam bi-Fada’il al-Sham,” Süleymaniye MS Esad Efendi 2857, f. 2a

<sup>603</sup> Ibid.

janissary contingent, the Qul.<sup>604</sup> The elimination of the patriarchs of all the leading local janissary families was one of several acts taken by the Ottoman government that strengthened the position of the Qul in relation to the local troops. This process unfolded over a long period of time however—even in 1695, which marked a tentative upswing in the Qul's investment in the rural economy, the position of the Qul in the city was still precarious. In the eighteenth century, the Qul would become one of the chief supporters of the Azm family of governors. This alliance vastly increased their power in the city, and in 1746 they fought and defeated the local janissaries and their supporters who were opposed to the Azms.<sup>605</sup> The fact that the Qul would become powerful in the Damascene economy by the middle of the eighteenth century, and that they are mentioned by chroniclers as engaging in factional disputes, has obscured their relative weakness with regard to the local force in earlier days. Damascene historical sources disagree on how many Qul were sent to Damascus when they first arrived under Köprülü Mehmed's orders in 1658, but in 1675, their numbers were slight and the balance of military power was still decisively in the hands of the local janissaries.<sup>606</sup>

The Qul's numbers were far smaller than their rivals', which could only have made it more difficult for them to secure access to the city's sinecures and revenue sources. Barbir's numbers confirm that this was not to change in the final years of the seventeenth century or the beginning of the eighteenth: in 1693-4 there were 1004 members of the Ojaq as opposed to the 268 recorded members of the Qul recorded in 1701-2.<sup>607</sup> As far as the chroniclers tell us, the Ottoman government did not significantly augment the numbers of Qul serving in the city until 1706, when four new 'odas' or regiments, joined those who were

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<sup>604</sup> On the contrary, as Barbara Von Schlegell notes, many prominent Damascenes intensely disliked them. Abd al-Ghani al-Nabulusi lost an eye in a battle with them outside his home as he tried to protect Asad Efendi al-Bakri from their attack, see idem, *Sufism in the Ottoman Arab World: Shaykh 'Abd Al-Ghanī Al-Nābulusī (D.1143/1731)*, (Dissertation presented to the department of Near Eastern Studies, University of California, Berkeley, May 1997), 105. Ibn Jumahh p. 52 laconically states that the Qul attacked the 'sons of Damascus' in 1119, killing ten people and causing the city to shut down for three days. At no point does he explain why they did so. His narrative's identifying the Qul as the aggressor and yet depriving them of a grievance or motive is fairly typical of the chronicle writing and has led historians to conclude that the Qul were violent and oppressive to the Damascenes. However, their relative weakness as well as unpopularity should give us pause before we accept that it was the Qul who were the most disruptive and aggressive force in the city.

<sup>605</sup> Numerous sources discuss this incident, but only Schilcher, 33-35, discusses the economic reorientation that was consequent to the Qul and Azm victory.

<sup>606</sup> Rafeq, *Province*, 31 cites Muhibbi, 4: 311 estimating their number at 300. Whereas Ibn Jum 'ah, Berlin Cat. MS. 9785. We (ii) 418 f. 15b, maintains that they numbered 2000.

<sup>607</sup> Barbir, 95 cites MAD 2816 f. 27 for the first figure and KK 2408 f.5 for the second.



serving in the citadel.<sup>608</sup> This on top of the fact that so many of the local janissaries, as we have shown, had longstanding histories and family connections in the city and beyond it. Whatever power they became in the middle of the eighteenth century, the Qul were still a small and insecure group at the dawn of the eighteenth century, unable to find access to the grain trade or tax farming, although they clearly had some members in the city's urban craft guilds and access to urban revenues.<sup>609</sup>

Tax farming registers demonstrate that the reach of the old families of the local troops had been much reduced but not altogether eliminated after the Ojaq's leadership was purged. Soon pardoned, Ismail Kaywanzade and Muhammad Tarjumanzade were back in Damascus. In 1104, Ismail received the tax farm of Sahnaya, though as was the custom at that point, he had it only a few months before it was given to someone else.<sup>610</sup> There are no further tax farming activities recorded for him, which suggests perhaps that the family had lost its fortune during the leadership purge. Seven years later, according to Ibn Kannan, both he and Muhammad Tarjumanzade were explicitly warned not to interfere with the new leader of the pilgrimage Mehmed Pasha al-Rumi as he went about preparing for its departure.<sup>611</sup> Such a warning suggests that the two men were still accompanying the pilgrimage caravan as part of their military duties. It also suggests that they were not content at playing a supporting role and had at times again overstepped their bounds and assumed more authority than was warranted. An incident the following year demonstrated why they were still present in the convoy and their experience in such matters was valued. The governor of Damascus, Hasan Pasha, was leader of the pilgrimage in the year 1112 H/ 1701 M.<sup>612</sup> When he and the convoy encountered the Bedouin leader ibn Dubays along the route, Ibn Dubays demanded the '*surre*' or purse of alms that the Ottoman caravan traditionally presented to the Bedouin as a payment for not attacking them. Although this was an established custom, Hasan Pasha refused to pay it. Ismail Kaywanzade attempted to reason with him, urging him to pay and warned that failure to pay would mean attack on the return trip to Damascus. Hasan Pasha refused to budge however, and as the caravan attempted to return to Damascus in the early days of the year 1113 H/ June, 1701 M, it was sacked and destroyed in one of the worst disasters to befall it in the entire history of its management under the Ottomans. Perhaps Ismail ibn Kaywan perished in this attack, for he disappears from the historical record.

By far the greatest continuity with the past was the status of the Tarjumanzade family. Upon his return, Muhammad Tarjuman continued to be counted among the ayan of the local janissaries. He was also still in the grain

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<sup>608</sup> Ibn Jumahh, 51

<sup>609</sup> Rafeq, "Changes in the Relationship," 67

<sup>610</sup> Ibn Kannan mentions him in the year 1111, p. 29, the last record of his tax farming activities is his brief contract for Sahnaya in the year 1104, MAD 9866, f. 65

<sup>611</sup> Ibn Kannan, 29

<sup>612</sup> Ibid., 41-2

business, and he bought two *malikanes* in 1697, one for a village in the Marj and another for a village and farm in the Hawran.<sup>613</sup> Two years later, he would purchase the collection rights for five more villages and a farm in Wadi Ajam, plus another two villages and a farm in the Hauran.<sup>614</sup> Considering the difficulties that he had faced only a few years prior, Muhammad Agha made an impressive recovery. In the year 1699, Ibn Kannan reports that Muhammad Agha married his daughter to Yahya Agha bin Talu, a son of one of the slain janissary leaders, and that the agha put on a lavish celebration in which no expense was spared for seven days.<sup>615</sup> He died in 1118 H/ 1706 or 1707 M, while serving as emissary from the governor of Damascus to one of the Bedouin chiefs who had been threatening the pilgrimage.<sup>616</sup> The long running commitment of both Muhammad Tarjumanzade and Ismail Kaywanzade to the protection of the pilgrimage highlights its centrality to the military careers and status of the Ojaq.

As for the family whose rise had precipitated the strife, the Sadaqazades, they disappeared from the tax farming records, but they were not entirely wiped out. According to Ibn Kannan, most of Salih Agha's "uncountable" wealth had been confiscated, only to be plundered by those who speciously claimed that he had owed them money.<sup>617</sup> His heirs received only his freehold property and what had been bequeathed in family *waqfs*. One of these heirs is perhaps Abd Allah ibn Sadaqa, a member of the local janissaries whose home would be the scene of an altercation between members of the Azm administration and a number of janissaries in 1726.<sup>618</sup> This episode suggests that even in its reduced circumstances, the family continued to have some status among the local janissaries.

The Ojaq's days of leading the pilgrimage were over. They still participated in the convoy, though as the example of Ismail ibn Kaywan indicates, they played second fiddle to a leader who often had little experience in the matter. A similar trend manifests itself in the tax farming records. Although the Ojaq still were important participants, they were not as dominant in the rural economy as they had been. Did the Qul profit from the decline of the Ojaq and gain some standing in the rural economy? According to Linda Schilcher, the Qul would never gain much of a hold over the rural economy, even at the height of their influence and alliance with the Azms.<sup>619</sup> It was the Azm policy to suppress the grain trade of Damascus province, which continued to lie in the hands of the

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<sup>613</sup> MAD 9486, f. 168, 169. It is unclear in this register that the two tax farms were purchased as *malikanes*, but MAD 3423, which preserves the *berats*, or certificates given to purchasers of *malikanes*, records these as *malikanes*, see Erol Özvar, *Osmanlı maliyesinde malikane uygulaması* (Istanbul: Kitabevi, 2003), 254, 260.

<sup>614</sup> MAD 9486, f. 171

<sup>615</sup> Ibn Kannan, 22-23

<sup>616</sup> Ibid., 120

<sup>617</sup> Ibid., 24

<sup>618</sup> Rafeq, *Province*, 100

<sup>619</sup> Schilcher, 34-5

local janissaries, at the expense of the grain they imported from Hama and Hums, and the Qul looked to other avenues for wealth. On the other hand, Brigitte Marino finds this characterization too categorical, and maintains that the Qul were very well represented among the eighteenth-century tax farmers of the Biqa' and Hawran regions.<sup>620</sup> It seems that many aspects of the relations between the Qul and the local janissaries, and the role of the rural economy, are still in need of greater research and elucidation.

### **The joining of the offices**

Shortly after the destruction of the Ojaq's leadership and the introduction of the *malikane* in the mid 1690's, the orientation of the entire fiscal-military transformation of the province towards the pilgrimage was complete. One of the final pieces was accomplished when the two offices of pilgrimage leader and governor of Damascus were joined in perpetuity in 1708 under the tenure of Nasuh Pasha, who began the tradition of governors continuing in office so long as the pilgrimage took place without incident.<sup>621</sup> With the joining of these two offices, it seemed very likely that at some point a man of local origins would obtain the joint post. After all, for most of the seventeenth century, the high state had relied on men with local knowledge to lead the pilgrimage. When novices had the post or men of little sense like Hasan Pasha, the Bedouin were emboldened and attacked. While it seemed that a local man or family was destined to come forward and finally take the office of governor, no such thing happened. Instead, Damascus got the Azms.

It will be protested that the Azms were the local dynasty of governors par excellence. While they did come to be seen that way eventually, that was not what they were at the outset. As Karl Barbir has pointed out, Ismail—the first Azm governor of Damascus—was no more local than a pair of brothers from the region of Latakia on the north coast of modern Syria who had previously held the post of governor. These brothers, Qaplan Pasha and Aslan or Arslan Pasha, each served as governor of Damascus in the late seventeenth century when governors were rotated out on a yearly basis.<sup>622</sup> The Damascene chroniclers give no indication that they viewed either of these pashas as having some affinity with them, nor do they express any such sense of common origin with Ismail al-Azm, who was from Ma'arat al-Nu'man, a small town outside of Hama. In the Damascene chronicles, Ismail's appointment passes without any comment upon any special status he had in the eyes of the population. He might as well have been from Bosnia or Anatolia as far as the contemporary narratives are concerned. The region whence he came was not part of the province of

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<sup>620</sup> Brigitte Marino, "Le Hawran et la Bekaa, deux regions cerealières du Bilad al-Sham au XVIIIe siècle," in Muhammad Afifi eds., *Sociétés rurales ottomanes/ Ottoman Rural Societies* (Le Caire [Cairo]: Institut Français D'Archéologie Orientale, 2005), 187.

<sup>621</sup> Barbir, 51

<sup>622</sup> Ibn Kannan 50, and Barbir, 62-3

Damascus, and although it was relatively close geographically, it was not part of the city's political focus. The attention of the chroniclers demonstrates that the city was oriented primarily to the west and south. Its supply lines lay to the west and south where it received its grains from the Biqa' and the Hauran. The politics of the rural great families or the Bedouin that menaced these regions always merited comment. The regions to the north, firmly in the orbit of Tarablus on the coast and Aleppo in the north, rarely captured much notice.

In light of the fact that other officials from the region like Qaplan and Arslan had already been promoted to the office of governor there is nothing particularly odd about Ismail's having won the office; what is remarkable is that he and his family members were able to monopolize the office for so long. There was nothing local about the Azms' origins, what made them Damascene eventually is that having obtained the position of governor, they hung on to it, moved their seat from Ma'arrah and Hama to Damascus, and visibly altered the city by building bath houses, madrasahs, palaces, and a khan to host traveling merchants. In other words, they adopted the city, and the city returned the favor. This process of identifying themselves with Damascus was both longer in the making and longer lasting than the similar process that Abd al-Salam al-Marashi underwent in the mid seventeenth century. Certainly there was no indication of it during the tenure of Ismail Pasha. When he was removed from office in 1730, Ibn Kannan thanked God for it noting that he had been one of the most rapacious and merciless governors ever to rule the city.<sup>623</sup>

On the other hand, the chronicles that date from the second half of the eighteenth century—the period in which the family was not only taking a great deal of wealth from the city, but investing in it as well—take a far more positive tone. Chief among them is the chronicle of the Greek Orthodox priest Mikhail Brayk, who attributed the Azm's tolerant attitude towards Christians as rooted in the fact they, like the Damascenes, were Arabophone, or '*awlad al-Arab*'.<sup>624</sup> Still, a sense of common origins only counted for so much. The biographer Khalil al-Muradi did not see fit to write about any of the Azms except one of the last serving members of the dynasty, Muhammad Pasha. Unlike many of his predecessors, Muhammad Pasha had been born in Damascus. While Muradi noted this fact, he concentrated his remarks on the pasha's character. "He loved the *ulama*, and righteous people and the poor. He heeded them and honored them in full measure. In word and deed he was gallant, noble and courageous."<sup>625</sup> It was these qualities that Muradi illustrated with highlights from Muhammad Pasha's career as governor of Aleppo and Damascus, demonstrating once again that while a sense of solidarity could color how Damascenes looked at their military officers, in the end, their conduct was the primary basis for judgments about them.

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<sup>623</sup> Ibn Kannan, 413-4

<sup>624</sup> Rafeq, "Changes in the Relationship," 67-68

<sup>625</sup> Muhammad Khalil al-Muradi, *Kitab Silk al-durar fi 'ayan al-qarn al-thani 'ashar* ([Cairo]: al-matba'ah al-Amiriyah al'Amirah, Bulaq, 1874), 4:97

The promotion of Ismail al-Azm to the governorship of Damascus and Mir al-Hajj owed nothing to local knowledge, for being from the north where the terrain and tribes were different, he had nothing like the intimate knowledge of the region nor longstanding relationships with the Bedouin there that the great families to the south had had when they dominated the office of pilgrimage leader. Perhaps the Azm's 'outsider' quality was precisely what appealed to the ministers of the high state; perhaps someone with no connections to the old rural notables or the Ojaq looked desirable. Certainly he found himself frequently in opposition to the Ojaq. The Ojaq leaders still dominated aspects of the city's economy that the Azms also wished to capture, particularly the grain trade.<sup>626</sup> Probably a bigger factor in the Azm family's rise was their ability to find helpful patrons. Several were mentioned in connection with the rise of Ismail Pasha, giving him a helpful push at crucial junctures. Ismail was a 'bey' fairly early in his career, meaning either that he had obtained a *timar* or even that he had become the sancakbeyi, or district governor, of Hama.<sup>627</sup> According to the biographer al-Tabbakh, much of Ismail's rapid promotion and attaining of lucrative tax farms at this early point in his career was due to the influence of the governor of Aleppo, Arifi Ahmad Pasha.<sup>628</sup> It is not clear what service Ismail had rendered the pasha, though Rafeq surmises that it may have been fighting Bedouin raids in the countryside.<sup>629</sup>

Ismail al-Azm had one important thing that surely did recommend him: the *malikanes* of the towns of Hama and Hums. The prevailing wisdom at present is that the tax farms of Hama and Hums were the perquisites of the Damascene governor as a matter of course.<sup>630</sup> Yet this is demonstrably not the case prior to the Azm governorship. In fact this was the one redefining element of the eighteenth-century governorship that the Azms brought with them—longer tenures and pilgrimage leadership, as Barbir has noted, preceded them. The person who held the tax farm for the three tax collection rights (imperial domain villages, '*badla*', and Turkuman tribes) in Hums and Hama in 1117 H/ 1705-6 M was Muhammad Pasha Qaplan Pashazade, presumably the son of the Qaplan Pasha who had been governor and pilgrimage leader in the late seventeenth century. By imperial order, these tax farms were upgraded to *malikanes* in 1122 H/ 1710-11 M and 1123 H/ 1711-12.<sup>631</sup> While Muhammad Pasha's father had served as governor of Damascus twice, in 1075 H/ 1664-5 M and in 1097 H/

<sup>626</sup> Schilcher, 33-5, 57; and Rafeq, *Province*, 177, 204

<sup>627</sup> Shimon Shamir, "The Azm Walis of Syria (1724-1785): the period of dynastic succession in the government of the welayahs Damascus, Sidon and Tripoli" (dissertation submitted to the Department of Near Eastern Studies, Princeton University, Princeton, N.J., 1961), 24

<sup>628</sup> Muhammad Raghīb al-Tabbakh, *I'lam al-nubala bi-tarikh Halab al-shahba* (Halab [Aleppo]: al-matba'ah al-'ilmiyah, 1923), 6: 481.

<sup>629</sup> Rafeq, *Province*, 92

<sup>630</sup> Barbir, 116

<sup>631</sup> MAD 9497, f. 40-1

1685-6, and pilgrimage leader in 1111 H/ 1699 M, he himself had not held these offices.<sup>632</sup> He appears to have held the taxes for both Hama and Hums until Ismail and his Istanbul patron Khalil Efendi took them over in the early 1720's, for no other tax farmers are recorded in the interim. While it is not certain whether these two districts were part of the pilgrimage revenues prior to the Azm governorate, they became a substantial portion of the total revenues by the 1730's.<sup>633</sup> By backing the Azms, the Ottoman government had picked a family that besides being able to deliver safety on the route, could also deliver an important source of cash for the pilgrimage expenses. It was the Azms' de facto control of this area due north that inaugurated the tradition of the Hama and Hums *malikanes* as a regularized perquisite of the governorship of Damascus.

The process whereby the Azm family came to dominate the finances of Hama and Hums was not a long one, it took place within a period of five or six years. The empire's tax farming records show that Ismail's rise was meteoric yet incremental: at some point prior to 1719 he had obtained the *malikane* for his birth place, Ma'arra, and in that same year he had obtained a *malikane* to collect the taxes on the villages in the sultan's domain in the district of Hama.<sup>634</sup> In 1721 Ismail aided his patron in Istanbul, Khalil Efendi, to obtain the *malikane* for all of the rural revenues of Hums (that is, the right to collect taxes from the villages on the sultan's domain, the right to collect the *badla* from the *timariots* and *zaims* of Hums, and the right to collect tithes from the Turkuman tribes in the area) by paying half of the down payment of 5,000 qurush.<sup>635</sup> Prior to now it has been believed that Ismail held the *malikane* for Hums, but it appears that the *berat*, or certificate, went solely to Khalil Efendi.<sup>636</sup> Since Khalil Efendi was employed in the finance bureau in Istanbul, Ismail Azm was clearly in charge of the revenue collection, whose profits were likely shared between the two men.<sup>637</sup> Ismail only fully secured his grip on Hama's revenues in 1722 or 1723, when he received the *malikane* to collect on the Turkuman tribes in the area and to collect the *badla* from its *zaims* and *timariots* as well as though in the neighboring district of Salamiya.<sup>638</sup>

In terms of prior experience, Ismail's best qualification for the governorship of Damascus was his tenure as governor of Tarablus, which began in 1721. With this office came the responsibility of heading the *jarda*, the military convoy that

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<sup>632</sup> Ibn Jumah, 39, 45; Ibn Kannan, 7

<sup>633</sup> Barbir, 185

<sup>634</sup> MAD 9497, f. 44

<sup>635</sup> Ibid.

<sup>636</sup> Tabbakh, 6: 481, asserts that Ismail received Ma'arra and Hama and Hums and appointment as a sancakbeyi through the commendation of the governor of Aleppo, Arifi Ahmad Pasha. Since Ismail was doing the collecting and remitting of the taxes, it is easy to understand why observers believed that he indeed held the *malikane*.

<sup>637</sup> Rafeq, *Province*, 93, describes some of the payments made by Ismail to Khalil Efendi through English factor at Aleppo.

<sup>638</sup> MAD 9497, f. 44

escorted the pilgrimage. He performed well in this task, having possibly had experience with Bedouin fighting from his days in Hama. He may have carefully cultivated the favor of the authorities in the next four years, for when revolt against the Ottoman governor broke out in Damascus in 1725—led by Asad Efendi's son Khalil, the Hanafi mufti—Ismail was named the new governor. He held the office for five years, incurring dismissal in 1730 for reasons that are not entirely clear but which probably had to do with the fact that a number of complaints had been lodged against him in different quarters so that his liabilities with the authorities had simply begun to outweigh his assets.<sup>639</sup> By 1734, he would be succeeded first by his brother Sulayman and later by his son Asad.

In the end, the prevailing conditions of the eighteenth century were conducive to the rise of bureaucratic dynasties, as Barbir points out in regard to the Azms.<sup>640</sup> Offices across the empire came to be regarded as family property in a way very similar to the way in which Ismail Mahasini regarded the position at the Taqwiya in the section above. The new stability of the elite has been linked to the *malikane* among other things, but it was the prevailing trend of the empire in the eighteenth century for sons to obtain their fathers' posts and for an institutionalization of privilege to congeal. It was the newly stable tenure and finances of the office of governor that created the conditions for a family like the Azms to establish themselves in Damascus and become local. In this sense, their experience is in fact quite similar to that of Muhammad Ali in Egypt.

## Conclusion

In the early years of the eighteenth century, it was the Ottoman governor in charge of the pilgrimage rather than the rural notables living in their strongholds on the edges of the province. Nothing could more aptly demonstrate that the position of the pilgrimage in the province had moved from the periphery to the center. The question of pilgrimage leadership throughout the seventeenth century said a great deal about where the high state's priorities lay and what opportunities were available to its many military groups. After the great families of the outer districts were determined unreliable and destroyed, the fortunes of the soldiers stationed in Damascus began to rise. In this interim period where the provincial notables were eliminated and the governor was not yet strong, they were the leaders of the city and the region, benefiting from the new proliferation of small tax farms available in the subdistricts surrounding the city. These resources were comparably modest, yet in the absence of political and financial stability for anyone that might challenged them, they were able to set down local roots and become enmeshed in the life of the city.

From the perspective of the high state, the downfall of this group was framed by a familiar narrative: disobedience and overstepping the bounds of rightful authority. But for the people of Damascus who left a record of the event, it was different and quite tragic. Not because the troops were native and were

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<sup>639</sup> Rafeq, *Province*, 105-111

<sup>640</sup> Barbir, 56-64

crushed by a foreign power, but because the disobedience, if understood properly was not really disobedience. They agreed with the high state that the military must remain in its rightful place, but they felt that the high state had not understood that the Ojaq was in fact in its rightful place. Even without this incident, the dominant position of the Ojaq in the city and rural hinterland was coming to a close. The financial rough and tumble embodied by the tax farming practices of the late seventeenth century had been good for the janissaries and benefice officers of Damascus. The lack of security had scared off potential competitors except for the undaunted few like Hamza Efendi from chapter four. The newly stable environment of the eighteenth century gravitated against them. A moneyed elite started to make inroads in the rural economy, and the governor, for the first time in over a century, was poised to become a major local power.



## Conclusion

Over the years, a number of studies have set out to investigate the nature of the Ottoman state, economy, and society by way of land tenure. The problem that such studies inevitably encounter is that, given the way that seventeenth-century people depicted themselves, grouped themselves, organized their lives, their interactions and their politics, it becomes very difficult to study any early modern polity and its peoples under the rubric of state, society and economy, as the conditions that made such categories distinct and viable were only beginning to appear in this period.

This dissertation has taken a somewhat different approach than simply trying to chart the rise of modern institutions and systems of administration. While this dissertation has not neglected to discuss the importance of legal, military and fiscal change and its portents for the future of Ottoman Damascus, it has also tried to explore the way that Damascenes related to their government and to one another in this period, and how these views and relationships can help inform the dominant paradigms that historians use to study them. The relationships and rights to land that connected Damascenes to one another reveal a complex interweaving of continuity and change that shaped Damascene realities in the seventeenth century. By utilizing a wide variety of sources, this dissertation has investigated the nature of governance and governing relationships in this period by examining the terms in which obligation is expressed, conflict resolved, and other interactions carried out. In particular, the dissertation has focused on how different group identifications—the people of the village, the *ulama*, and the janissaries in particular—were frequently a factor in how not only an individual's rights and responsibilities over land or its revenues, but more generally determined a good portion of the individual's relationship with the “high state” in Istanbul, the local authorities, and fellow Damascenes. This is not to say that I advocate a return to the paradigm of understanding the Middle East as a mosaic in which people are clustered into small groups that have little to do with one another. In fact, they are clustered into groups that inform and facilitate broader interactions among those who hail from different groups. In any case, there is nothing particular to the Middle East about this kind of formation—it is a widespread feature of polities across the early modern world, which broke down in the Middle East as elsewhere with the rise of mass communication, modern infrastructure, national schooling and so on.

This dissertation has sought to question the oppositional nature of so many of the paradigms that currently prevail in the study of early modern Ottoman governance, be it of center-periphery, state versus religion, Arab versus Turk or even individuals versus figures of authority. Chapter one explores the emergence of the people of the village not as a self conscious act on the part of the villagers to assert themselves as the rightful decision makers, but as a more inchoate process whereby imperial statute recognized and granted formal

recognition to some powers that the villagers already exercised, and some new ones that they acquired in the seventeenth century with the downsizing of the *timar* system. There was no one author of this change; various imperial administrations, the villagers, and the changing fiscal military order acted in concert with one another to effect this transformation. One of the more surprising results of the emerging authority of the people of the village was their ability to call rich and powerful urban landowners to account. The payment of taxes was taken very seriously by all the governing authorities in Damascus, whether associated with the sultan's government, like the court, or independent of it, like the mufti. The villagers' determination to get the privileged military men in their midst to pay their allotted share in the tax burden was supported, as was seen in one case involving Ruznamcheji Ahmad Efendi, by every such authority in the city.

Much of the literature on peasant cultivators and their relations with the state have demonstrated that tax collection issues pitted villagers against the state or at least the local collection authorities, but it is not often recognized the extent to which it pitted the villagers against each other. With the people of the village themselves taking responsibility for dividing the tax burden among individuals and appointing someone to do the collecting, the village itself was in some sense the most immediate agent of state power that touched the lives and property of ordinary villagers. On the other hand, neither the sultan nor the villagers made the rules for who was to contribute what to the village taxes: the principle of payment in proportion to property, challenged from time to time, was always upheld as the foundation of contribution, and it was a principle developed in the Islamic *fiqh*. The process of tax collection and allocation is a beautiful demonstration of how intricately imperial law, institutions, corporate groups and the *shariah* were woven together. Each of them governed some aspect of tax collection in tandem with the others, and the role of each was acknowledged and expected to cohere with the others. The fact that the mufti and the judge, and even the military administrators, were empowered to see that the proportionality principle was applied, and that other considerations like handicaps and sectarian considerations received their due attention, was surely a factor that helped less affluent villagers challenge unwarranted demands made by their more prosperous neighbors who had more influential voices in the village affairs. Nevertheless, whatever conflicts the villagers entered into with one another about their individual responsibilities, the resolution of such conflicts entailed highlighting what they had in common: the obligation to support the village in the amount that corresponded to the village resources from which they benefited—be it number of faddans farmed or security extended to portable property.

There is also the question of the legacy of the people of the village. What, for instance, would we say is the historical significance of the emergence of the corporate personhood of the people of the village? If Syria had become a democratic success story, the emergence of the people of the village might be pointed to as a reason for it. They would be invoked to show a tradition of self

governance at the village level, much as the communes are said to do for northern Italy. Since it is the destiny of the past to be read through the lens of the present, this reading is not compelling, or at least not yet. Mundy and Smith argue that the increased authority of the people of the village over the village productive resources was a step towards the individuation of each villager's control over his or her cultivated areas, and hence a step towards the emergence of private property in land. They also argue that the powers of the rural councils that later arose during the nineteenth-century reform era were based in part on the powers of the people of the village, and hence provided a scaffolding for the new emphasis on bringing state bureaucracy into the countryside in that era.<sup>641</sup> Elizabeth Thompson would perhaps see this development as providing a framework for the emergence of the integration of villages into the patronage networks of politicians with strong provincial backing that arose in the interwar period.<sup>642</sup> In other words, the emergence and the people of the village is likely to help us explain the evolution of rural politics and its impact on the process of both Ottoman reform and nation state formation.

Chapters two and three challenge the frequent assertion that Islam or those taken to be its representatives, the *ulama*, opposed the state or exercises of state power. This position is often seen in literature on Ottoman Damascus, where Islam is presented as a bulwark against imperial encroachment upon the rights of Arab subjects. On the other hand, it is also part of a wider trend in the Ottoman historiography that sees Islam as retarding the state's efforts at modernization, a position that has recently been challenged by Baki Tezcan.<sup>643</sup> Chapter two demonstrates that Ebu Suud's so called harmonization of *qanun* and *shariah* did not elevate the latter in order to supplant or limit the other, but in fact allowed for the expansion of the former through its assimilation to the latter. The sultan's ability to legislate on *miri* land was augmented through the reconfiguration of *qanun* to fit with the jurisprudential practices in the *shariah* court, showing that there was no necessary opposition between the power of religion and the state. They could, and did frequently, uphold one another. In addition, Damascene *ulama* were not so opposed to either the Ottoman *qanun* or Ottoman authority as they have been depicted. They too concurred that the majority of the sultan's laws on land administration were to be obeyed. The new rules to succession of usufruct were never debated as a controversial matter, they were first either unknown or considered inapplicable in light of Hanafi traditions that were both general to the school and local to the city. Then quite suddenly they were accepted with little commentary or fanfare to suggest that they were particularly controversial in overriding the prevailing consensus. By

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<sup>641</sup> Martha Mundy and Richard Saumarez Smith, *Governing property, making the modern state: law, administration and production in Ottoman Syria* (New York: I.B. Tauris, 2007).

<sup>642</sup> Elizabeth Thompson, *Colonial Citizens: Republican Rights, Paternal Privilege, and Gender in French Syria and Lebanon* (New York: Columbia University Press, 2000).

<sup>643</sup> Baki Tezcan, *The second Ottoman Empire: political and social transformation in the early modern world* (New York: Cambridge University Press, 2010),

conceding that the sultan's legislative powers were contained within the rubric of *shariah*, the jurists acknowledged not only his power to make rulings about land, but their duty to obey such rulings. It was not only Islam and Islamic practice that shaped the state; even before the reform era, state action could and did have an impact on what was normative Islamic practice in the provinces.

Chapter three examines more closely exactly what was controversial for the Damascene *ulama* in Ottoman legislation, and what was not. The necessity of returning or keeping people to their proper places was a theme in both this chapter and in chapter five. While in chapter five the Damascene *ulama* agreed with the high state that keeping men of the sword in their places was a necessity, they did not share the same view about peasant cultivators. While generations of Ottoman bureaucrats and state employed *ulama* insisted that the *shariah* allowed them to return peasant-cultivators to lands they had abandoned or fine them for not cultivating, the Damascene *ulama* refused to agree that such a remedy was necessary for the state to carry out its legitimate taxation objectives. They were not insensitive to arguments that invoked measures that had to be taken for the common good of the Muslim community generally and the health of the body politic. However, they refused to agree that the state could force cultivators to live in a place against their will, or to pay a tax if they did not cultivate, for the state had shown no compelling reason why such a measure was warranted and overrode the longstanding ideals of freedom of residence and taxation as a form of rental contract. The state, they maintained, was able to obtain the revenues it needed without such drastic curtailment of peasant right. What was remarkable, even in this rejection of state tactics, was the acknowledgment of legitimate state priorities. War and internal security and justice had to be maintained, and all reasonable measures to do so were to be accommodated. The state's interest in maintaining its revenue base was not one that the *ulama* repudiated, yet it had to be balanced with the rights of the individual cultivators. While some aspects of this debate lend themselves to an interpretation that show the interests of Damascenes to be at odds with the imperial center, it should be remembered that many times the people of the village were the ones to invoke the Ottoman statutes and did not appreciate the support that their runaway colleagues received from the local *ulama*.

Furthermore, chapter three challenges the belief that Islam, or the *shariah*, was the exclusive concern of the *ulama*. Non *ulama* imperial bureaucrats were also concerned with the right order of the state, which they understood to be founded on a certain understanding of *shariah* that was not always compatible with the reading of either the imperial *ulama* or the Damascenes, especially when it came to the topic of tax farming. Long considered highly controversial or even forbidden by the *ulama*, chapter three shows that the *ulama* of the upper echelons of the imperial bureaucracy were entirely amenable to it and the *ulama* of Damascus were far more accepting of it than we have hitherto understood. Both the question of tax farming and that of the more aggressive demands upon the peasantry demonstrate the different ways that it was possible to view the

*shariah* in the seventeenth century. Some saw the *shariah* as governed by the categories and precedents of the *fiqh*, while others regarded it primarily as a set of moral principles that supported the harmony and well being of all members of the body politic. The latter were more inclined to opine that good policies necessarily emanated from a proper understanding of the *shariah*, while the former insisted that precedents in the *fiqh* must be either respected or persuasively shown to be unworkable. Neither perspective completely excluded the other, and in both interpretations, the importance of the *shariah* in crafting the right policy to secure the state and community was affirmed.

This dissertation has sought to demonstrate the ways in which common beliefs and attitudes about the world were shared among people of the Ottoman Empire, be they great men, commoners, Turkish or Arab. One thing that all Muslims could agree on was the conscientious application of the *shariah*, even if they debated fiercely among themselves what exactly that meant. Chapter four brought another dimension to this discussion by showing how the *ulama* understood their responsibilities to the dynasty and the privileges which they expected to reap as a result of their service to the state and the Muslim community as a whole. The *ulama* could agree that it was honorable to enjoin the state's officials to follow the *shariah*, and that it did not compromise them to accept some kinds of reward in return for counseling state administrators and for accepting positions in the courts or madrasahs that brought with them monetary reward. There was disagreement however about how far one should go to win the favor of the authorities in Istanbul, and whether it was unethical to seek distinction and powerful friends with too much vigor. What exactly must an *alim* do in order to prevent *zulm* and dissuade the authorities from countenancing it? Did he maintain a position as an outsider, uncorrupted by politics? Or did he engage and seek to build his influence in order to be effective when he deployed it? For many *ulama* who had the means and inclination to seek preferment, there was no shame in doing so. Seeking riches and powerful friends could be a boon not only to the individual *alim*, but to the community, as Damascenes witnessed in the triumph of Asad Efendi al-Bakri. However the *ulama* felt about pursuing the revenues conferred by imperial patronage, they could all agree that supporting the legitimate enterprises of the dynasty and those among its servants who were just, was an honorable service.

There was also the question of how particular actions were to be interpreted relative to concepts that bestowed rights to revenues or took them away. For instance, everyone could agree that *zulm* must be prohibited and that those in authority had a duty to combat it. While most people could identify *zulm* when they encountered it, many (including those in the ranks of the *ulama*) also knew how to argue their way out of responsibility for it. In chapter four, the harmonizing of claims put forward by Hamza Efendi that neutralized the complaints against him led in all probability to a grave injustice of just the sort that the sultan's government was theoretically committed to preventing. If the accusations against Hamza Efendi had prevailed, he would have remained

estranged from the revenues of Sahnaya. However, he managed to have his rights reinstated because his own correspondence presented him as the victim of *zulm*, and a good manager of the revenues who had been maligned and misrepresented. The concept of *zulm* is itself a useful way for thinking about the ways that early modern government adhered to standards that are hard to fit into our current modes of analysis. It was a concept that transcended easy classification: was it moral? Legal? Political, or religious? It appeared to be all of these at once, and to highlight the why it was so important for individuals to deflect accusations that carried such immense weight. Furthermore, it had distinctly economic consequences, as it could terminate contracts and disqualify individuals for future revenue contracts.

A similar sort of dilemma arose in chapter five, further illustrating how debates about particular actions or behaviors occurred within a framework of shared concern about moral and appropriate conduct, and how moral and appropriate conduct qualified individuals to access revenue sources. Among Damascenes as well as imperial officials, there was consensus that military personnel had to be obedient to the sultan's orders; moreover, this obedience was the foundation of the military's access to revenues, which could be taken away if their discipline or loyalty was suspect. When acts of violence erupted that pitted the local janissary forces against the governor of the city or the orders emanating from Istanbul, the response from other Damascenes depended directly on how they understood the soldiers' actions. Like the sultan's government, Damascenes took a dim view of revolt or disorder that was undertaken with the goal of increasing the power of the regiment at the expense of the authorities in Istanbul. However, if the actions of the regiment were out of order, yet taken with the aim of defending the city and the lives of innocent Damascenes from corrupt officials, then the people of the city supported them. While the sultan's administration was likely to see any breach of military etiquette as aggrandizement and an overstepping of bounds that called for punishment, the residents of Damascus might urge the imperial government to show mercy to the soldiers who had protected them. As chapter five demonstrates, Damascenes did not condone actions taken to undermine the rule of Istanbul, they approved only of action taken against blatantly corrupt administrators in their midst. It was not their "Ottomanness" that was under attack, but rather their abuse of their authority.

Chapter five also details how service to the pilgrimage was becoming a more central part of the military duty of the province's soldiers. The Ojaq's domination of tax farming in the rural hinterland surrounding the city proved to be a valuable revenue supplement after their urban perquisites were given to the Qul. The abundance of rural tax farm revenues available to the soldiers could be traced to the most widely identified feature of military-fiscal transformation, the conversion of *timars* to tax farms, with the revenues from tax farms in nearly every case designated for funding the pilgrimage. As the entire taxation apparatus of the province (and the neighboring provinces) became directed

towards the pilgrimage, the task of leading the pilgrimage was increasingly a task that was entrusted to the soldiers of Damascus. Until the Ojaq's leadership was eliminated due to their revolt against the governor of Damascus, they received wealth, honor and title from the high state by providing the leadership that could guarantee the safety of the pilgrims. After the joining of the offices of the governor of Damascus and the pilgrimage leader, the Azm family was able to use its control of a sizeable portion of the tax farms that funded the pilgrimage to dominate the office of governor. While the historiography often notes that the awarding of big tax farms was a way for the Ottoman state to tie its powerful subjects with local constituencies to the imperial project, in the case of the Azms, it appears that their tax farming and domination of office allowed them to build a local constituency where they had previously had none. The localizing of the Azm family in this way resembled the localizing of the Ojaq; by adopting Damascus and using their wealth to benefit the city, they began to be regarded as Damascenes.

Concurring with the major trends in historiography, many of the changes that this dissertation noted were understood as evolutions towards a modern state. The rise of the moneyed elite in rural tax farming, not all of whom were of military background and none of whom were of peasant background certainly looks like a development in the direction of capital formation in the city. The increased scope for temporal authority to make law, documented in chapter two, also appears to be a modernizing step, though not perhaps in the way we might expect, as it did not mean the reduction of the *shariah's* jurisdiction in favor of the sultan's. On the other hand, it did mean greater legislative authority to the temporal ruler, within boundaries. Early modern history is full of men who felt that strengthening the power of the chief authority or highest office holder was a valuable and sensible enterprise. Even so, the figure of Ebu Suud Efendi must surely rank somewhere at the top in terms how much he accomplished in this capacity. Certainly he did not seek to separate the authoritative body of *qanun* from that of *fiqh* and attempt to expand the former at the expense of the latter. Rather, he claimed to have united them, having found them harmonious with one another. Both were changed through this harmonization, as was the institutional development of the Ottoman Empire.

Yet another movement towards a modern discourse of individual right is the reaction of the Damascene *ulama* in opposition to Ottoman claims about the necessity of a stationary peasantry: they begin to speak of something that resembles a positive right of free movement. Nevertheless, we should not push this theme of 'modern developments' too far: such developments were piecemeal. Mundy and Smith for instance have perhaps overly emphasized the continuities of legal trends by arguing for a fairly organic and incremental legal development towards individuation of taxation in 1858.<sup>644</sup> Some legal developments, like the increasing heritability of usufruct, do support such conclusions. But as chapter three and one show, the tax collecting class still

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<sup>644</sup> Mundy and Smith, chapters 2-4

held to its role as protecting the productivity of the village and the right to collect fees that came with that role even if they were not taking any part in the division of taxes. Furthermore, the arrival of the *malikane* in 1695 meant that the peasant cultivators were eliminated from the ranks of tax farming. The holders of *malikanes*, as chapter one showed, could be more inclined to involve themselves in the internal management of land, having established a long term relationship with the village. Their erasure from this privileged 'intermediary' role in 1858 was therefore a distinct break with precedent, both *de facto* and *de jure*. In that sense, the 1858 Land Code is, as Islamoğlu has maintained, an intervention through law to effect a new policy of weakening the tax collecting groups.

On the whole, most of these developments towards a modern state would be obscured rather than built upon by the reform movements of the nineteenth century. As the process of state building was increasingly guided by international standards of liberalism on the one hand and police states and modern autocracy on the other, institutional development of the latter Ottoman period was not only forgotten, it could not even be seen for what it was. Nevertheless, this dissertation has attempted to demonstrate that the early modern period was not only the birthplace of many of the institutions and trends that would shape the modern Middle East, but was also a time when less familiar ideas, institutions and relationships constituted an important part of everyday life. Many of these institutions and relationships, I have suggested, have something to do with belonging to groups, like the *ulama*, a particular village, or a specific military unit. The connections and obligations within these groups and beyond them demonstrate the complexities of the Ottoman body politic, and the way that the peoples of a large and diverse empire could conceive of themselves as different, yet part of a common welfare.



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