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A SOCIOLEGAL HISTORY OF JUDGING NON-MUSLIM COMMUNAL AFFAIRS IN EARLY SEVENTEENTH-CENTURY GREATER ISTANBUL

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In memory of Vangelis Kechriotis (1969-2015)

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Abbreviations

b.: bin (“son of”)

gr.: Greek

BOA: T.C. Cumhurbaşkanlığı Devlet Arşivleri Başkanlığı Osmanlı Arşivi (Ottoman State Archives), Istanbul

GCR: Galata Court Register

ICR: Court Register of the Judgeship of Istanbul

ISAM: Center for Islamic Studies, Istanbul

r.: reign

tr.: Turkish

v.: veled (“son of”)

VGMA: Vakıflar Genel Müdürlüğü Arşivi (The Archive of the General Directorate of Foundations), Ankara

YK: Yeniköy Court Register

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Notes on Transliteration and the Citation of Archival Sources

I adhere to the standards of the International Journal for Middle East Studies for transliterating Arabic and Ottoman Turkish.

[ ] Square brackets indicate lacunas in the original texts, primarily due to the damage to the material. I occasionally suggest legible letters or phrases for their possible reconstruction.

[…] Three dots in square brackets are used to indicate there are portions of texts skipped when quoted.

In naming the Bosphorus villages, I follow modern Turkish conventions; hence, Yeniköy, not Karye-i Cedide (the latter being used in the court registers interchangeably with the former), or Sarıyer, not Sarıyar.

In citing court registers directly, I maintain the following norms: For example, when YK 26: 121 is given as a reference, I first use the abbreviated form of the name of the court (i.e., YK for the Yeniköy Court Registers), then the number of a particular register (26 in the example), followed by a colon and the number of the folio (121) in which the quoted court entry can be found. When indicating the folios of a court register, I abide by each register's folio enumeration as provided by the relevant archive's cataloguers. In the example here, the folios of Yeniköy Court Register 26 are consecutively numbered on both sides of a folio, like page numbers, without allowing an a/b (recto-verso) identification. When an a/b identification is made in a register, this is reflected in citation. In fully published transliterated court registers nowadays in Turkey, the convention is also to number each court entry, which I didn't observe in this dissertation because I use court entries in a register only selectively when relevant to my study.

Abstract

This dissertation examines disputes over non-Muslim communal spaces in greater Istanbul in the late sixteenth and early seventeenth centuries. In Chapter 1, a historical background is drawn to illustrate the transformation of the western Bosphorus villages, such as Istinye and Yeniköy, into suburbs, the absorption of migrants in these suburban villages, and the state's imposition of uniform tax regulations in Istanbul's hinterland. Chapter 2 brings up a legal debate between the judge of Galata Taşköprüzāde Kemāleddīn Efendi (d. 1621) and the chief jurisconsult Ḫocazāde Meḥmed Efendi (d. 1615) over a Christian religious parade in the streets of Yeniköy. This debate is analyzed with respect to the standardization of Ottoman document formulation and the emergence of a prohibitive and restrictive legal language in dealing with non-Muslim communal affairs. Chapter 3 evaluates a legal procedure in the early modern Ottoman judicial administration that subjected public law issues to a process of imperial ratification. Chapter 4 deals with a protracted legal dispute over the Jewish cemetery of Kasımpaşa in the late sixteenth century and demonstrates interactions between various clashing interests at the individual, local, communal, and imperial levels in the processing of public issues concerning non-Muslim communal affairs.

Introduction

In a village named Istinye along the western shores of the Bosphorus, several Muslim men whose names are now lost to history on the torn paper of the court register from 1558 were drinking with the Christians of the village in a ship owned by a Christian man, Kara Kosta, and listening to the tune of drums and zurna, a woodwind instrument.[1] Proceeding to their houses in a Muslim neighborhood in the village at night, still accompanied by the drums and zurna, the Muslim men continued to enjoy the music in the shared courtyard of their houses. They were dancing (*ḫoros* [i.e., gr. χορός: dance] *debdikten sonra*) with the Christians.[2] When later asked in court why they were doing these things that were *an imitation of unbelievers' acts*, the men responded undauntedly: "We had the drums played, and we did dance! We did not quarrel with anyone. The sultan himself has the drums played. When we do the same, what should be done with us?" With the admission of the claims brought against themselves before a judge, this group of merrymaking Muslim men, perhaps while drunk but sober enough to argue against the accusations, put their rather *public* conviviality on a par with solemn sultanic processions and festivities that exhibited imperial majesty and colored the skylines of Istanbul. It would have been expected of these men to hold back in front of the judge from openly admitting the accusation — or at least from audaciously defending their actions. Taking unseemly pride in their disregard for public morality and speaking their minds in front of legal authority, these individuals defied the level of conformity expected of an often-hushed experience of being part

[1] YK 3: 31.
[2] A legal opinion of Ebū's-Suʿūd Efendi deals with Muslims intermingling with non-Muslims in leisurely activities: If a Muslim person is a musician and plays for unbelievers, he should face discretionary punishment and imprisonment. M. Ertuğrul Düzdağ, *Şeyhülislâm Ebussu'ûd Efendi'nin Fetvalarına Göre Kanunî Devrinde Osmanlı Hayatı,* (Çemberlitaş, İstanbul: Şûle Yayınları, 1998), 202.

of a subject population, whether Muslim or not. The full corrosive and delegitimizing power of this belittling or at least degrading parallel drawn by a group of Muslim villagers between their small gathering and the sultan's pompous showcase of celebrations plays down the distinction that the judge was tasked to maintain between Muslims and non-Muslims and between the ruling and the ruled. The bold statement also provides some clues on how lavish excursions of the sultan, the reigning one at the time being Süleymān (r. 1520-1566), may have been perceived by some bystanders from the shores of the Bosphorus. This is all the more intriguing given that Ottoman legitimacy was based on the viability and legitimizing force of the Ottoman dynasty and of the sultan himself.[3]

This moment of defiant defense by the merrymaking group of the Muslim villagers of Istinye is an appropriate point of departure to present the subject matter of this dissertation alongside its temporal, spatial, and thematic focus. In this dissertation, my main argument is that the Ottoman legal system relied on procedural and bureaucratic measures in processing legal disputes over public issues in the early modern period, especially at a time characterized by political decentralization. To build this main argument, I set the temporal scope roughly between

[3] The legitimacy of Ottoman dynasty has been studied from various angles: through the legitimizing effects of the stability of its institutions, see Madeline C. Zilfi, *The Politics of Piety: The Ottoman Ulema in the Postclassical Age (1600-1800)*, Studies in Middle Eastern History, no. 8 (Minneapolis, MN, U.S.A: Bibliotheca Islamica, 1988); Boğaç A. Ergene, "On Ottoman Justice: Interpretations in Conflict (1600-1800)," *Islamic Law and Society* 8, no. 1 (2001): 52–87 See also Hakan T. Karateke, "Legitimizing the Ottoman Sultanate: A Framework for Historical Analysis," in Legitimizing the Order (Brill, 2005), 13–52; Gottfried Hagen, "Legitimacy and World Order," in *Legitimizing the Order* (Brill, 2005), 55–83; Halil İnalcık, "State, Sovereignty and Law During the Reign of Suleyman," in *Süleymân The Second [i.e. the First] and His Time*, ed. Cemal Kafadar and Halil İnalcık (Beylerbeyi, İstanbul: Isis Press, 1993); Barbara Flemming, "Public Opinion under Sultan Süleymân," in *Süleymân The Second [i.e., the First] and His Time*, ed. Cemal Kafadar and Halil İnalcık (Beylerbeyi, İstanbul: Isis Press, 1993); Hakan T. Karateke, "Opium for the Subjects? Religiosity as a Legitimizing Factor for the Ottoman Sultan," in *Legitimizing the Order* (Brill, 2005), 111–29. For the coexistence of subversive religio-political ideas and an understanding of political subordination from the perspective of Greek Orthodox communities under Ottoman rule, see Marios Hatzopoulos, "Oracular Prophecy and the Politics of Toppling Ottoman Rule in South-East Europe," *The Historical Review/La Revue Historique* 8 (2011): 95–116.

the late sixteenth and the early seventeenth century, from the 1580s to the 1620s, several decades during which the Ottoman economy underwent a monetary crisis due to devaluation, rural uprisings swept the countryside in Anatolia, and the Ottoman dynasty suffered from regicide at the hands of the Janissaries. Spatially, my focus remains on *greater* Istanbul, where the city proper expanded its edges, and urban concerns reached a deeper hinterland, as in the example of Istinye, where we met the merrymaking group of villagers. At first glance, these villagers could appear to be hailing from an outlying place further away from even Galata, a town to the north of *intra muros* Istanbul that, together with Eyüb and Üsküdar, constituted greater Istanbul. However, around the mid-sixteenth century, residents of the villages along the Bosphorus were at once blessed and doomed to be close to the throne city. Finally, while discussing the administration of public law in the Ottoman Empire, I mainly follow it through urban legal cases about non-Muslims and, more specifically, about non-Muslim communal places, such as places of worship and cemeteries. I argue that urbanization and disputes over public space created conditions for reassessing Jewish and Christian communal spaces in greater Istanbul and for leading major expropriation policies.

Public vs. Private

For a study such as this on the administrative processing of public legal matters, it is necessary to revisit the scholarly treatment of "public" in legal historiography and its applications in the broadest sense. Taking insights from the scholarly treatment of the "public sphere,"[4] Ottomanists have reconsidered the early modern Ottoman society and state anew.

[4] For the criticisms of the idealized image of the public sphere in Jürgen Habermas's *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society*, see Nancy Fraser, "Rethinking the Public

Coffeehouses and taverns have been studied as venues for public culture in urban life and with respect to the emergence of a culture of early modernity and the new modes of sociability.[5] Given the speed with which coffeehouses mushroomed in Istanbul between 1550 and 1650, gatherings in coffeehouses inevitably generated many controversies by challenging the law of differentiation between Muslims and non-Muslims and between the ruling and the ruled. Emphasizing that coffeehouses quickly became venues to talk about politics in the Ottoman context, historians have analyzed how the state authorities were alarmed at the disruptive potential of such public gatherings. The notorious attempts of Murād IV (r. 1623-1640) to shut down coffeehouses and restrict coffee consumption to *private* and personal use in one's residence were motivated by concern over the disruptive potential of public gatherings.[6] Based on this background and reflecting on the criticism of Eurocentrism in the original conception of the term

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Sphere: A Contribution to the Critique of Actually Existing Democracy," *Social Text*, no. 25/26 (1990): 56–80; Joan B. Landes, *Women and the Public Sphere in the Age of the French Revolution* (Ithaca: Cornell University Press, 1988); Harold Mah, "Phantasies of the Public Sphere: Rethinking the Habermas of Historians," *The Journal of Modern History* 72, no. 1 (March 2000): 153–82; Benjamin Nathans, "Habermas's 'Public Sphere' in the Era of the French Revolution," *French Historical Studies* 16, no. 3 (1990): 620–44; David A. Bell, "The 'Public Sphere,' the State, and the World of Law in Eighteenth-Century France," *French Historical Studies* 17, no. 4 (1992): 912–34. For an approach suggesting that the emphasis on the public sphere creates a false opposition between public and private spheres to the extent that private life and privacy are rendered apolitical, see Dena Goodman, "Public Sphere and Private Life: Toward a Synthesis of Current Historiographical Approaches to the Old Regime," *History and Theory* 31, no. 1 (1992): 1–20; Ulla Wischermann and Ilze Klavina Mueller, "Feminist Theories on the Separation of the Private and the Public: Looking Back, Looking Forward," *Women in German Yearbook* 20 (2004): 184–97.

[5] For a comprehensive study of the spread of coffee drinking and of coffee houses as a social institution creating new habits and new forms of conviviality, see Ralph S. Hattox, *Coffee and Coffeehouses: The Origins of a Social Beverage in the Medieval Near East*, University of Washington Press ed (Seattle: University of Washington Press, 1988). See also Eleazar Birnbaum, "Vice Triumphant: The Spread of Coffee and Tobacco in Turkey," *Durham. University Journal* 49 (1956): 21–27; Şükrü Özen, "Sağlık Konularında Dinî Hükmün Belirlenmesinde Fakih-Tabip Dayanışması: Kahve Örneği," in *38. Uluslararası Tıp Tarihi Kongresi Bildiri Kitabı* (Ankara, 2005), 737–52; Cemal Kafadar, "How Dark Is the History of the Night, How Black the Story of Coffee, How Bitter the Tale of Love: The Changing Measure of Leisure and Pleasure in Early Modern Istanbul," in *Medieval and Early Modern Performance in the Eastern Mediterranean*, vol. 20, Late Medieval and Early Modern Studies 20 (Brepols Publishers, 2014), 243–69; Uğur Kömeçoğlu, "The Publicness and Sociabilities of the Ottoman Coffeehouse," *Javnost - The Public* 12, no. 2 (January 1, 2005): 5–22. For taverns, see Gamze Yavuzer, "Istanbul Wine-Taverns as Public Places in the Sixteenth and Seventeenth Centuries" (M.A., Istanbul, Boğaziçi University, 2015).

[6] Zilfi, *The Politics of Piety*, 138.

"public sphere", Cemal Kafadar argues for the analytical usefulness of the public sphere as a conceptual tool in early modern Ottoman society.[7] Echoing Habermas' enumeration of print media and places of informal sociability such as coffeehouses, salons, scientific and literary societies, and masonic lodges, Kafadar casts a wider net in the search for venues of exchange of ideas in the Ottoman context. To coffeehouses and taverns in the Ottoman context, he adds public squares, the increase in manuscript compilations of letters and the genre of epistolography manuals (*münşeʾāt*),[8] public gardens and fountains of the eighteenth century,[9] bathhouses, and Sufi lodges. Cengiz Kırlı observes that Middle Eastern historiography has appropriated the term "public sphere" by flattening it with a broadly conceived definition that considers it to be any place where people come together to exchange opinions. By lessening the analytical capacity of the term, this framework, Kırlı suggests, has placed "a study on sixteenth-century coffeehouses in Istanbul next to another on the intifada in contemporary Palestine."[10] Given the volumes of works dedicated to the study of the public sphere in the Middle East and given the wide range of

[7] Cemal Kafadar, "Tarih Yazıcılığında Kamu Alanı Kavramı Tartışmaları ve Osmanlı Tarihi Örneği," in *Osmanlı Medeniyeti Siyaset, İktisat, Sanat* (İstanbul: Klasik, 2005), 65–86. For a similar approach with respect to precolonial Morocco, see Dale F. Eickelman and Armando Salvatore, "The Public Sphere and Muslim Identities," *European Journal of Sociology / Archives Européennes de Sociologie / Europäisches Archiv Für Soziologie* 43, no. 1 (2002): 92–115.

[8] Kafadar explicitly echoes here Habermas' emphasis on the eighteenth-century as the century of the letter when letter-writing and diaries were claimed to enable the construction of modern subjectivity. See Habermas, *The Structural Transformation of the Public Sphere*, 48-51.

[9] Shirine Hamadeh, "Public Spaces and the Garden Culture of Istanbul," in *The Early Modern Ottomans: Remapping the Empire*, ed. Virginia H. Aksan and Daniel Goffman (Cambridge, UK ; New York: Cambridge University Press, 2007); eadem., *The City's Pleasures: Istanbul in the Eighteenth Century*, Publications on the Near East (Seattle: University of Washington Press, 2008); Tülay Artan, "Forms and Forums of Expression: Istanbul and beyond, 1600-1800," in *The Ottoman World*, ed. Christine Woodhead (London: Routledge, 2011), 378–405.

[10] Cengiz Kırlı, "Surveillance and Constituting the Public in the Ottoman Empire," in *Politics and Participation: Locating the Public Sphere in the Middle East and North Africa*, ed. Seteney Shami, 2009, 285. Here and in his book, Kırlı works on public opinion (*efkar-i umumiyye*) in the nineteenth-century Ottoman Empire based on the period's changing social and political dynamics. Cengiz Kırlı, *Sultan ve Kamuoyu: Osmanlı Modernleşme Sürecinde "Havadis Jurnalleri," 1840-1844*, (İstanbul: Türkiye Iş Bankası Kültür Yayınları, 2009). Also, for a recent work on the emergence of the term public opinion in the 19th-century Ottoman political culture, see Murat R. Şiviloğlu, *The Emergence of Public Opinion: State and Society in the Late Ottoman Empire* (Cambridge, United Kingdom: Cambridge University Press, 2018).

contexts that the public sphere is applied to, it would be apt to categorize the studies on the theme of the public sphere, opinion, and space into two approaches that are not necessarily mutually exclusive: the public sphere as an abstraction for political engagement on the one hand, and as a tangible public space on the other.[11]

Historians working on the tangible public space in the pre-modern Middle East have shown that the organization of space and society in pre-modern Islamic history defies neat categorization of public vs. private and necessitates understanding a spectrum between public and private in the use and accessibility of different spaces. Urban neighborhoods, for example, have been recognized as communal units that enabled social integrity and created a space extending the boundaries of houses.[12] One corollary of the residential structure of Ottoman neighborhoods was differences between public thoroughfares (*ṭarīḳ-i ʿamm*) and semi-public roads (*ṭarīḳ -i ḫāṣṣ*), the latter being for localized use and being accessible to residents living in the surrounding houses.[13] Approaching coffee houses from the same angle and seeing public

[11] This distinction has been previously made by Kafadar as he reflects on the ways the term public sphere could be put into use. Kafadar, "Tarih Yazıcılığında Kamu Alanı Kavramı," 78.

[12] Janet L. Abu-Lughod, "The Islamic City – Historic Myth, Islamic Essence, and Contemporary Relevance," *International Journal of Middle East Studies* 19, no. 2 (1987): 155–76; Özer Ergenç, "Osmanlı Şehrindeki 'mahalle'nin İşlev ve Nitelikleri Üzerine," *Osmanlı Araştırmaları* 04, no. 04 (1984); Alan Mikhail, "The Heart's Desire: Gender, Urban Space and the Ottoman Coffee House," in *Ottoman Tulips, Ottoman Coffee: Leisure and Lifestyle in the Eighteenth Century*, ed. Dana Sajdi (London; New York: Tauris Academic Studies, 2007); Serkan Şavk, "Doors, Privacy and the Public Sphere: A Conceptual Discussion on the Spatial Structure of Early Modern Istanbul," *Urban History*, 2022, 1–22. For the reflection of this spectrum as observed from Ottoman literary stories, see Nazlı İpek Cora, "'The Story Has It': Prose, Gender, and Space in the Early Modern Ottoman World" (The University of Chicago, 2018), 125-131. For the adoption of gender segregated sections of houses by well-off Jewish households already in the mid-sixteenth century, see Minna Rozen, "Public Space and Private Space among the Jews of Istanbul in the Sixteenth and Seventeenth Centuries," *Turcica* 30, no. 0 (1998), 344-345. See also Fikret Yılmaz, "XVI. Yüzyıl Osmanlı Toplumunda Mahremiyetin Sınırlarına Dair," *Toplum ve Bilim*, 2000, 92–110.

[13] Suraiya Faroqhi, *Men of Modest Substance: House Owners and House Property in seventeenth-century Ankara and Kayseri*, Cambridge Studies in Islamic Civilization (Cambridge; New York: Cambridge University Press, 1987), 39; Yaron Ayalon, "Ottoman Urban Privacy in Light of Disaster Recovery," *International Journal of Middle East Studies* 43, no. 3 (2011): 513–28. Leslie Peirce, however, argues that *ḫāṣṣ* and *ʿamm*, used in various contexts in Ottoman and Islamic society, do not neatly correspond to private and public. Leslie Peirce, *The Imperial Harem: Women and Sovereignty in the Ottoman Empire*, (New York: Oxford University Press, 1993), 7-12.

space in terms of its spatial aspects and social use, Alan Mikhail upholds the idea that Ottoman coffeehouses worked against a clear-cut Habermasian split between public and private because coffeehouses "were at differing moments domestic spaces, places of business and leisure, an extension of the street or market, a venue of entertainment, a space of courtship, an arena of communication, a place in which to read and a realm of distraction."[14]

The idea of public order has also been filtered through discussions on the public sphere when the latter is broadly conceived. The Ottoman state was ideologically tasked with maintaining public order and political stability, a theme that runs through Ottoman advice literature, political thought, and social commentary.[15] The state's role in maintaining the social order was also backed by jurisprudential writing. Scholarship on Ottoman court registers has emphasized, for instance, the role of courts with their state-appointed judges and affiliated officials, such as the chief of police (*subaşı*) and the inspector of public morality (*muḥtesib*),[16] in monitoring public order.[17] The roles of these officials embodied the political authority's handling

[14] Mikhail, "The Heart's Desire: Gender, Urban Space and the Ottoman Coffee House," 135-136. For similar works that approach Ottoman coffeehouses as public spaces of various degrees, Selma Akyazici Özkoçak, "Coffehouses: Rethinking the Public and Private in Early Modern Istanbul," *Journal of Urban History* 33, no. 6 (2007): 965–86.
[15] Linda T. Darling, *A History of Social Justice and Political Power in the Middle East The Circle of Justice From Mesopotamia to Globalization* (Routledge, 2013); Hüseyin Yılmaz, *Caliphate Redefined: The Mystical Turn in Ottoman Political Thought* (Princeton: Princeton University Press, 2018); Marinos Sariyannis and Ekin Tuşalp Atiyas, *A History of Ottoman Political Thought up to the Early Nineteenth Century*, volume 125 (Leiden ; Boston: Brill, 2019).
[16] Roy Mottahedeh and Kristen Stilt, "Public and Private as Viewed through the Work of the 'Muhtasib,'" *Social Research* 70, no. 3 (2003): 735–48; Yaron Klein, "'Between Public and Private: An Examination of Ḥisba Literature,'" *Harvard Middle Eastern and Islamic Review* 7 (2006): 41–62. There are few studies on this office in the Ottoman context: Ziya Kazıcı, *Osmanlılarda ihtisab müessesesi: Osmanlılarda ekonomik, dini, ve sosyal hayat*, (Cağaloğlu, İstanbul: Kültür Basın Yayın Birliği, 1987). For a document likely dating to the early sixteenth century where the dismissed judge of Thessaloniki explicates the level of involvement of local powerholders in the designation of *muḥtesib*: György Hazai, "An Ottoman Document Concerning the History of Salonica," *The Ottoman Empire, the Balkans, the Greek Lands Towards a Social and Economic History*, Edited by Elias Kolovos Phokion Kotzageorgis Sophia Laiou, 157-160.
[17] Abdul Rafeq, "Public Morality in the 18th Century Ottoman Damascus," *Revue Des Mondes Musulmans et de La Méditerranée* 55, no. 1 (1990): 180–96; Leslie Peirce, *Morality Tales: Law and Gender in the Ottoman Court of Aintab* (Berkeley: University of California Press, 2003); Başak Tuğ, *Politics of Honor in Ottoman Anatolia: Sexual*

of the Qurʾānic dictum of "commanding right and forbidding wrong." As shown by Michael Cook and others, interventions in individuals' public conduct and interpersonal engagements, both in theory and practice, were simultaneously juxtaposed with an explicit defense of privacy by pre-modern Muslim scholars.[18] At the same time, punishment against crimes undermining public morality was conducted in public to promote the restitution of public order: public humiliation as in public parading (*teşhīr*) and public executions, both of which turned into an urban spectacle.[19]

Besides the institutional supervision of public morality, studies have provided another angle on the perceived or actual failure in the state's maintenance of public order and the ensuing confrontation with the authorities. Social criticisms and challenges to the public order and political matters have been analyzed in terms of opportunities conducive to political action.[20] It

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Violence and Socio-Legal Surveillance in the Eighteenth Century, The Ottoman Empire and Its Heritage, volume 62 (Leiden ; Boston: Brill, 2017).

[18] Michael Cook, *Commanding Right and Forbidding Wrong in Islamic Thought* (Cambridge; New York: Cambridge University Press, 2000). More specifically, for the development of the notion of privacy as a legal category and how the distinction between the private and the public was a significant concern for Muslim scholars to secure domestic inviolability, Eli Alshech, "'Do Not Enter Houses Other than Your Own': The Evolution of the Notion of a Private Domestic Sphere in Early Sunnī Islamic Thought," *Islamic Law and Society* 11, no. 3 (2004): 291–332.

[19] Christian Lange, "Legal and Cultural Aspects of Ignominious Parading (Tashhīr) in Islam," *Islamic Law and Society* 14, no. 1 (2007): 81–108; Christian Lange and Maribel Fierro, eds., *Public Violence in Islamic Societies: Power, Discipline, and the Construction of the Public Sphere, 7th-19th Centuries C.E* (Edinburgh: Edinburgh University Press, 2009); Saygin Salgirli, "Architectural Anatomy of an Ottoman Execution," *Journal of the Society of Architectural Historians* 72, no. 3 (2013): 301–21; Matei Cazacu, "Rezilane Ölüm: Kelle Uçurma ve Başların İstanbul'da Sergilenmesi (15.-19. Yüzyıl)," in *Osmanlılar ve Ölüm*, ed. Gilles Veinstein (İstanbul: İletişim, 2016); Aslıhan Gürbüzel, *Taming the Messiah: The Formation of an Ottoman Political Public Sphere, 1600-1700* (Oakland, California: University of California Press, 2023), 27-28.

[20] John C. Alexander, *Brigandage and public order in the Morea 1685-1806* (Athens, 1985); Suraiya Faroqhi, "Political Tension in the Anatolian Countryside around 1600: An Attempt at Interpretation," in *Türkische Miszellen*, 1987, 63–80; Suraiya Faroqhi, "Political Activity among Ottoman Taxpayers and the Problem of Sultanic Legitimation (1570-1650)," *Journal of the Economic and Social History of the Orient* 35, no. 1 (1992): 1–39; Suraiya Faroqhi, *Coping with the State: Political Conflict and Crime in the Ottoman Empire, 1550-1720*, Analecta Isisiana 17 (Istanbul: ISIS, 1995); Marinos Sariyannis, "Mob, Scamps and Rebels in Seventeenth-Century Istanbul: Some Remarks on Ottoman Social Vocabulary," *International Journal of Turkish Studies* 11, no. 1–2 (2005); Eleni Gara, "Popular Protest and the Limitations of Sultanic Justice," in *Popular Protest and Political Participation in the Ottoman Empire: Studies in Honor of Suraiya Faroqhi*, ed. Eleni Gara, M. Erdem Kabadayi, and Christoph K. Neumann, (Istanbul: 2011); Marinos Sariyannis, "Unseen Rebels: The 'Mob' of Istanbul as a Constituent of

has been shown that contingent understandings of justice paved the way for dissidence and political resistance.

The distinction between public and private interests, as elaborated in Islamic jurisprudential writings, has been studied in terms of far-reaching consequences for the state and society. Baber Johansen situates the exposition of *sharʿī* governance (*al-siyāsa al-sharʿiyya)* by post-classical jurists vis-à-vis classical Muslim jurists' safeguarding the rights of the individual (*ḥuqūq al-ʿibād*) against infringements from the political authority. As shown by Johansen, the framework of the claims of God (*ḥuqūq Allāh*) and personal claims (*ḥuqūq al-ʿibād*) were translated into distinctions between public and private interests, respectively, already in the writings of classical Muslim jurists. However, the post-classical conceptualization of *sharʿī* governance assigned greater, or unrestrained, as Johansen puts it, power to the government and its judiciary. The post-classical jurists transferred the absolute character of the claims of God (*ḥuqūq Allāh*) to political authority for the sake of deterring government impingement on the rights of the individual, a legal sphere kept under the purview of legal scholars.[21] In the process, the state ended up monopolizing the public interest and administering the public sphere. Johansen concludes that in both the classical and post-classical arrangements of the balance between state and society, there was no institutional mediation to defend the shared interests of individual legal persons. Khaled Abou el-Fadl also identifies a "negotiative dynamic" reached between rulers and jurists throughout Islamic history due to the intrinsic competition between

Ottoman Revolt, Seventeenth to Early Nineteenth Centuries," *Turkish Historical Review* 10, no. 02–03 (March 16, 2020): 155–88.

[21] Baber Johansen, "Secular and. Religious Elements in Hanafite Law. Function and Limits of the Absolute Character of Government Authority," in *Contingency in a Sacred Law: Legal and Ethical Norms in the Muslim Fiqh* (Leiden; Boston: Brill, 1999), 217-218.

them over claims to uphold the rule of law.[22] Jurisprudential approaches, however, keep the discussion restricted to competition only between jurists and the political authority. As in Johansen's conclusions, the result of that line of thinking is that individuals remain defenseless vis-à-vis the state.

At the same time, there were other sources of legitimacy and individual involvement in public deliberations. Rational inquiry is valorized in Islamic ethics for matters falling beyond the rules of obligations as revealed in the Qurʾān and prophetic tradition. Mohammad Fadel articulates that in Islamic ethics, individuals are expected to intermediate with rational deliberation to reconcile individual moral perspectives with public reason.[23] Together with the use of reason, the concept of the social good (*maṣlaḥa*), which originally emerged as a method used in jurisprudential reasoning, was historically promoted as a guiding principle for setting a public policy. Such principles and other notions in political theory, such as the circle of justice, which dictated the circles of mutual obligations in society, paved the way for an ideological background facilitating discussions of the common good among individuals — a common good that was not necessarily linked to political and religious authorities.[24]

Contrary to a depiction of individuals remaining defenseless vis-à-vis the state, several Ottomanists have argued for the emergence of sustained limitations over political authority in the early modern Ottoman state. Baki Tezcan and HüseyinYılmaz opt to call this development

[22] Khaled Abou El Fadl, *Rebellion and Violence in Islamic Law* (Cambridge; New York: Cambridge University Press, 2001).
[23] Mohammad Fadel, "The True, the Good and the Reasonable: The Theological and Ethical Roots of Public Reason in Islamic Law," *Canadian Journal of Law and Jurisprudence* 21, no. 1 (2008).
[24] Eickelman and Salvatore, "The Public Sphere and Muslim Identities," 94.

constitutionalism.[25] In particular, Tezcan points to an expansion of the political nation, with the demands of the military, rural notables, scholar-bureaucrats, and urban public influencing political decisions. In identifying constitutionalist tendencies in the early modern Ottoman society, Yılmaz observes a broader application of consultation (*meşveret*) across different social groups.[26] Several studies have looked into moments of political bargaining at various levels through such mechanisms as collective responsibilities (at neighborhood, village, or communal levels) and public vows (as a tool of contractual politics in local public life).[27]

At this point, there is also a convergence between studies on the public sphere and those on civil society.[28] While the public sphere has been increasingly framed in spatial and material terms (i.e., coffeehouses or newspapers), civil society has been looked for in agents and

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[25] For a critic of the use of the term constitutionalism, R. Murphey, "Review Article: The Second Ottoman Empire: Political and Social Transformation in the Early Modern World. Xviii, 284 Pp. Cambridge: Cambridge University Press, 2010," *Bulletin of the School of Oriental and African Studies* 74, no. 3 (October 2011): 482–84.

[26] Baki Tezcan, *The Second Ottoman Empire: Political and Social Transformation in the Early Modern World* (New York: Cambridge University Press, 2010); Hüseyin Yılmaz, "Containing Sultanic Authority: Constitutionalism in the Ottoman Empire before Modernity," *Osmanlı Araştırmaları* 45, no. 45 (2015): 231–64. Through several examples from the 9th-11th centuries, Roy Mottahedeh identifies consultation (*mashwara*) as the ceremonial arena for displaying consensus rather than a genuine examination of divergent opinions. However, one could suggest that the Ottoman practice offered more explicit brokerage for the parties involved. Roy Mottahedeh, "Consultation and the Political Process in the Islamic Middle East of the 9th, 10th, and 11th Centuries," in *Islam and Public Law: Classical and Contemporary Studies*, ed. Chibli Mallat (London; Boston: Graham & Trotman, 1993).

[27] Hülya Canbakal, "Some Questions on the Legal Identity of Neighborhoods in the Ottoman Empire," *Anatolia Moderna. Yeni Anadolu* 10, no. 1 (2004): 131–38; Antonis Anastasopoulos, "Political Participation, Public Order, and Monetary Pledges (Nezir) in Ottoman Crete," in *Popular Protest and Political Participation in the Ottoman Empire: Studies in Honor of Suraiya Faroqhi*, ed. Eleni Gara, M. Erdem Kabadayi, and Christoph K. Neumann, (Istanbul, 2011); Hülya Canbakal, "Vows as Contract in Ottoman Public Life (17th-18th centuries)," *Islamic Law and Society* 18, no. 1 (2011): 85–115; Eleni Gara, "Patterns of Collective Action and Political Participation in the Early Modern Balkans," in *Political Initiatives. "From the Bottom Up". in the Ottoman Empire Halcyon Days in Crete VII A Symposium Held in Rethymno 9-11 January 2009*, ed. Antonios Anastasopoulos (Rethymno: Crete University Press, 2012). There is also the example of sultanic confirmations for inter-guild and intra-guild arrangements that were products of extensive negotiations. See Suraiya Faroqhi, "Subject to the Sultan's Approval," in *The Ottoman World*, ed. Christine Woodhead, The Routledge Worlds (Routledge, 2012).

[28] For a criticism of Eurocentric approaches to civil society, see Tanvir Anjum, "Civil Society in Muslim Contexts: The Problématique and a Critique of Euro-American Perspectives," *Islamic Studies* 51, no. 1 (2012): 27–48. For an example of observing aspects of civil society in a pre-modern non-European context other than the Ottomans, see Ellis Goldberg, "Private Goods, Public Wrongs, and Civil Society in Some Medieval Arab Theory and Practice," in *Rules and Rights in the Middle East: Democracy, Law, and Society*, ed. Ellis Goldberg, Reşat Kasaba, and Joel S. Migdal, Jackson School Publications in International Studies (Seattle: University of Washington, 1993).

institutional organizations to demarcate a middling ground between individuals and the state. Revisiting the existing institutional structures, studies on civil society in pre-modern Islamic societies highlight guilds, pious endowments, non-Muslim communal institutions, and Sufi orders as civic associations upholding the interests of its members or even the members of the society at large, as in the case of pious endowments.[29] In an overview of the application of the term civil society in Ottoman historiography, Antonis Anastasopoulos rightly questions to what extent these existing structures were based on voluntary participation rather than an inevitable reality of a hierarchized ordering of the society.[30] Leaving pious endowments and Sufi orders aside, where a voluntary relationship might be assumed to a certain extent, Anastasopoulos mentions that one's religious belonging automatically sorted them into a communal structure in Ottoman society. As for membership in Ottoman guilds, this was a legal necessity to practice artisanal professions. Nevertheless, Anastasopoulos concludes that these institutional frameworks in Ottoman society allowed for collective self-organization, making it possible to cautiously use "civil society," when well-defined, as an analytical tool. Indeed, while not fitting

[29] Hoexter, for instance, considers pious endowments one example of civic associations located between state and society: Miriam Hoexter et al., eds., "The Waqf and the Public Sphere," in *The Public Sphere in Muslim Societies* (Albany: State University of New York Press, 2002). Concerning the organization of water supply in Mamluk Cairo, van Berkel defines pious endowments as a formal institution that belies a clear public-private divide while contributing to municipal services. Maaike van Berkel, "Waqf Documents on the Provision of Water in Mamluk Egypt," in *Legal Documents as Sources for the History of Muslim Societies: Studies in Honour of Rudolph Peters*, ed. Rudolph Peters et al., Studies in Islamic Law and Society, volume 42 (Leiden; Boston: Brill, 2017). See also Saïd Amir Arjomand, "Coffeehouses, Guilds and Oriental Despotism Government and Civil Society in Late 17th to Early 18th Century Istanbul and Isfahan, and as Seen from Paris and London," *European Journal of Sociology / Archives Européennes de Sociologie / Europäisches Archiv Für Soziologie* 45, no. 1 (2004): 23–42; Haim Gerber, "The Public Sphere and Civil Society in the Ottoman Empire," in The Public Sphere in Muslim Societies, ed. Miriam Hoexter, S. N. Eisenstadt, and Nehemia Levtzion (Albany: State University of New York Press, 2002); Eunjeong Yi, *Guild Dynamics in Seventeenth-Century Istanbul: Fluidity and Leverage, The Ottoman Empire and Its Heritage*, (Leiden; Boston: Brill, 2004); Eleni Gara, "In Search of Communities in Seventeenth Century Ottoman Sources: The Case of the Kara Ferye District," *Turcica* 30 (1998): 135–62.

[30] Antonis Anastasopoulos, "The Ottomans and Civil Society: A Discussion of the Concept and the Relevant Literature," in *Political Initiatives 'From the Bottom Up' in the Ottoman Empire. Halcyon Days in Crete VII*, ed. Antonios Anastasopoulos (Rethymno: Crete University Press, 2012), 435–53.

into a definition of voluntary association, non-Muslim communities in the early modern Ottoman Empire underwent structural changes to reconfigure intra-communal self-organization, especially with the rising role of laity in communal affairs.[31]

The interaction of religion and politics, notably the emergence of a state-enforced Sunni orthodoxy, has also been examined in discussions concerning the public sphere. Studies on Ottoman Sunnism have discussed the reinforcement of orthodoxy and the increasing social disciplining capacity of the state and its agents. The early Ottoman frontier conglomeration of tribes, warlords, warriors, and dervishes is qualified with the term "metadoxy" by Cemal Kafadar. This term describes confessional ambiguity and the absence of a political grip to impose and enforce a strict orthodoxy.[32] The early Ottoman enterprise gradually turned from a relatively unimportant principality marked with confessional ambiguity into an imperial order of a centralizing state identified with Sunni orthodoxy. Terzioğlu and Krstic agree that the "age of confessional ambiguity" was not abruptly replaced by an "age of confessional polarization" and that the two tendencies continued to find social relevance side by side and competed for

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[31] For a brief description of Armenian laity before the nineteenth century, Vartan Artinian, *The Armenian Constitutional System in the Ottoman Empire, 1839-1863: A Study of Its Historical Development* (Istanbul: 1988). For the prominence of the Phanariot elites in the Greek Orthodox community, see Christine May Philliou, *Biography of an Empire: Governing Ottomans in an Age of Revolution* (Berkeley: University of California Press, 2011).

[32] Cemal Kafadar, *Between Two Worlds: The Construction of the Ottoman State* (Berkeley: University of California Press, 1995). Kafadar has developed this perspective in response to an earlier historiographical debate that pictured a frontier society that acted with rigid ethnic and/or religious affiliations. In describing the prevailing religious attitude with Alid loyalties accompanied by popular religious movements and political experimentation in Anatolia in the thirteenth through fifteenth centuries, John Woods also employs "confessional ambiguity." John E. Woods, *The Aqquyunlu: Clan, Confederation, Empire*, Rev. and expanded ed (Salt Lake City: University of Utah Press, 1999). See also Judith Pfeiffer, "Confessional Ambiguity vs. Confessional Polarization and the Negotiation of Religious Boundaries in the Ilkhanate," in Politics, Patronage, and the Transmission of Knowledge in 13th-15th Century Tabriz, ed. Judith Pfeiffer (Leiden: Brill, 2014). It has also been recognized that, despite the identified confessional ambiguity, the catechisms of the early Ottoman period preached a markedly Sunni understanding among commoners of the lands of Rum. At the same time, these catechisms were preoccupied more with arranging quotidian social interactions between Muslims and non-Muslims than with Muslim confessional adherences. Derin Terzioğlu, "How to Conceptualize Ottoman Sunnitization: A Historiographical Discussion," *Turcica* 44 (2013 2012): 308.

discursive and political dominance.[33] In practical terms, an example of this religio-social transformation is the gradual disappearance of multifunctional "T-shaped" convent-masjids that combined a dervish lodge and soup kitchen and provided not only a site for religious rituals but also devotional and social needs, such as food, shelter, and Sufi practices.[34] Emblematic of a period of popularized Sufism and blurred confessional divides through Alid loyalties, these "T-type" buildings were turned into congregational mosques starting from the early sixteenth century. Imperial orders strived to relocate the majority of Sufi practices from mosques to Sufi convents.[35]

Most recently, Gürbüzel reevaluates the public sphere from the perspective of Sufi orders and suggests that an overemphasis on the state-imposed orthodoxy disregards resistance to the dominance of the state in matters communal and public.[36] She argues that Ottoman Sufi orders defended their communal practices and autonomy against the imposition of a unified public Islam as dictated by the state and articulated by jurists. As demonstrated by her, Sufi writers defended Sufi rituals by clinging to legal indifference/neutrality (*ibāḥa*), thereby objecting to the

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[33] Terzioğlu, "How to Conceptualize Ottoman Sunnitization," 308-311; Tijana Krstić, "Historicizing the Study of Sunni Islam in the Ottoman Empire, c. 1450–c. 1750," in *Historicizing Sunni Islam in the Ottoman Empire, c. 1450-c. 1750*, ed. Tijana Krstić and Derin Terzioğlu (Brill, 2021), 11.

[34] Gülru Necipoğlu, *The Age of Sinan: Architectural Culture in the Ottoman Empire* (Princeton: Princeton University Press, 2005), 49-52; Çiğdem Kafescioğlu, "Lives and Afterlives of an Urban Institution and Its Spaces: The Early Ottoman ʿİmāret as Mosque," in Historicizing Sunni Islam in the Ottoman Empire, c. 1450-c. 1750, ed. Tijana Krstić and Derin Terzioglu (Leiden: Brill, 2020).

[35] Necipoğlu, *The Age of Sinan*, 52-53. While there was an explicit renunciation of the mixed use of a single building, combining a Sufi convent with a madrasa or a mosque in a building complex was still possible but as an exception in the sixteenth century. As shown by Zeynep Yürekli, the exception was offered to law-abiding Sufi orders that supported the Ottoman Sunni ideals. Zeynep Yürekli, "A Building between the Public and Private Realms of the Ottoman Elite: The Sufi Convent of Sokollu Mehmed Pasha in Istanbul," *Muqarnas* 20 (2003): 159–85.

[36] Gürbüzel, *Taming the Messiah*. For a similar approach on the translation of spiritual authority into temporal power in medieval Syria and this translations' relation with the public sphere, see Daphna Ephrat, "Expansion of Operation: The Shaykh, the Public Sphere, and the local community," in *Sufi Masters and the Creation of Saintly Spheres in Medieval Syria* (ARC, Amsterdam University Press, 2021).

arguments of those who forbade such practices by considering them "blameworthy innovations" (*bidaʿ*). Gürbüzel argues that these Sufi authors conceptualized communal privacy as "a shared private sphere where communities could freely exercise practices that were not necessarily sanctioned in the public sphere"[37] and where Sufis could practice their rituals away from the interference of the state authorities. Moreover, Gürbüzel adds that Sufis molded their communal affiliation into a political and civic identity to be extended to the Ottoman secretarial and military classes as Sufi disciples.

While diligently arguing for Ottoman Sufi orders' increasing power and authority in organizing a communal affiliation and political leverage, Gürbüzel distinguishes, in broad strokes only, prominent Sufi orders defending Sufi bodily practices from "juristic Sufism," which, albeit primarily defined by her in Ḳādīzādeli terms, is extended and associated with a monolithic state policy and state-appointed jurists. In Gürbüzel's work, the distinctions between devotional innovations and those of a technical or mundane nature are also blurred.[38] While debates on the consumption of coffee or tobacco would be of the second category,[39] debates around Sufi practices would be discussed with an eye to the permissibility of certain new devotional practices. It is precisely this framework in which the sixteenth-century Ottoman chief jurisconsults made the permissibility of such practices conditional on the sharia-abiding practice of regular religious duties by Sufis and on the absence of dancing and instrumental music in

[37] Gürbüzel, *Taming the Messiah*, 63.
[38] I borrow the notion of devotional innovations from Raquel M. Ukeles, "Jurists' Responses to Popular Devotional Practices in Medieval Islam," in *Islamic Law in Theory* (Brill, 2014), 177–95.
[39] For legal debates on coffee, see Özen, "Sağlık Konularında Dinî Hükmün Belirlenmesinde Fakih-Tabip Dayanışması: Kahve Örneği." For debates on tobacco, see James Grehan, "Smoking and 'Early Modern' Sociability: The Great Tobacco Debate in the Ottoman Middle East (Seventeenth to Eighteenth Centuries)," *The American Historical Review* 111, no. 5 (December 1, 2006): 1352–77; Evgenia Kermeli, "The Tobacco Controversy in Early Modern Christian and Muslim Discourse," *Hacattepe Üniversitesi Türkiyat Araştırmaları* 21 (2014): 121–35.

communal *ẕikr* when practiced in mosques.[40] Sufi dances and whirling were considered to carry the risk of gaining sanctity as a social practice and becoming a public ritual. In the legal opinions of the early sixteenth-century chief jurisconsults, such as Ibn Kemāl and Ebū's-Suʿūd Efendi, a clear objection was raised against considering Sufi rituals to be worship (*ʿibāda*), i.e., a legally and explicitly permitted practice (*ḥalāl*).[41] In making this objection, they continued to occasionally categorize Sufi rituals as neutral acts (*mubāḥ*), a position Gürbüzel associates exclusively with Sufis defending their communal practices. One should also note here that it was the Ḳādīzādeli preachers in Gürbüzel's study who categorically opposed such Sufi practices, except private remembrance of God, and perceived them as an innovation that could not be deemed legally neutral acts (*mubāḥ*). Applying Gürbüzel's articulation then, the performance of Sufi dancing and whirling *in mosques* broke communal privacy — a conceptual framework in which she discusses Sufi authors' defense of their practices — and exposed these neutral acts to public scrutiny.[42] There was also a gradation within approaches to Sufi bodily rituals. While the majority of the state-appointed dignitary scholar-bureaucrats in the sixteenth century made an effort to delineate the boundaries of the communal and public,[43] it was the Ḳādīzādeli stance that

[40] Yürekli, "A Building between the Public and Private Realms of the Ottoman Elite."
[41] A concern over Sufi rituals overshadowing the basic forms of worship incumbent on Muslims can be followed in the sixteenth century chief jurisconsult's legal opinons: Ferhat Koca, "Osmanlı Fakihlerinin Semâ, Raks ve Devrân Hakkındaki Tartışmaları," *Tasavvuf: İlmî ve Akademik Araştırma Dergisi* V, no. 13 (2004): 25–74. For the conceptual scope of *ḥelāl* and *mubāḥ* and to what extent one overlaps with the other according to different legal schools, see Ferhat Koca, "Helal," in TDV İslam Ansiklopedisi.
[42] It should be noted that the Ḳādīzādeli preachers of the seventeenth century, however, objected to communal remembrance of God altogether, even when it was performed without music and bodily rhythmic movements, and instead supported solitary engagement with such devotional practices for believers to strengthen their faith in privacy. Marc David Baer, "Honored by the Glory of Islam: Conversion and Conquest in Ottoman Europe," *ACLS Humanities E-Book*, 2011, 113.
[43] For the state-appointed dignitary scholar bureaucrats' avoidance of a precisely restrictive definition for Sufi practices in general and for their context-based differences in legal opinions concerning such practices, see Derin Terzioğlu, "Sufi and Dissident in the Ottoman Empire: Niyāzī-i Miṣri, 1618-1694" (Ph.D. Dissertation, Harvard University, 1999), 220-233. As an example of popular tendencies going awry from an orthodox perspective, in the late seventeenth century, shortly after the death of the Ḫalvetī Sufi master Niyāzī-i Mıṣrī (1694), three women

relied on a clear-cut demarcation between private and public, overriding an understanding of a middle sphere for a communal association. Finally, with the metaphor of "taming the Messiah," Gürbüzel credits Sufi criticisms of the state's religio-political surveillance for curbing its messianic aspirations of rulership and, consequently, its absolute authority. However, the early modern Ottoman period can also be qualified with the same metaphor from the perspective of the state and jurists "taming the Messiah" within Sufi orientations.

Another kindred distinction reproducing public-private associations is the one between outward and inward that applies explicitly to sin and crime, the latter subject to public prosecution.[44] The distinction between sin and crime is also related to the discouraged exposure of another person's sin and the encouraged measure of suggesting corrective behavior, if necessary, in private.[45] To this end, the propagation and flaunting of sinful behavior by Muslims themselves carried a heavier weight. In a legal opinion, Ebū's-Suʿūd Efendi prescribes fixed penalty (*ḥadd*) and discretionary punishment for Muslims drinking at home who nonetheless are not considered to have fallen out of Islam. However, in the same breath, Ebū's-Suʿūd Efendi states that those Muslims who, without feeling abashed, openly (*āşikāre*) drink wine in a manner scorning (*istiḫfāf*) its prohibition should be considered unbelievers.[46] Making a public spectacle

followers of his were accused of placing a picture of the deceased sheikh in the prayer direction in their houses that they opened to the public. See Ibid., 450.

[44] For example, apostasy was subject to criminal investigation on the occasion of a *public* denial of the Islamic faith. Nabil Al-Tikriti, "Kalam in the Service of State: Apostasy and the Defining of Ottoman Islamic Identity," in *Legitimizing the Order: The Ottoman Rhetoric of State Power*, ed. Hakan T. Karateke and Maurus Reinkowski, (Leiden; Boston: Brill, 2005).

[45] For the emergence of the distinction between private sin and public crime, see Ahmed El Shamsy, "Shame, Sin, and Virtue: Islamic Notions of Privacy," in *Public and Private in Ancient Mediterranean Law and Religion* (De Gruyter, 2015), 237–50. See also Eli Alshech, "'Do Not Enter Houses Other than Your Own.'"

[46] Düzdağ, *Şeyhülislâm Ebussuud Efendi Fetvaları Işığında 16. Asır Türk Hayatı*, 147.

of a transgression amounted to undermining the public order and having commoners flout and flex the prescriptions of the law or charge them with new interpretations.

A wide range of vocabulary from Islamic legal and ethical writings has been introduced into the historical assessment of the public and the private as two distinct domains or with gradations between them.[47] Gürbüzel compellingly argues that it is futile to seek "public" or "communal privacy" as explicit terms in the early modern Ottoman sources and that these very themes fueled many public debates at the time around the permissibility of coffee, tobacco, and Sufi practices.[48] For the context of this dissertation, the pairs of "manifestly/publicly" and "surreptitiously" should be highlighted. *ʿAlāniyyaten* (openly, manifestly, in public) and *āşikāre* (openly) are often mentioned in the treatment of public crimes and their punishment in historical sources.[49] The antonym of *āşikāre* (openly) in Ottoman parlance is *ḫufyeten* (inconspicuously, surreptitiously) or *sırren* (secretly).[50] Remarkably, these words often appear in matters concerning non-Muslims' public conduct, such as selling or transferring wine or performing religious rituals. Non-Muslim religious rituals were prescribed to be confined to non-Muslim

[47] For a brief description of available vocabulary, see Christian Lange and Maribel Fierro, "Introduction: Spatial, Ritual and Representational Aspects of Public Violence in Islamic Societies (7th–19th Centuries CE)," in *Public Violence in Islamic Societies: Power, Discipline, and the Construction of the Public Sphere, 7th-19th Centuries CE* (Edinburgh University Press, 2009). The public (*ʿamme*) is often found in Ottoman political writings about commoners in general without much political association. Alternatively, the public (*cumhūr*) came to be employed in an early eighteenth-century Janissary rebellion to suggest the abolition of the dynasty and the restitution of governance based on a popular coalition. Marinos Sariyannis, "Ottoman Ideas on Monarchy before the Tanzimat Reforms: Toward a Conceptual History of Ottoman Political Notions," *Turcica* 47 (2016): 46-47; Gürbüzel, *Taming the Messiah*, 39. Gerber locates the same word in the court registers of Bursa from the 1670s about the locally administered distribution of an extraordinary tax. Gerber, "The Public Sphere and Civil Society in the Ottoman Empire," 71.

[48] Gürbüzel, *Taming the Messiah*, 213.

[49] For *ʿalāniyyaten* and other terms available, see also Cook, *Commanding Right and Forbidding Wrong in Islamic Thought*, 80; Gürbüzel, *Taming the Messiah*, 43.

[50] For a legal opinion that requires the dismissal of a prayer leader who habitually consumes narcotic substances both secretly (*sırren*) and publicly (*ʿalāniyyaten*), Düzdağ, *Şeyhülislâm Ebussuud Efendi Fetvaları Işığında 16. Asır Türk Hayatı*, 69. For a juxtaposition of *ḫufyeten* and *ṣarāḥaten (openly, flagrantly)*, see Ahmet Akgündüz, ed., *Osmanlı kânûnnâmeleri ve hukûkî tahlilleri* (İstanbul, Turkey, 1990), vol. 6, 181.

places of worship and houses in a manner instructing "private worship," as Charles Parker calls it.[51] This normative standing was often challenged by social realities. Albeit for a Mamluk context, Tamer el-Leithy's work demonstrates that the discourses of public moral regulation targeting non-Muslim communities resulted in regulatory practices *unauthorized* by the political authority of the Mamluks, practices that were initiated by commoners and local powerholders and which ultimately undermined law and order.[52] In yet another context Antonia Bosanquet's brilliant study analyzes Ibn al-Qayyim's (d. 751/1350) rulings on non-Muslims via a space-based approach: public space (as in land classifications, employment in state administration, etc.) and interpersonal space (as in social interactions, conversion, and mixed marriages).[53]

Several studies approach the public sphere in the early modern Ottoman Empire from the perspective of non-Muslim communities. To address "the politically and socially marginalized public spheres," Febe Armanios discusses how Copts in Egypt carved out for themselves a Christian public space and defied the bans on public religious rituals, such as religious festivities and funerary pageants, both in Mamluk and Ottoman periods. She adds that Copts' claiming the public sphere for their rituals was despite occasional violent reactions and criticisms from the political authorities, Muslim jurists, and Muslim commoners.[54] Christian neomartyrs in the early modern period also exhibited a claim to publicity via public preaching of the Christian faith and

[51] Charles H. Parker, "Paying for the Privilege: The Management of Public Order and Religious Pluralism in Two Early Modern Societies," *Journal of World History* 17, no. 3 (2006): 267–96.
[52] Tamer El-Leithy, "Sufis, Copts and the Politics of Piety: Moral Regulation in Fourteenth-Century Upper Egypt," in *The Development of Sufism in Mamluk Egypt*, ed. Richard McGregor and Adam Sabra, 2006, 75–119.
[53] Antonia Bosanquet, *Minding Their Place: Space and Religious Hierarchy in Ibn al-Qayyim's Aḥkām Ahl al-Dhimma* (Leiden: Brill, 2020).
[54] Febe Armanios, *Coptic Christianity in Ottoman Egypt* (New York: Oxford University Press, 2011); eadem., "A Christian Public Space in Egypt: Historical and Contemporary Reflections," in *Religious Interactions in Europe and the Mediterranean World* (ImprintRoutledge, 2017), 317–30.

via their subsequent martyrdom.[55] For the Jewish community of Istanbul, Minna Rozen analyzes public and private space at a rather intra-communal level, focusing on the Jewish neighborhood and the Jewish private space in Istanbul in the sixteenth and seventeenth centuries.[56] Elyse Semerdjian analyzes the transformative role of Armenian emigrants' investment in new infrastructure in a quarter of Aleppo over the sixteenth century, a gradual process that created a Christian urban space in the city.[57]

Perhaps one of the most frequent negotiations between non-Muslim communities, on the one hand, and the state and Muslim commoners, on the other, occurred during disputes concerning the legal status of non-Muslim places of worship and other communally used properties.[58] These negotiations revolved around the maintenance and restoration of communal buildings, the "discovery" of old non-Muslim places of worship as a way of bypassing the ban on new constructions, accusations of public demonstration of non-Muslim faith, and neighborhood-level demographic tensions. The well-studied episode of the Ottoman

[55] N. M. Vaporis, *Witnesses for Christ: Orthodox Christian Neomartyrs of the Ottoman Period, 1437-1860* (Crestwood, N.Y: St. Vladimir's Seminary Press, 2000); Marinos Sariyannis, "Aspects of 'Neomartyrdom': Religious Contacts, 'Blasphemy' and 'Calumny' in 17th Century Istanbul," *Archivum Ottomanicum* 23 (2005); Tijana Krstić, *Contested Conversions to Islam: Narratives of Religious Change in the Early Modern Ottoman Empire* (Stanford, California: Stanford University Press, 2011), 121-143; Polina Ivanova, "Armenians in Urban Order and Disorder of seventeenth-century Istanbul," *Journal of the Ottoman and Turkish Studies Association* 4, no. 2 (2017): 239–60.

[56] Minna Rozen, "Public Space and Private Space among the Jews of Istanbul in the Sixteenth and Seventeenth Centuries," *Turcica* 30, no. 0 (1998).

[57] Elyse Semerdjian, "Armenians in the Production of Urban Space in Early Modern Judayda, Aleppo," in *Aleppo and Its Hinterland in the Ottoman Period*, ed. Stefan Winter and Mafalda Ade (Leiden; Boston: Brill, 2020), 28–61.

[58] Rossitsa Gradeva, "From the Bottom Up and Back Again until Who Knows When: Church Restoration Procedures in the Ottoman Empire, Seventeenth-Eighteenth Centuries (Preliminary Notes)," in *Political Initiatives "From the Bottom Up" In the Ottoman Empire*, ed. Antonis Anastasopoulos (Crete University Press, 2012); Aşkın Koyuncu, "Osmanlı Devleti'nde Kilise ve Havra Politikasına Yeni Bir Bakış: Çanakkale Örneği," *Çanakkale Araştırmaları Türk Yıllığı* 12, no. 16 (2014): 35–87.

administrative challenges to Christian endowments was a widespread imperial undertaking that exhibited the financial, legal, and social aspects of a public and communal phenomenon.[59]

To recapitulate the main tendencies in Ottoman historiography, studies on the public as a political agent, the public space/sphere, and civil society have outlined various political encounters between the state and society. Legal historians put emphasis on the legal demarcations and occurrences of distinct categories of private and public. Social historians working on public space in terms of spatial significance tend to emphasize historical occasions and circumstances where public and private either overlapped or were not strictly distinguishable. Social and political historians working on the public sphere as an arena of political negotiations and clashes of interests focus on the capacities of individuals and groups to join political activities and to benefit from the kind of political leverage they mobilized.

This dissertation's interventions will bring together the two threads described above. I will analyze public space in the Ottoman Empire as one ideologically defended to be Islamic in a multi-religious context and the challenges to it. Simultaneously, I will point to a public sphere where various political negotiations were staged in the legal and bureaucratic processing of issues of a public nature. To accommodate these two aspects in the framework of this dissertation, my focus will be on non-Muslim communal property and public communal affairs. There was a curious tension between the visible marking of religious identity by

[59] Aleksandar Fotic, "The Official Explanation for the Confiscation and Sale of Monasteries (Churches) and Their Estates at the Time of Selim II," *Turcica* 26 (1994): 33–54; Eugenia Kermeli, "Ebuʿs Suʿud's Definitions of Church Vakfs: Theory and Practice in Ottoman Law," in *Islamic Law: Theory and Practice*, ed. R. Gleave and E. Kermeli (London; New York: I.B. Tauris, 2001), 141–56; Elias Kolovos, "Christian Vakıfs of Monasteries in the Ottoman Greek Lands from the Fourteenth to Eighteenth Centuries," in *Les Fondations Pieuses Waqfs Chez Les Chrétiens et Les Juifs Du Moyen Âge à Nos Jours*, ed. Sabine Mohasseb Saliba (Paris, 2016), 103–27; Ana Sekulić, "From a Legal Proof to a Historical Fact: Trajectories of an Ottoman Document in a Franciscan Monastery, Sixteenth to Twentieth Century," *Journal of the Economic and Social History of the Orient* 62, no. 5–6 (2019): 925–62.

mannerisms and clothing, on the one hand, and restrictions on the expression of non-Muslim public religiosity, on the other. The theoretically privatized nature of non-Muslim religious observance stood in stark contrast to every other aspect of daily life that was primarily expected to be colored by religious belonging.

Social and Religious Hierarchies

As attested in the early Ottoman chronicles, the early Ottoman conquests followed the explicit legal distinction between territories conquered by force and those taken as a result of peaceful surrender. Zachariadou notes that the few available copies of the early sultanic grants issued for the surrendered populations in various cities repeated the granted protection of life, property, and religious buildings.[60] As an early example of social regulation, an imperial order of 1507 specifically banned the public consumption of wine, with an explicit mention of the principles of "commanding right and forbidding wrong" (*al-amr bi'l-maʿrūf wa'l-nahyʿan al-munkar*) and of the public symbols of Islam (*shaʿāʾir al-Islām*), such as the collective performance of Muslim rituals and dietary norms.[61]

The incident of 1558 from Istinye, as introduced at the beginning of this chapter, involves the transgression of drinking in public, a wrongdoing especially disturbing when done by Muslims, and the discouraged intermingling of Muslims and non-Muslims to the extent of "one resembling the other." The accusation of Muslims' imitation of non-Muslims is based on a well-

[60] Elizabeth A. Zachariadou, "Pacts and Some Facts," in *Studies in Islamic Law: A Festschrift for Colin Imber*, ed. Andreas Christmann, R. Gleave, and Colin Imber (Oxford, 2007).
[61] Akgündüz, *Osmanlı kânûnnâmeleri ve hukûkî tahlilleri*, vol. 2, 232-33. For a discussion of distinctive social marks via the public practice of Islam, see T. Fahd, "Shiʿār," in *Encyclopaedia of Islam, Second Edition* (Brill, 2012); Sarah Albrecht, *Dar Al-Islam Revisited: Territoriality in Contemporary Islamic Legal Discourse on Muslims in the West*, Muslim Minorities, volume 29 (Leiden; Boston: Brill, 2018), 254.

known prophetic tradition, "Whoever imitates a people becomes one of them," which admonishes against emulating non-Muslims and sets up a conceptual paradigm for the expression of juristic discourses on social encounters.[62] The association of dancing (*ḫoros*) with non-Muslims, as well as the accusation of imitating non-Muslims, can be linked to the perennial problem of administering religious differences in pre-modern Muslim societies in which the major distinctive public symbols of Islam (*shaʿāʾir al-Islām*) was maintained and public morality upheld.

Unlike Mamluk-era handbooks for inspecting markets and public morals (*iḥtisāb*),[63] the Ottoman-era lawbooks of the fifteenth and sixteenth centuries that outlined the contours of market inspection were silent about sartorial and other public restrictions. In these early forms, they were primarily texts preoccupied with the financial aspects of market regulations.[64] For example, the highly concise lawbook of market inspection of Mehmed II,[65] the market inspection law book of Bursa 1502,[66] that of Istanbul from 1502,[67] and that of Edirne from the same year[68] similarly preoccupied with price regulations. Both lawbooks of Istanbul and Edirne from the year 1502 only briefly mentioned that bathhouse owners should give separate bath wraps to Muslims

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[62] M.J. Kister, "'Do Not Assimilate Yourselves…' La Tashabbahū…," in *Muslims and Others in Early Islamic Society* (Routledge, 2004); Youshaa Patel, "'Whoever Imitates a People Becomes One of Them': A Hadith and Its Interpreters," *Islamic Law and Society* 25, no. 4 (2018): 359–426. For a diachronic analysis of the implications of this tradition from the early Islamic period up to the twentieth century, Youshaa Patel, *The Muslim Difference: Defining the Line between Believers and Unbelievers from Early Islam to the Present* (Yale University Press, 2022). Aptly, Patel emphasizes the fact that historically, Muslims encountered and interacted not only with members of other religions but also with different kinds of Muslims.

[63] For example, see Klein, ""Between Public and Private."

[64] This observation has also been made in Ziya Kazıcı, *Osmanlılarda ihtisab müessesesi: Osmanlılarda ekonomik, dini, ve sosyal hayat* (İstanbul: Kültür Basın Yayın Birliği, 1987), 224. Many other concise Ottoman market inspection regulations for several cities, such as Konya, Diyarbekir, Trabzon, and Aleppo, are also published across several volumes in Akgündüz, *Osmanlı kânûnnâmeleri ve hukûkî tahlilleri.*

[65] For the debate on its dating, see Akgündüz, *Osmanlı kânûnnâmeleri ve hukûkî tahlilleri*, vol. 1, 378.

[66] Ibid., vol. 2, 191-229.

[67] Ibid., vol. 2, 287-304.

[68] Ibid., vol. 2, 387-402.

and non-Muslims.[69] They were otherwise silent about sartorial distinctions while mentioning the fur trade and other sumptuary rules for selling fabrics. The first mention of sartorial requirements as part of market regulations would appear in the general lawbook of Ahmed I in the early seventeenth century.[70]

By the seventeenth century, it was not through lawbooks but through legal opinions of the Ottoman chief jurisconsults as well as imperial orders that the superiority of Islam was instructed to be imprinted in daily interactions. The basic contours of sartorial measures seemed to appear only gradually in imperial orders, court decisions, and legal opinions that kept the tradition of emphasizing the supremacy of the Muslim community over the subordinate status of Jews and Christians. The legal opinions of Ibn Kemāl cover social interactions, such as Muslims' greeting non-Muslims, but touch upon sartorial distinctions only fleetingly with two cases: an opinion on a newly converted Muslim woman's continuing to dress like a non-Muslim woman and another opinion on a Muslim wearing a particular headgear associated with non-Muslims.[71] A much more elaborate list of sartorial distinctions was given in a legal opinion of Ebū's-Suʿūd Efendi that, for non-Muslims, outlawed expensive clothing material such as fur and a certain

[69] Ibid., vol. 2, 294 and 393. The later lawbooks of market regulations would also instruct barbers to use separate tools for Muslims and non-Muslims. Ibid., vol. 3, 329.
[70] Ibid., vol. 9, 533.
[71] Ibn Kemal, *Şeyhülislâm Ibn Kemal'in Fetvaları Işığında Kanûnî Devrinde Osmanlı'da Hukukî Hayat: Mes'eleler ve Çözümleri (Fetâvâ-tı Ibn Kemal)*, ed. Ahmet İnanır (İstanbul: Osmanlı Araştırmaları Vakfı, 2011), 189-190 and 209. It is found impermissible to greet an unbeliever in a manner of uplifting (*taʿẓīmen*) the non-Muslim; greeting should be done out of necessity: Ibid., 188.

type of headgear that was otherwise reserved for Muslims.[72] It seems that sartorial distinctions were only gradually elaborated over the sixteenth century.[73]

In the meantime, certain measures were formulated in the maintenance of an Islamic public space: the undistinguished and unassuming exterior structures of non-Muslim communal buildings to remain subordinate to the architectural hierarchy of mosques,[74] the height of houses of non-Muslims to maintain the same visual inferiority relative to houses of Muslims, the prohibition on the display of non-Muslim religious symbols and the public demonstration of non-Muslim religious rituals, the regulations of sartorial distinctions, and the ban on flamboyant garbs and on horse-riding in cities.[75] These ordinances maintained a public/private distinction and an urban/rural divide for proper conduct. In this context, the interpretation of the prophetic tradition against Muslims' imitation of non-Muslim practices was extended to social interactions, such as the discouragement of social intermingling, the trace of which we have heard in the case of villagers of Istinye. Meanwhile, Jewish and Christian communal authorities favored particular restrictions such as sartorial regulations, for boundary maintenance.[76] Moreover, the prescribed supremacy of the status of Muslims in public life was repeatedly challenged by transgressions

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[72] Abū al-Sa'ūd Muḥammad ibn Muḥammad, *Şeyhülislâm Ebussuud Efendi Fetvaları Işığında 16. Asır Türk Hayatı*, 94. The answer is in Arabic and a direct quote from *al-Hidāya* of Burhānaddin al-Marghīnānī (d. 1196). The same opinion also mentions non-Muslims' horse-riding in a city and the issue of high residential buildings overshadowing Muslim residences.

[73] Yavuz Ercan, "Osmanlı İmparatorluğunda Gayrimüslimlerin Giyim, Mesken ve Davranış Hukuku," *Ankara Üniversitesi Osmanlı Tarihi Araştırma ve Uygulama Merkezi Dergisi* 1, no. 1 (1990): 117–25. It must also be noted that various restrictions on the use of religious buildings were in place already from the time of the conquest.

[74] Gülru Necipoglu, *The Age of Sinan: Architectural Culture in the Ottoman Empire* (Princeton: Princeton University Press, 2005), 117-119; Maximilian Hartmuth, "The Historic Fabric of Balkan Towns: Space, Power, Culture and Society," ed. Stephan Doempke, Anduela Lulo Caca, and Sadi Petrela, *Four Historic Cities in the Western Balkans: Value and Challenges*, 2012, 17–22.

[75] See for instance, Pehlül Düzenli and Abū al-Sa'ūd Muḥammad ibn Muḥammad, *Ma'rûzât Şeyhülislâm Ebussuûd Efendi*, (Istanbul: Klasik, 2013), 83-84; 240.

[76] Madeline Zilfi, "Women, Minorities, and the Changing Politics of Dress in the Ottoman Empire, 1650-1830," in *The Right to Dress: Sumptuary Laws in a Global Perspective, c. 1200-1800*, ed. Giorgio Riello and Ulinka Rublack (Cambridge University Press, 2019), 394.

committed and boundaries crossed. In an example of the near-impossible imposition of such rules, the chief of police in Yeniköy sent a petition to the sultan in 1610 complaining that, despite a previous imperial order enjoining non-Muslims to wear a particular hat and prohibiting them from wearing blue headgear, the non-Muslim residents of the village would not heed any such prohibition and would run taverns where Muslims and non-Muslims would drink.[77]

In historiography, these practices have been put into the perspective of a matrix of other social hierarchies in Ottoman society. For instance, imperial orders from the mid-sixteenth century called for a strict application of sartorial distinctions not only between Muslims and non-Muslims but also between the tax-exempt class and the subject populations.[78] The latter distinction, namely between the ruling and the ruled, shows that status symbols were not Muslim prerogatives indiscriminately. The display of luxury was mainly a marker of one's social status and access to power.

Historians have shown that at moments of crisis, the normative discourse gained a sharper tone and a greater appeal to enforce status markers and symbolic subordination of non-Muslims more strictly.[79] As suggested by Zilfi, the application of these social regulations was enjoined by repeated imperial orders in the face of transgressions. The fact that imperial issuances were at play turned these restrictions into a powerful tool at the hands of rulers who

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[77] YK 26: 153.

[78] Minna Rozen, *A History of the Jewish Community in Istanbul: The Formative Years, 1453-1566*, Ottoman Empire and Its Heritage, v. 26 (Boston, MA: Brill, 2002), 21-22. Zilfi, "Women, Minorities, and the Changing Politics of Dress in the Ottoman Empire, 1650-1830." For such examples within imperial orders and regulations, see Ahmet Refik, *On Altıncı Asırda İstanbul Hayatı: 1553-1591* (İstanbul: Devlet Basımevi, 1935), 47-52 and Hezarfen Hüseyin Efendi, *Telhîsü'l-beyân fî kavânîn-i Âl-i Osmân*, ed. Sevim İllgürel (Ankara: Türk Tarih Kurumu Basımevi, 1998), 55. It seems that sartorial adjustments based on economic considerations also played a role in regulating clothing rules. For a concern over an increase in the market value of certain clothing items used by the tax-exempt groups due to non-Muslims' use of such items, see Akgündüz, vol 10, 225 and Ahmet Refik, *On Altıncı Asırda İstanbul Hayatı*, 47.

[79] El-Leithy, "Sufis, Copts and the Politics of Piety."

would forcefully deploy them in troubled times.[80] These regulations over daily life in public were observed varyingly across regions, especially differently between urban and rural localities.[81] The transgressions of the rules of differentiation and other wrongdoings violating the orderly public space also appeared in court documents with the initiative of local administrative officials motivated to extract fees.[82]

The concern about the risk of Muslims' imitation of unbelievers is a manifestation of attempts at regulating social relationships between Muslims and non-Muslims. That concern was embodied in a standardized policy of the Muslim political establishment regarding the status of its non-Muslim subjects — an approach that was gradually reached in the seventh to eighth centuries and stamped with the label "the Pact of ʿUmar" (*shurūṭ ʿUmar*), the label itself obscuring the historical evolution of legal formulations in question. As shown by historians, this crystallized version rested on surrender agreements from the early Islamic conquests specific to regional and communal circumstances.[83] These early arrangements were formulated when the nascent Muslim community, while a numerical minority in Medina, rapidly turned into a political power over a demographically diverse population. The fact that the early Islamic community ruled over diverse populations from a vulnerable minority status informed the

[80] Zilfi, "Women, Minorities, and the Changing Politics of Dress in the Ottoman Empire, 1650-1830,"407. As shown by Zilfi, gender, however, was the most constant thread in sartorial regulations.
[81] Kemal Çiçek, "Living Together: Muslim-Christian Relations in Eighteenth-Century Cyprus as Reflected by the Shari'a Court Records," *Islam and Christian–Muslim Relations* 4, no. 1 (June 1, 1993): 36–64.
[82] Irvin Cemil Schick, "Some Islamic Determinants of Dress and Personal Appearance in Southwest Asia," *Khil'a* 3 (2007-2009): 25–53.
[83] Mark R. Cohen, "What Was the Pact of 'Umar: A Literary- Historical Study," *Jerusalem Studies in Arabic and Islam* 23 (1999): 100–157; Milka Levy-Rubin, *Non-Muslims in the Early Islamic Empire: From Surrender to Coexistence*, Cambridge Studies in Islamic Civilization (New York: Cambridge University Press, 2011).

protective language of the early surrender agreements.[84] Many legal provisions that came to constitute "the Pact of ʿUmar" attempted to retain the integrity of Muslims as a distinct social group while addressing practical concerns such as monitoring the safety of garrison towns via the imposition of sartorial distinctions between believers and others.[85] While non-interference in return for political loyalty to the Islamic state characterized early surrender agreements, the crystallized form of "the Pact of ʿUmar" was a product, not an inevitable one, of an imperial setting of the Umayyad cities, as shown by Yoshua Patel. The previously informal and expedient establishment of inter-communal relations in a language protective of Muslims was transformed into a language of subordination and debasement of non-Muslims in response to changing social and ideological needs.[86]

The Ottoman experience, too, shifted from its early period, which can be characterized as a policy of a conquering force eager to win over the subjugated populations, to a more heightened and pronounced preoccupation with religious distinctions. This preoccupation was the product of urban, social, and demographic challenges over the sixteenth century. It is no coincidence that only in the second half of the sixteenth century were direct full-fledged translations into Turkish of texts belonging to the corpus "the Pact of ʿUmar" made.[87]

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[84] Albrecht Noth, "Problems of Differentiation between Muslims and Non-Muslims: Re-Reading the 'Ordinances of 'Umar' (Al-Shurūṭ Al-'Umariyya)," in *Muslims and Others in Early Islamic Society* (Routledge, 2004), 121-122; Levy-Rubin, *Non-Muslims in the Early Islamic Empire*.

[85] For instance, the prohibition imposed on non-Arabs for wearing garbs commonly worn by Arabs is considered a measure to upkeep the security of the garrison towns. Claude Cahen, "Dhimma," in *Encyclopaedia of Islam, Second Edition* (Brill, 2012). For the gradual development of the practice of the visible differentiation of non-Muslims, see Luke Yarbrough, "Origins of the Ghiyār," *Journal of the American Oriental Society* 134, no. 1 (2014): 113–21.

[86] Levy-Rubin, *Non-Muslims in the Early Islamic Empire*; Patel, *The Muslim Difference*, 82-85.

[87] For an official document given by Mehmed II to the Greek Orthodox Patriarch of Jerusalem, the city being under the Mamluk rule at the time, upon the latter's visit to the newly conquered Constantinople and presentation of historical documents given to the Christians and Jerusalem and allegedly signed by the Prophet Muhammad and ʿUmar ibn al-Khaṭṭāb, see Ralph S. Hattox, "Mehmed the Conqueror, the Patriarch of Jerusalem, and Mamluk Authority," *Studia Islamica*, no. 90 (2000): 105–23. The same document was published earlier in Vladimir Mirmiroğlu, *Fatih Sultan Mehmet Han Hazretlerinin Devrine Ait Tarihi Vesikalar* (Istanbul: Çituri Biraderler,

Bringing the Urban Experience in line with the Ideal

In this dissertation, I demonstrate that in disputes over non-Muslim places of worship, we see a convergence of arguments tapping into public and urban sensibilities. Unsettling changes marked the experiences of non-Muslims in Ottoman society in early seventeenth-century Ottoman Istanbul. Because late sixteenth-century rural upheavals brought many non-Muslims to the imperial capital, demographic anxiety dominated debates over public morality, the imperial city as the idealized Islamic city, and competition over urban space. Similarly, for the seventeenth century, Eunjeong Yi emphasizes the discrepancies between an idealized Istanbul as an Islamic imperial city and its urban reality with a sizeable and growing non-Muslim population.[88] My goal is to focus on the urban consequences of these anxieties.

The following legal opinion that is found to have been crammed at the very end of the last folio of one of the court registers, dating to 1609 and 161, from Yeniköy, a neighboring village to Istinye, can be contextualized in this perceived mismatch between the ideal of an Islamic city and consistent challenges to it. Likely issued by the then chief jurisconsult Ḫocazāde Meḥmed Efendi (d. 1615),[89] who will occupy us in Chapter 2 with his involvement in a dispute with the judge of Galata, the legal opinion reads:

1945), 86-88. For the mid-sixteenth century translation into Turkish of one letter of contract allegedly given by the Prophet Muhammad to Christians and the other given by the Christians of Damascus and Aleppo to the caliph Umar, see Âşık Çelebi, *Mi'râcü'l-Eyâle ve Minhâcü'l-Adâle: Âşık Çelebî'nin Siyâsetnâmesi*, ed. Muhammed Usame Onuş, Abdurrahman Bulut, and Ahmet Çelik (Türkiye Yazma Eserler Kurumu Başkanlığı, 2018), 193-196. For a contextual study of this work, see Derin Terzioğlu, "Ibn Taymiyya, al-Siyāsa al-Sharʿiyya, and the Early Modern Ottomans," in *Historicizing Sunni Islam in the Ottoman Empire, c. 1450-c. 1750*, ed. Tijana Krstić and Derin Terzioğlu (Brill, 2020), 101–54.

[88] Eunjeong Yi, "Interreligious Relations in 17th Century Istanbul in the Light of Immigration and Demographic Change," *Radovi Zavoda Za Hrvatsku Povijest Filozofskoga Fakulteta Sveučilišta u Zagrebu* 51, no. 1 (2019): 117–44.

[89] The part of the paper where one would expect the jurist's signature/name is torn. Therefore, the jurist who issued this opinion is not identifiable. However, another legal opinion immediately preceding it on an irrelevant issue is that of Ḫocazāde Meḥmed Efendi, the chief jurisconsult at the time. One could also attribute the unidentified opinion

> When Zeyd says to ʿAmr: "Gratitude to God; wine, which is the mother of sins, has been driven away from the lands of Islam; God willing, may its effects for good deeds be visible soon.", and ʿAmr says, "*Islāmbol*'s honor is with wine. If there is no wine [in it], can a man enjoy himself here?" and the aforementioned Zeyd responds: "God forbid that wine ever be the honor of the land of Islam. The honor of this city is through the implementation of sharia, the performance of religious duties, and the study of science and religion. Renounce this answer by turning away from your utterances." [?] If ʿAmr is insistent on his utterances and even reviles those [partly missing because of the torn paper], what is legally necessary for ʿAmr?" The answer: He is an unbeliever. Killing him is permissible. It is necessary to kill without delay those [missing: (who resemble?/turn?)] what is permissible to what is forbidden."[90]

In the dialogue occurring apparently between two Muslims, as exposed in a question asked of the chief jurisconsult, one individual is proud that a ban on wine consumption is in practice and links to this ban more and foreseeable blessings and perhaps general welfare. To his interlocutor, though, the prohibition of wine consumption is a blow to pleasures to be enjoyed in the city. From this point of view, a city — the name of which is often rendered as *Islāmbol*, literally "abounding with Islam," to honor Islam and to praise the said city for being truly Islamic — can and should be honored with wine. Here, the jurisconsult is of the opinion that whoever approves drinking wine and links its presence to an Islamic city's honor might be lawfully killed. The legal issue here is not about intoxication but about glorifying wine, which is interpreted as amounting to declaring wine permitted. The legal consequences of such utterances aside, the question itself exposes two mindsets in the middle of the shifting restrictions on drinking and

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to him, given that such legal opinions added among court records are usually relevant to legal matters (not necessarily in the same register) dealt with in that district and are almost always opinions of the then incumbent chief jurisconsult.

[90] YK 26, 190. Around the time this court register was put into writing, there seems to have been an attempt on the part of Ahmed I to place a comprehensive ban on wine, see Mustafa Naima, *Târih-i Na'îmâ: ravzatü'l-Hüseyn fî hulâsati ahbâri'l-hâfikayn*, (Ankara: Türk Tarih Kurumu, 2007), vol. 2, 400-401.

taverns in early modern greater Istanbul. It also shows how local Muslim residents were occupied with the question of how the Islamic city should be.[91]

The increasing concern with further cementing the ideally subordinated status of Jews and Christians can be observed through changes in legal and administrative idiom reflecting the interplay between the legal and the social. As noted by Paraskevas Konortas, the neutral term of Nazarene (*Naṣrānī*) that was used in the appointment deeds of the Greek Orthodox ecclesiastical officials given by the central Ottoman authorities in the fifteenth century was replaced with the derogatory term of infidel (*kefere*) in the sixteenth century.[92] Edhem Eldem rightly links the development of such terminological distinctions reflecting religious differences to the more general context of the transformations in the Ottoman state and society. An example of this Ottoman linguistic practice is that non-Muslim men were mentioned with the Arabic word *veled* rather than *bin* or *ibn* which is reserved for Muslim men.[93] The same distinction was applied in the word "the aforementioned" to refer to individuals in legal and administrative documents: *meẕkūr* for Muslims and *mesfūr* for non-Muslims. The derivatives of *vefāt* (to die) vs. *helāk (to perish in unbelief)* or *mürd* (*dropped dead*) were used respectively for Muslims and non-

[91] I do not mean to resurrect academic debates on what the Islamic city was/is. Instead, it should be noted that there was heightened anxiety among Ottoman Muslims in seventeenth-century Istanbul with respect to its Islamic character being undermined. For possible reasons why this might be the case, see Yi, "Interreligious Relations in 17th Century Istanbul in the Light of Immigration and Demographic Change." Otherwise, for the classic criticism of the Orientalist descriptions of the essence of the Islamic city as a static entity as opposed to an evolving structure shaped by social and legal changes, see Abu-Lughod, "The Islamic City – Historic Myth, Islamic Essence, and Contemporary Relevance." See also Babak Rahimi and Kaya Şahin, "Introduction: Early Modern Islamic Cities," *Journal for Early Modern Cultural Studies* 18, no. 3 (2018): 1–15.

[92] Paraskevas Konortas, "From Ta'ife to Millet-Ottoman Terms for the Ottoman Greek Orthodox Community," in *Ottoman Greeks in the Age of Nationalism: Politics, Economy, and Society in the Nineteenth Century*, ed. Dimitri Gondicas and Charles Philip Issawi (Princeton, N.J: Darwin Press, 1999), 173.

[93] Edhem Eldem, "Parler d'empire: Le Turc Ottoman Comme Langue de Discrimination et de Ségrégation," *Hiéroglossie I. Moyen Âge Latin, Monde Arabo-Persan, Tibet, Inde*, 2019, 153–67.

Muslims.[94] This distinctive language is explicitly stated in the early eighteenth century by İsmāʿīl Ḥaḳḳı Bursevī (d. 1725) in his book *Kitāb al-furūq*, a "book of distinctions,"[95] where he explains differences between synonyms, homonyms, and other lexicographic peculiarities that have theological, legal, and social significance. For words meaning "the aforementioned," Bursevī mentions that *merḳūm* and *mezbūr* would be used with reference to unbelievers, thus reproducing the distinction to be kept in legal idiom for religious differences.[96] He then adds the distinctions made between the ruling and the ruled as preserved in *mūmā-ileyh* and *muşārun-ileyh*, the former being used for *ḥavāss* and the latter for *ʿavāmm*, reflecting the essential bifurcation between the ruling elite and the masses.[97] Bursevī's distinction between the ruling and the ruled does not seem to have corresponded to Ottoman bureaucratic documents since, as observed by Eldem, the Ottomans often used both *mūmā-ileyh* and *muşārun-ileyh* for notables and *mezbūr* for commoners. Regardless, it is clear that Bursevī was adamant about establishing linguistic distinctions in written language corresponding to social and religious hierarchies.

Eldem argues that such terminological distinctions emerged gradually in documents produced by Ottoman scribal culture from the sixteenth century onwards and became fully

[94] See also Abdul-Karim Rafeq, "Women in the Shariʿa Court Records of Ottoman Damascus," *Turkish Historical Review* 3, no. 2 (January 1, 2012): 133; Michael Winter, *Egyptian Society under Ottoman Rule, 1517-1798* (London ; New York: Routledge, 1992), 211; Joyce Hedda Matthews, "Toward an Isolario of the Ottoman Inheritance Inventory, with Special Reference to Manisa (ca. 1600-1700)," in *Consumption Studies and the History of the Ottoman Empire, 1550-1922: An Introduction*, ed. Donald Quataert (Albany: State University of New York Press, 2000), 59.

[95] Constituting a literary genre, "books of distinctions" were commonly written in different disciplines, such as law, medicine, philology, and theology. For this genre more broadly and for its use in legal writings, see Elias G. Saba, *Harmonizing Similarities: A History of Distinctions Literature in Islamic Law* (Berlin; Boston: De Gruyter, 2019).

[96] İsmail Hakkı Bursevî, *Kelimeler Arasındaki Farklar: Kitâbu'l-Furûq*, ed. Ömer Aydın (İstanbul: İşaret Yayınları, 2011), 333.

[97] For the *ʿāmma* and the *khāṣṣa*, see M. a. J. Beg, "Al-Kẖāṣṣa wa 'l-ʿĀmma," in *Encyclopaedia of Islam, Second Edition* (Brill, 2012).

developed and functional without exception in the eighteenth century.[98] He detects that while these pairs of words were imprecisely used in the mid-seventeenth century, they were used exclusively for their intended objects of reference in the early eighteenth century. The court registers of Yeniköy indicate that Eldem's timing of the standardization of this practice could be stretched to an earlier period. In the designation of the use of *bin* and *veled*, the Yeniköy court registers present the initial experimentation with selectively assigning vocabulary to Muslims and non-Muslims. In the earliest extant court register from Yeniköy that dates to 1551-1552, while Muslims are referred to by *bin* and never by *veled*, non-Muslims might appear with either of the identity expressions. For instance, in a case of surety for a person (*kafala bi'l-nafs*),[99] an increasingly applied legal tool of liability in greater Istanbul due to immigration to the city, a certain Christian Papa Yorgi *bin* Papa Anton becomes a guarantor for a Christian named Aleksi *bin* Yorgi.[100] However, this use is not exclusive, as one can come across a Nikola *veled* Yani or a Manol *veled* Aleksi in the same register.[101] By the early seventeenth century, the Yeniköy court registers consistently used each term (i.e., *bin* for Muslim men and *veled* for non-Muslim men), as there would be no more Aleksis *bin* Yorgi.

This discursive demarcation in legal and administrative vocabulary reflected the idealized social dichotomy between Muslims and non-Muslims, an idealization against which the reality of urban life fell short of expectations. It is at this intersection of urban dynamics and an idealized public sphere that this dissertation situates itself.

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[98] For the eighteenth century, Bruce Masters also observes the clear-cut distinction between *ibn* and *veled* in the court registers of Aleppo. Bruce Alan Masters, *The Origins of Western Economic Dominance in the Middle East: Mercantilism and the Islamic Economy in Aleppo, 1600-1750* (New York: New York University Press, 1988), 226.
[99] Yunus Apaydın, "Kefalet," in *TDV İslam Ansiklopedisi*.
[100] YK 1: 31.
[101] YK 1: 10.

Chapter Itinerary

Against this backdrop of convergences between the public sphere, urban space, and legal culture, I turn my attention to two outlying districts around Istanbul proper in this dissertation: the village of Yeniköy and the town of Kasımpaşa, both being the dependencies of the judgeship of Galata in the late sixteenth and early seventeenth centuries. With one case from each locality, this dissertation will analyze how Jewish and Christian communal property was impacted by an expanding city where competition over valuable urban space intensified public confrontations. This situation destabilized communal properties not only in *intra muros* Istanbul but also in its adjacent towns and villages. In turn, even the fabricated narrative of the peaceful conquest of Istanbul proper was expanded to cover the surrounding urban stretch around the walled city. In the two major judicial cases I will analyze, namely a church in Yeniköy and the Jewish cemetery of Kasımpaşa, the disputes started over the contested use of public space. By the time of these debates, both Jews and Christians within the walled city had witnessed many moments of displacement, pointing to a spatial hierarchy in the geography of the city. Intensified urbanization of the late sixteenth century brought the same contest over urban space to the outlying districts of Istanbul proper, rendering non-Muslim communal properties in those districts contested.

Chapter 1 shows the nature of the social dynamics of the Bosphorus villages, among which were Istinye and Yeniköy, in comparison to their closest towns, Galata and Eyüb, and to *intra muros* Istanbul, and finally to the town of Üsküdar on the Anatolian shore, based on a discussion of productive resources, labor mobility, illegal market practices, and the absorption of migration to greater Istanbul. The greater Istanbul of the late sixteenth century was naturally the

point to which legal visitors came from near and far. It, among other cities, attracted migrants from increasingly insecure provinces east and west, whereas enslaved people sought ways to depart from it. I show in this chapter that the liminality of suburban villages like Yeniköy made them a convenient place to absorb the constant influx of migrants from the provinces. Finally, I argue that the integration of suburban villages in the environs of Istanbul proper into the urban fabric was complete by the early seventeenth century.

In Chapter 2, I focus on an early seventeenth-century legal debate between two high-ranking scholar-bureaucrats on a church in Yeniköy after a complaint was brought to Galata's court about a religious procession conducted by the Christian residents of the village in public. This discussion shows how Yeniköy came to be considered part of the urban stretch in legal discourse that reflected the changes in greater Istanbul, as shown in Chapter 1. In light of this legal debate, I also point to the importance of legal translations from Arabic to Turkish in this period. The Yeniköy debate also illuminates the taxonomy of legal documents and how Ottoman bureaucratization of the judiciary strove for standardization in court documentation.

Chapter 3, which builds on a procedural enigma that necessitated the legal document issued from the court of Galata to be signed by the chief jurisconsult during the Yeniköy debate, attempts to identify judicial mechanisms in place at the time for matters of a public and political nature and examine how dignitary judges and professors were instrumental in administering such cases in the empire. This chapter aims to explain the formalized legal structure for deliberation on public matters.

In Chapter 4, I introduce the late sixteenth-century disuse of the Jewish cemetery of Kasımpaşa into the discussion. Complementing Chapters 1 and 2, I treat both Yeniköy and

Kasımpaşa as suburban localities that were inevitably drawn into urban competition over space in greater Istanbul by the early seventeenth century. Yeniköy and Kasımpaşa are not exceptional for the period under study. Most of the conclusions of this dissertation can be productively applied to and compared with places like Tophane, Beşiktaş, Kağıthane, or Arnavutköy. While I focus on the centrally administered aspects of public legal issues in Chapter 3, I return to local dynamics in Chapter 4, which brings up another legal confrontation between the Christian villagers of Yeniköy after their church was demolished in the aftermath of the debate which I cover in Chapter 2. I highlight local dynamics and local actors in advancing their interests and manipulating political contingencies.

As a theme behind the legal cases presented in this dissertation, a sovereign prerogative that could make or break conventions was discussed through its role in settling or sometimes igniting intercommunal confrontations, non-Muslim communal property disputes, and public debates. In particular, the central authorities and local communities handled conflicts over non-Muslim communal properties in Istanbul through the interplay between sultanic discretion and conquest narratives.

Finally, it is hard not to be apologetic in an introduction to yet another dissertation on Ottoman Istanbul. Istanbul's centrality in Ottoman historiography is indisputable, as it is well-studied from different angles and perspectives at the expense of anywhere else in the Ottoman domains. Because it is well-studied, choosing Istanbul as a subject matter for a dissertation also comes with the cost of a bibliographic trauma spilling from monographs, edited volumes, and

countless articles.[102] Yet my choice of still studying a part of greater Istanbul, I hope, could be warranted due to this project's orbit and focus, the Bosphorus villages, as well as another outlying quarter, Kasımpaşa.

Being primarily an unfamiliar terrain in the otherwise overwhelmingly rich historiography of Ottoman Istanbul, the Bosphorus villages have remained neglected in the history of the City (intentionally capitalized), except in the context of the eighteenth-century construction activity along the shores of the Bosphorus and the ceremonial and social aspects of this change. Tülay Artan has examined in-depth the development of waterside mansions and the practice of imperial processional tours to pavilions and gardens along the Bosphorus in the eighteenth century.[103] In her work, the Bosphorus shores of the pre-eighteenth century are described in broad strokes as a land of gardens, orchards, and huge mansions owned by well-off members of different religious communities.[104] However, in the sixteenth century, the Bosphorus villages were already a space where lucrative lives of dignitary and palace functionaries in seaside palaces crisscrossed the lives of villagers of free status and laborers of servile status chained to serving agricultural production.

However, my goal in this dissertation is not to write a comprehensive account of the suburban village life in Yeniköy and the adjacent villages. My main preoccupation is with the

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[102] For an overview of the development of the dazzling volume of historiography on pre-modern Istanbul, see Shirine Hamadeh and Çiğdem Kafescioğlu, "Early Modern Istanbul," in *A Companion to Early Modern Istanbul* (Brill, 2021), 1–24.

[103] Tülay Artan, "Architecture as a Theatre of Life: Profile of the Eighteenth Century Bosphorus" (Ph.D. Dissertation, Massachusetts Institute of Technology, 1989). Also see Gülru Necipoglu, "The Suburban Landscape of sixteenth-century Istanbul as a Mirror of Classical Ottoman Garden Culture," in *Gardens in the Time of the Great Muslim Empires: Theory and Design*, ed. Attilio Petruccioli (Leiden; New York: Brill, n.d.), 46. This large-scale transformation along the Bosphorus finds its imprint in the Bostancıbaşı (chief imperial gardener) registers, the earliest known copy of which dates from 1791.

[104] Rozen, "Public Space and Private Space among the Jews of Istanbul in the Sixteenth and Seventeenth Centuries," 339-340.

institutional mechanisms and socio-historical background against which the Yeniköy debate occurred and the Jewish cemetery of Kasımpaşa was appropriated by the state.

Chapter 1: Suburban Villages along the Western Shores of the Bosphorus in the early seventeenth century

This chapter sets the scene for sociolegal issues I will discuss in the context of legal debates over a Jewish cemetery in Kasımpaşa, a town on the Golden Horn, in the late sixteenth century, and over a Christian religious procession and a suburban church in Yeniköy, a Bosphorus village, in the early seventeenth century. As dependencies of the judgeship of Galata, both Kasımpaşa and Yeniköy gradually became part of the urban stretch by the end of the sixteenth century. These two localities were two of many other hamlets, villages, and outlying districts that surrounded *intra muros* Istanbul and its three adjacent towns, namely Galata, Eyüb, and Üsküdar, which were defined as distinct administrative units in the second half of the sixteenth century.[1] I argue that the urban expansion of greater Istanbul across the sixteenth century brought about new questions and considerations in governing the city. My discussion in this chapter will primarily focus on the villages, including Yeniköy, along the western shores of the Bosphorus. What follows is an illustrative account of social life in those villages, as can be gathered primarily from Ottoman administrative documents and the Yeniköy court registers. Many findings of this chapter can apply to the villages in inland areas and along the Anatolian shores of the Bosphorus.

The Bosphorus itself and the littoral villages facing it through its shores are studied with respect to the eighteenth-century expansion of ceremonial and architectural activities of the

[1] İsmail Hakkı Uzunçarşılı, "İstanbul ve Bilad-ı Selâse Denilen Eyüp, Galata ve Üsküdar Kadılıkları," *İstanbul Enstitüsü Dergisi* 3 (1957): 25–52.

imperial family as well as of the ruling elites.[2] This emphasis on the Bosphorus villages rising into prominence in the eighteenth century is a commonplace view. Suraiya Faroqhi, for instance, comments that "the Bosphorus villages mainly became attached to Istanbul in the course of the eighteenth century."[3] Those villages, however, had long been a residential, agricultural, and pastoral area before the ceremonial prominence they gained in the eighteenth century. The villages also went through changes and trends commensurate with the ones affecting the core of Istanbul proper and the three towns. The policies Meḥmed II followed for the repopulation of newly acquired Constantinople in the mid-fifteenth century did not leave these villages untouched. The population increase over the sixteenth century changed the dynamics in the Bosphorus villages too. In the migration waves that flowed to the capital, especially from the late sixteenth century onwards, new people reached the shores of the Bosphorus. This chapter will highlight how changes in Ottoman society and politics in the early seventeenth century were experienced by newcomers, runaway slaves, legal visitors, and merchants alongside deportees-turned-locals in the Bosphorus villages after the mid-fifteenth century.

[2] Tülay Artan, "Architecture as a Theatre of Life: Profile of the Eighteenth Century Bosphorus" (Ph.D. Dissertation, Massachusetts Institute of Technology, 1989); Shirine Hamadeh, *The City's Pleasures: Istanbul in the Eighteenth Century*, Publications on the Near East (Seattle: University of Washington Press, 2008), 37-47.
[3] Suraiya Faroqhi, "Subject to the Sultan's Approval," in *The Ottoman World*, ed. Christine Woodhead, The Routledge Worlds (Routledge, 2012), 310.

Figure 1: Map of main Bosphorus Villages (made with QGIS)

The seventeenth-century court registers of Yeniköy enumerate a dazzling number of villages that spanned around greater Istanbul in the pre-modern period and which neatly correspond to toponyms in today's Istanbul: Istinye, Yeniköy, Tarabya, Büyükdere, Sarıyer, Rumelihisarı (Boğazkesen), Belgrad, Hadımkorusu, Akıntıburnu, Kuruçeşme, Ortaköy, Beşiktaş, Arnavutköy, Kefeli, Yeni Mahalle, Azadlı, Fındıklı, Dörtyol Ağzı, Tatavla, Vadi-i Kebir, Tophane, Uskumru, Zekeriya Burgaz, Büyükçekmece, Küçükçekmece, and Imrahor. Among these, the villages located in the northern part of the western shore of the Bosphorus, starting from Rumelihisarı (Boğazkesen), are overrepresented in the court registers. What is interesting is the appearance of inland villages such as Uskumru, and the relatively distant villages located across the Marmara Sea such as Büyükçekmece and Küçükçekmece, in the registers of Yeniköy. Additionally, several villages on the Anatolian side of the sea feature just as often, such as Kuzguncuk, Çengelköy, Anadoluhisarı, Beykoz, and Şile. The proximity of these villages to the core of the empire in Istanbul qualified their residents' experiences since the conquest of Constantinople.

Byzantine Prelude

The Byzantines had made use of the Bosphorus shores similarly to the ways the Ottomans later organized many promontories, bays, and estuaries in the vicinity of Constantinople.[4] Public gardens and urban mansions were used as littoral retreats for the upper classes. Monastic buildings, churches, and hunting fields were set up within a background of

[4] Andreas Külzer, *Ostthrakien (Eurōpē)*, Tabula Imperii Byzantini, Bd. 12 (Wien: Verlag der Österreichischen Akademie der Wissenschaften, 2008), 209.

forests and meadows.[5] Moreover, the villages and settlements across the sea were not simply in a one-dimensional symbiosis with the urban center alone. Just as would be observed during the Ottoman period, the western and eastern shores of the Bosphorus were also connected via boats, ships, traders, and monastic orders. Most Bosphorus villages known from the early Ottoman period were previously Byzantine settlements. Some of these villages continued to be referred to with dual names, Greek and Turkish, as exemplified in sixteenth-century Ottoman administrative documents. In a document from 1500, during the reign of Bāyezīd II, while Tarabya, Beşiktaş, Kuruçeşme, Yoros, and Sarıyer were named as such without any other alternating name, three Bosphorus villages first appeared with their Greek names which were then followed by their given names in Turkish: "Ayafoka also known as (*nam-ı diğer*) Ortaköy,[6] Ayatoma also known as Akıntıburnu,[7] and Niorya also known as Yeniköy."[8]

The social conditions in these villages in the late Byzantine period are difficult to gauge due to the lack of historical sources. What was left of the Byzantine Empire in the early fifteenth

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[5] Cyril A. Mango, Gilbert Dagron, and Geoffrey Greatrex, eds., *Constantinople and Its Hinterland: Papers from the Twenty-Seventh Spring Symposium of Byzantine Studies, Oxford, April 1993*, Publications / Society for the Promotion of Byzantine Studies 3 (Spring Symposium of Byzantine Studies, Aldershot, Hampshire, Great Britain ; Brookfield, Vt., U.S.A: Variorum, 1995).

[6] BOA, TS.MA.d 7654. For the use of Agios Phokas (Άγιος Φωκάς) referring to today's Ortaköy, see Andreas Külzer, *Ostthrakien (Eurōpē)*, Tabula Imperii Byzantini, Bd. 12 (Wien: Verlag der Österreichischen Akademie der Wissenschaften, 2008), 590.

[7] I have not found Agios Thomas (Άγιος Θωμάς) among possible names for the area around Akıntıburnu.

[8] Niorya must be a corrupted form of the Greek toponym, Neochorio/Nichori (Νεοχώριο/Νιχώρι), which means "New Village" in Greek; hence, the Turkish name of the village is a direct translation of its Greek name. Unlike this document from 1500, Niorya is not accompanied by Yeniköy in two other sources studied by Barkan, the sources being a tax register of 1498 covering the villages around Istanbul and another source dating to the reign of Süleyman. However, Barkan misreads the name as Ligorya. He does not identify Niorya (or Ligorya in his reading) as Yeniköy either. See Ömer Lütfi Barkan, "XV. ve XVI. Asırlarda Osmanlı İmparatorluğu'nda Toprak İşçiliğinin Organizasyonu Şekilleri, Kulluklar ve Ortakçı Kullar," *İstanbul Üniversitesi İktisat Fakültesi Mecmuası* 1 (1939), 64. The name Niorya also appears in the earliest court registers from Yeniköy from the mid-sixteenth century. For example, see YK 1: 19, 27, and 32. The same register also alternatively names the village as Yeniköy: YK 1: 37 and 38. The name Yeniköy gradually prevails in the later court registers. However, Niorya occasionally appears as late as 1612: YK 27: 132. I have not found the other olden names of Yeniköy such as Komarodes in the court registers studied for this dissertation. Komarodes is derived from "komaros" (κόμαρος), the strawberry tree. Andreas Külzer, *Ostthrakien (Eurōpē)*, 460.

century was exposed to recurring excursions and more organized sieges by the Ottomans, as in those of Bāyezīd I in 1395 and 1400. In between the two whole-scale sieges he organized, Bāyezīd I built a fortress in Anadoluhisarı in the Anatolian shores of the Bosphorus. Murād II, too, had put together another siege in 1422. According to the sixteenth-century rendering of events, Murād II was called back from Manisa, where he had initially retreated, to reign the Ottoman polity again after having abdicated the throne for his son, Meḥmed II. He quickly reached Üsküdar from Manisa, and the viziers met him in Arnavutköy.[9] Finally, Meḥmed II himself supervised the construction of a fortress in Rumelihisarı to maximize Ottoman control along the Bosphorus.[10] According to the mid-fifteenth-century chronicler Kritovoulos (d. 1470), the guardians of the castle in Tarabya resisted the forces of Mehmed II.[11]

Tursun Bey (d. after 1491) uses the allegedly effortless and swift construction of the Boğazkesen fortress as an opportunity to praise Meḥmed II by rephrasing a Qurʾānic verse: "When we intend [something to happen], our command is simply to say to it 'Be,' and it is."[12] The same construction activity is used in *Historia politica et patriarchica Constantinopoleos*, an ecclesiastical history written in the late sixteenth century, to show the ongoing negotiations

[9] Martin Crusius and Immanuel Bekker, eds., *Historia politica et patriarchica Constantinopoleos*, Corpus scriptorum historiae Byzantinae 49 (Bonnae: Impensis Ed. Weberi, 1849), 12.
[10] Tursun Beg, Halil İnalcık, and Rhoads Murphey, *The History of Mehmed the Conqueror* (Minneapolis: Bibliotheca Islamica, 1978), 33-34.
[11] Kritovoulos, *Kritovulos Tarihi 1451-1467*, trans. Ari Çokona (İstanbul: Heyamola Yayınları, 2012), 153.
[12] Tursun Beg, *Târîh-i Ebül-Feth: Tursun Bey*, ed. A. Mertol Tulum (İstanbul: Baha Matbaası, 1977), 43. As also written by Tulum, the phrase, as written in Arabic by Tursun Bey, is a quotation of Q.36:82 with the replacement of the third person (He/God) with the first-person plural. Q.36:82 reads: "His command is only when He intends a thing that He says to it, 'Be,' and it is." For the recycling of quotations from the Qur'an for various reasons in literary compositions, often with entirely new meanings detached from their original context, see Stephan Dähne, "Qur'anic Wording in Political Speeches in Classical Arabic Literature," *Journal of Qur'anic Studies* 3, no. 2 (2001): 1–13; Nargis Virani, "'I Am the Nightingale of the Merciful': Rumi's Use of the Qur'an and Hadith," *Comparative Studies of South Asia, Africa and the Middle East* 22, no. 1 (2002): 100–111; Geert Jan Van Gelder, "Forbidden Firebrands: Frivolous 'Iqtibās' (Quotation from the Qur'ān) According to Medieval Arab Critics," *Quaderni Di Studi Arabi* 20/21 (2002): 3–16.

between the locals and the Ottoman armies. It tells how the locals helped Meḥmed II build Rumelihisarı "for fear that he would wage war against them."[13] In this way, as added in the account, the locals honored the promises [of allegiance] they had made to Meḥmed II's father — promises Meḥmed II himself acknowledged and confirmed. The same story was also circulated by the late seventeenth-century traveler Evliyā Çelebi (d. 1684[?]), who mentions how, before the conquest of the city but after the construction of Rumelihisarı, Meḥmed II made peace with the local "infidels," who produced grapes in the vineyard around Rumelihisarı, on the condition that they would pay *öşür* for their produce.[14] Evliyā Çelebi's mention of the *öşür*-paying grape producers may be approached with distrust, given its distance in time to the facts of the conquest. Similarly, the insistence of the sixteenth-century *Historia politica et patriarchica Constantinopoleos* on the reluctant and unavoidable collaboration of the locals with the Ottomans in constructing the castle of Rumelihisarı could also be attributed to a sixteenth-century urge to corroborate the partial or peaceful surrender of the city's residents by encompassing as many parts of the hinterland as possible, as will be discussed in Chapter 4.

Thus, historical accounts narrating Ottoman military and building activities in the hinterland of Byzantine Constantinople take the encroaching forces of the Ottomans around the city proper for granted. There is only scant information about the conditions and the population around the castles during and after their construction. In her study of the final years of

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[13] Martin Crusius and Immanuel Bekker, eds., *Historia politica et patriarchica Constantinopoleos*, Corpus scriptorum historiae Byzantinae 49 (Bonnae: Impensis Ed. Weberi, 1849), 15.

[14] Evliya Çelebi, *Evliya Çelebi Seyahatnâmesi* (İstanbul: Yapı Kredi Yayınları, 1996), 38. As a contemporaneous narrator albeit not an eyewitness, Kritovolous does not mention any explicit collaboration between the locals and Mehmed II but tells that many laborers worked in the construction of the castle in Boğazkesen. Kritovoulos, *Kritovulos Tarihi 1451-1467*, 67-73. The near-contemporaneous historical account of Ibn Kemal also narrates that laborers were gathered from the neighboring towns (*eṭrāf-ı bilād*), without specifying the nature of their labor and their status. İbn Kemal, *Tevârih-i Âl-i Osman VII Defter*, ed. Şerafettin Turan (Ankara: Türk Tarih Kurumu, 1957), 34.

Byzantium, Nevra Necipoğlu observes that both the city and its surrounding areas were under dire conditions.[15] Also shown by Ekaterini Mitsiou, Constantinople, which was cut off from its ties to its surroundings, gradually lost both its labor and economic sources from the vicinity of the walled city to the Ottomans.[16] To this effect, an extant Byzantine ecclesiastical court document from 1400 describes the consequences of the situation outside of the walls for the Byzantine city. It describes a legal dispute concerning the management of a Byzantine orphan's maternal property, namely a vineyard situated outside Constantinople which was originally part of the dowry of the orphaned child's mother and was said to have been lost because of the political situation.[17]

In the part immediately after his account of the construction of the Boğazkesen fortress, Tursun Bey narrates skirmishes between some Byzantine shepherds and a group of Ottoman soldiers when the Ottomans demanded some sheep from the shepherds before Meḥmed II departed for Edirne.[18] "Some drunk infidels" who had come from the city to watch the sultan's procession intervened in the tension between the soldiers and the shepherds. The quick escalation

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[15] Nevra Necipoğlu, *Byzantium between the Ottomans and the Latins: Politics and Society in the Late Empire* (Cambridge; New York: Cambridge University Press, 2009), 194-196.

[16] The two villages Mitsiou takes into account are Kumburgaz, across the Marmara Sea, and another on the Bosphorus. Ekaterini Mitsiou, "The Administration of the Property of the Great Church of Constantinople on the Basis of the Villages Tu Oikonomiu and Brachophagos," in *The Register of the Patriarchate of Constantinople*, ed. Christian Gastgeber, Ekaterini Mitsiou, and Johannes Preiser-Kapeller, 2013, 79–90. For a general depiction of the long-lasting effects of migration and declining birth rates that weighted heavier for the late Byzantine countryside, see Angeliki E. Laiou, *Peasant Society in the Late Byzantine Empire: A Social and Demographic Study* (Princeton, N.J: Princeton University Press, 1977), esp. 142-222.

[17] Quoted in Eleutheria Sp. Papagianne, *Η Νομολογία Των Εκκλησιαστικών Δικαστηρίων Της Βυζαντινής Και Μεταβυζαντινής Περιόδου Σε Θέματα Περιουσιακού Δικαίου (I Nomologia Ton Ekklesiastikon Dikasterion Tes Vyzantines Kai Metavyzantines Periodou Se Themata Periousiakou Dikaiou)* (Athena: Ekdoseis Ant. N. Sakkoula, 1992), v. 2, 156. Unfortunately, we do not know the end of this dispute. In another case, the official survey of 1455 in the newly conquered Constantinople refers to a house that was already subject to a dispute between two Christians before the surrender of Galata. The survey notes that "the sultan's final decision is needed" for the status and ownership of the house. See Halil İnalcık, *The Survey of Istanbul 1455: The Text, English Translation, Analysis of the Text, Documents* (İstanbul, Turkey: Türkiye İş Bankası Kültür Yayınları, 2012), 243.

[18] Tursun Beg, İnalcık, and Murphey, *The History of Mehmed the Conqueror*, 34; Tursun Beg, *Târîh-i Ebül-Feth*, 46.

of the event led to the imprisonment of a group of Ottoman soldiers who were eager to enjoy every minute of "the conversation and spectacle of Istanbul."[19] Tursun Bey's account of these soldiers getting captivated by Constantinople's allure is perhaps one of the first occurrences of what seems to have become a daily preoccupation of city dwellers in the following centuries with walking in or cruising around their city.[20] Regardless of the motivations behind the accounts contemporaneous to the conquest, i.e., Tursun Bey's chronicle and the late Byzantine sources, they point to the presence of settlements across the Bosphorus, albeit with allegedly diminished populations. Beyond these snapshots from narrative sources about the late Byzantine and early Ottoman conditions around the Bosphorus, the first relatively clear image comes from the administrative documents dating to the immediate aftermath of the conquest that assessed movable and immovable property not only in *intra muros* Constantinople but also its adjacent localities, including the Bosphorus villages.

The Emerging Demographic Textures in the aftermath of the Conquest

A survey completed in 1455, two years after the conquest, enumerates immovable property and the names of immigrants who were forcibly settled in Constantinople and Galata.[21] That is to say, Mehmed II's policies of repopulating the city already covered a wider area. The

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[19] "İstanbul'un sohbeti ve temâşâsın son turfandasına meyl itmişler imiş." Tursun Beg, *Târîh-i Ebül-Feth*, 46.
[20] For the captivating temptation of Istanbul's cityscape and the sensory experience of the city, Shirine Hamadeh, *The City's Pleasures: Istanbul in the Eighteenth Century*, Publications on the Near East (Seattle: University of Washington Press, 2008); Çiğdem Kafescioğlu, "Picturing the Square, Streets, and Denizens of Early Modern Istanbul: Practices of Urban Space and Shifts in Visuality," *Muqarnas* 37 (2020): 139–77; Tülay Artan, "I. Mahmûd saltanatında Boğaziçi eğlenceleri: temâşâ, tefekkür, tevakkuf ve 'Şehr-i Sefa,'" in *Gölgelenen Sultan, Unutulan Yıllar: I. Mahmûd ve Dönemi (1730-1754)*, ed. Hatice Aynur (İstanbul: Dergâh Yayınları, 2020), 92–159; Cemal Kafadar, "The City Opens Your Eyes Because It Wants to Be Seen: The Conspicuity and Lure of Early Modern Istanbul," in *A Companion to Early Modern Istanbul*, ed. Shirine Hamadeh and Çiğdem Kafescioğlu (Brill, 2021), 25–60, 51-53.
[21] Halil İnalcık, *The Survey of Istanbul 1455: The Text, English Translation, Analysis of the Text, Documents* (İstanbul, Turkey: 2012); Feridun M. Emecen, "1455 Tarihli İstanbul Tahrir Defteri'nin Kayıp Sayfaları," *Osmanlı Araştırmaları* 56, no. 56 (December 3, 2020): 287–317.

administrative and judicial organization addressed how to categorize and manage vast agricultural and pastoral lands in the immediate hinterland of the walled city and Galata. The district of Haslar (Eyüb) in the depth of the Golden Horn rapidly developed on a site where the grave of Abū Ayyūb al-Anṣārī (d. circa. the 670s), who was a Madinan companion of the Prophet Muhammad and died during an Umayyad siege of the city, was purportedly discovered after the Ottoman conquest of Constantinople. The judgeship of Haslar (Eyüb) was created as a judicial and administrative unit comprising as part of its administrative jurisdiction, the villages along the western shores of the Bosphorus and inland areas up to Silivri and Çatalca.[22] Haslar, as a judicial district with its elongated name *ḳażā-i ḫāṣhā-i İstanbul*, owed this attribute to the special status of the land it covered. Revenues from the lands of this district were meted out as revenues to be allocated to the sultan, viziers, or other high-ranking officials.[23] The law book specifying the conditions of labor, agricultural production, and taxation in Haslar broadly defines the territory under its jurisdiction as the "rings" around Istanbul and Galata.[24]

Apart from its special status as *hass* of state land, the villages of Haslar were also populated with enslaved war captives and deportees from other newly conquered territories. These inhabitants were brought from places that the Ottomans recently took around the same time as Constantinople — such places as the Peloponnese, Amasra, Mytiline, Trabzon, Karaman, and Caffa. Among these deportations, the Karaman campaign, in particular, brought Muslim refugees.[25] According to Stefanos Yerasimos, this policy of uprooting people from primarily the

[22] It also includes agricultural laborers of servile status in Üsküdar on the Asian side.
[23] Cengiz Orhonlu and Nejat Göyünç, "Has," in *TDV İslâm Ansiklopedisi*; Ahmet Akgündüz, ed., *Osmanlı kânûnnâmeleri ve hukûkî tahlilleri* (İstanbul, Turkey, 1990), v. 1, 458.
[24] Akgündüz, *Osmanlı kânûnnâmeleri ve hukûkî tahlilleri*, v. 1, 460 and 463.
[25] For the discontent of Muslims who were forcefully brought to Istanbul in the face of property rents imposed on them, Stefanos Yerasimos, "Istanbul, La Naissance de La Ville Ottomane," in *Mégapoles Méditerranéennes. Géographie Urbaine Rétrospective*, ed. Claude Nicolet and Stefanos Yerasimos, 2000, 398–417. Mehmed II had to

recently conquered places and sending them to the new imperial city can be attributed to the fact that the newly conquered regions had not been surveyed yet for tax purposes. Taxes to be paid by inhabitants of a conquered land were defined and fixed in accordance with land and tax surveys conducted. Since the aforementioned areas had yet to undergo this very process of assessing resources, they were perfect locations, from an administrative point of view, to unsettle inhabitants and allocate them to new areas.[26]

The first known official survey data concerning the villages in the vicinity of Istanbul proper comes from a tax register (*tahrir*) dating to 1498 that records the diverse background of the recently settled population in this area, with names of men, women, and children.[27] There were 180 villages registered, 113 inhabited by Christians and the rest by Muslims.[28] The proper names provided in the 1498 register are primarily Greek, Slavic, or Albanian. Groups of people were defined as either of servile status or as free commoners (*reʿāyā*) in the register. Based on the same register, Ömer Lütfi Barkan provides an in-depth analysis of enslaved sharecroppers (*ortakçı kullar*) who were forcefully brought to imperial and endowed farms that stretched near and far around the walled city after the conquest of Constantinople.[29] As mentioned in the law

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reverse the order to keep the Muslim dwellers in place. See Halil İnalcık, "The Policy of Mehmed II toward the Greek Population of Istanbul and the Byzantine Buildings of the City," *Dumbarton Oaks Papers* 23/24 (1969): 229–49; Halil İnalcık, "Ottoman Methods of Conquest," *Studia Islamica*, no. 2 (1954): 103–29.

[26] Stefanos Yerasimos, "Osmanlı İstanbul'unun Kuruluşu," in *Osmanlı Mimarlığının 7 Yüzyılı: Uluslarüstü Bir Miras*, ed. Nur Akın and Mimarlar Odası (Turkey) (Osmanlı Mimarlığının 7 Yüzyılı, İstanbul, 1999), 197.

[27] This survey has been extensively studied: Ömer Lütfi Barkan, "XV. ve XVI. Asırlarda Osmanlı İmparatorluğu'nda Toprak İşçiliğinin Organizasyonu Şekilleri, Kulluklar ve Ortakçı Kullar," *İstanbul Üniversitesi İktisat Fakültesi Mecmuası* 1 (1939): 29–74; Stefanos Yerasimos, "15. Yüzyılın Sonunda Haslar Kazası," in *18. Yüzyıl Kadı Sicilleri Işığında Eyüp'te Sosyal Yaşam*, ed. Tülay Artan (İstanbul, 1998). Beyond this register of 1498, Yerasimos expanded his work on the demographical changes in greater Istanbul and added new insights into his arguments in his other publications: Yerasimos, "Les Grecs d'Istanbul après la conquête ottomane," *Revue des mondes musulmans et de la Méditerranée*, no. 107–110 (2005): 375–99; idem., "La Communauté Juive à Istanbul à La Fin Du XVI ᵉ Siècle," *Turcica* 27 (1995): 101–30.

[28] Yerasimos, "15. Yüzyılın Sonunda Haslar Kazası."

[29] Barkan, "Kulluklar ve Ortakçı Kullar."

book of state lands around Istanbul, free commoners were also able to enter a sharecropping arrangement with the state in return for half the produce they harvested.[30] It is generally accepted that the status of enslaved sharecroppers (*ortakçı kullar*) working on state-owned lands changed over time into that of free peasants.[31] However, the sharecroppers of servile status were still visible in a poll-tax register of 1619, alongside other non-Muslim taxpayers of free status, in the towns and villages covered in the tax survey, including Yeniköy, Istinye, Tarabya, and Büyükdere.[32]

Even so, the lingering existence of sharecroppers and free commoners side by side across the shores of the Bosphorus is often overlooked in Ottoman historiography when those shores are mainly described via the spread of imperial gardens. Though they were shared by endowed lands and expansive state lands, the shores of the Bosphorous were spotted with suburban gardens in the sixteenth century, the majority of which were imperial and dignitary (mostly vizierial) in nature. Such gardens covered various patches throughout the shores of the Marmara Sea and across the Bosphorus and the Golden Horn, from Bakırköy across the Marmara coastline to Beykoz on the Anatolian side of the Bosphorus and to Kağıthane in the depth of the Golden Horn.[33] In a document from 1512, revenues of certain imperial orchards around Istanbul were assigned to different officials:[34] the agha of Janissaries, the head of imperial chancery (*nişancı*),

[30] Akgündüz, *Osmanlı kânûnnâmeleri ve hukûkî tahlilleri*, Vol 1, 469.
[31] Barkan, "Kulluklar ve Ortakçı Kullar." The disappearance of sharecroppers as a category from administrative documents over the sixteenth century is also common in other regions. For the example of sharecroppers' villages in Dimetoka, see Phokion Kotzageorgis, "Haric Ez Defter and Hali an El-Reaya Villages in the Kaza of Dimetoka (15th–17th Centuries): A Methodological Approach," in *The Ottoman Empire, the Balkans, the Greek Lands: Toward a Social and Economic History: Studies in Honor of John C. Alexander*, ed. Elias Kolovos and John Christos Alexander (Istanbul, 2007), 241-242.
[32] BOA, MAD.d.. 5481.
[33] Necipoglu, "The Suburban Landscape of sixteenth-century Istanbul."
[34] BOA, TS MA.d 10056.

chief gatekeeper (*kapucubaşı*), chief justices, treasurer (*defterdar*), and several viziers. A business transaction recorded in Galata in 1600 illustrates the lucrative side of these gardens as well as the endowed lands. A Christian man, Civan son of Istefan, a tax-farmer in charge of the collection and administration of taxes due from commoners (*reʿāyā*) in Istanbul and Galata and payable to the grand vizier Ibrahim Paşa,[35] brought to the court of Galata a certain Yani son of Andro, who previously had taken a loan of 29000 *akçe* from the revenues of the grand vizier's produce.[36] To put this amount into perspective, the yearly revenue allocated to the district governor of Hüdavendigar, an administrative district (*sancak*) with its center of Bursa, was 300000 akçe in 1521-22.[37] Yani's loan from a tax source assigned to the grand vizier corresponds to approximately 10% of the arguably well-paid budget of an imperial administrator.

Sale contracts of plots of lands, houses, orchards, boathouses, and gardens in the court registers of Yeniköy also provide valuable information about some of the high-ranking owners of such gardens or plots of land. Religious dignitaries owned suburban gardens, such as the one in Fındıklı owned by the chief jurisconsult Ḫocazāde Ebū Saʿīd Efendi (d. 1662).[38] In between appointments, Ebū Saʿīd Efendi was also said to go back and forth between Istanbul proper and his two farms in Çekmece and Azadlı.[39] According to a contract drawn up for a property sale between a Christian woman Periyane daughter of Aleksi and Rukiye Ḫātūn daughter of el-Ḥācc

[35] Ibrahim Paşa served as the grand vizier in 1596, 1596-7, 1599-1601. See Baki Tezcan, "The Ottoman 'Mevali' as 'Lords of the Law,'" *Journal of Islamic Studies* 20, no. 3 (2009): 383–407, 398.
[36] GCR 23: 10b.
[37] Ömer Lütfi Barkan, "H.933-934 (M.1527-28) Mali Yılına Ait Bir Bütçe Örneği," *İstanbul Üniversitesi İktisat Fakültesi Mecmuası* 15, no. 1–4 (1960), 304.
[38] Quoted from Antoine Galland in Muzaffer Erdoğan, "Osmanlı Devrinde İstanbul Bahçeleri," *Vakıflar Dergisi* 4 (1958): 149–82; Necipoğlu, "The Suburban Landscape of sixteenth-century Istanbul," 40. Ebū Sa'īd Efendi was a scion of the Ḫocazāde family. His father was the chief juristconsult Ḫocazāde Esʿad Efendi.
[39] Karaçelebizade Abdülaziz, *Ravzatü'l-ebrâr zeyli: tahlîl ve metin, 1732*, ed. Nevzat Kaya (Ankara: Türk Tarih Kurumu, 2003), 252.

Meḥmed in 1605 in Istinye, the neighbor to the property on two sides is none other than Zekeriyazāde Yahyā Efendi (d. 1644),[40] who would succeed Ḫocazāde Esʿad Efendi (d. 1625) in the office of chief jurisconsult. Going further north, in Sarıyer, the chief jurisconsult Ḫocazāde Meḥmed Efendi, whom we will encounter in the next chapter, bought a garden from a certain Raziye Ḫātūn, daughter of Süleymān in 1612.[41] Another property neighbored that of a certain dignitary scholar named Kemāleddīn Efendi in the Başmakçı Şüca neighborhood of Boğazkesen. From the honorifics and titulature accompanying Kemāleddīn Efendi's name, it is very likely that this is Taşköprüzāde Kemāleddīn Efendi (d. 1621).[42] Other prominent owners of extensive real estate holdings across the Bosphorus that feature in sale contracts from the early seventeenth century are grand vizier Ḫalīl Paşa (d. 1629) in Baltalimanı[43] and Hazinedarbaşı ʿAlī Ağa in Boğazkesen.[44]

It is also noteworthy that notables of different religious communities also held property in the suburban villages. Of the Greek Orthodox notables was the Rossetos family that played an influential role in the history of the Patriarchate. The Rossetos owned significant property in Arnavutköy, according to an inheritance settlement record of 1697 from the Patriarchate.[45] In a poll-tax register of 1623, Kuruçeşme was named as a place for the congregations of Jews who

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[40] YK 24: 38.
[41] YK 29: 3. Both parties are represented by their legal agent in court. Shortly later, another garden by the side of Ḫocazāde Meḥmed bin Saʿdeddīn's newly acquired one is sold, YK 29: 111. For the investment practices of jurists and judges in land in the Balkans, see Eleni Gara and Antonis Anastasopoulos, "Moneylenders and Landowners: In Search of Urban Muslim Elites in the Early Modern Balkans," in *Provincial Elites in the Ottoman Empire: Halcyon Days in Crete, V: A Symposium Held in Rethymno, 10–12 January 2003* (Rethymno: Crete University Press, 2005).
[42] YK 30: 77. For another property sale next to Kemāleddīn Efendi's, YK 30: 118 and YK 30: 24. None of these records mention Kemaleddin Efendi's paternal name.
[43] YK 30: 91-92.
[44] YK 30: 80. For the examples of court eunuchs' property along the Bosphorus, see Ezgi Dikici, "Eunuchs and the City: Residences and Real Estate Owned by Court Eunuchs in Late Sixteenth-Century Istanbul," *YILLIK: Annual of Istanbul Studies* 3 (2021): 7–37.
[45] Michael Vaporis, "A Study of Ziskind Manuscript No. 22 of the Yale University Library," *Greek Orthodox Theological Review* 13 (1968), 81-84.

were compelled to move to Istanbul as part of Mehmed II's policy of repopulating his newly captured city.[46] Well-off members of the Jewish community also owned estates along the Bosphorus. For example, a sale contract of 1599 for a garden in Kuruçeşme in the court registers of Galata provides information about the famous Jewish *Kyra* Esperanza Malchi,[47] who was a close companion of Safiye Sultan and was lynched in 1600 by the cavalry soldiers for her close relationship with Meḥmed III's court and her role in the tax-farming of certain lucrative fiscal resources. According to the contract, she and her brother had inherited the garden from their deceased father.[48]

Over the years following the conquest, revenues to be taxed from the inhabitants of several villages along the Bosphorus were gradually designated for certain charitable endowments, mostly imperial ones, which created tax exemptions for the inhabitants in question.[49] In one copy of the endowment deed of Mehmed II's mosque complex, endowment resources included four villages in the vicinity of Istanbul proper: Terkoz, Lugoz, Askoz, and Kelnikoz, all named as such in the document.[50] Apart from the pious endowment of Mehmed II, other charitable endowments that were entitled to revenues collected from inhabitants and the

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[46] Uriel Heyd, "The Jewish Communities of Istanbul in the Seventeenth Century," *Oriens* 6, no. 2 (1953), 301.
[47] *Kyra* (κυρά) in Greek means lady. In modern publications, the same word appears in different orthographic forms, such as Kira and Kiera. On the murder of Esperenza Molchi, see Selânikî Mustafa Efendi, *Tarih-i Selânikî*, ed. Mehmed Ipsirli (İstanbul, 1989), vol. II, 854-858; John Sanderson, *The Travels of John Sanderson In The Levant (1584-1602)* (London: The Hakluyt Society, 1931), 85–86, 201. On the political motivations behind the lynching of Esperenza Molchi, see Baki Tezcan, *The Second Ottoman Empire: Political and Social Transformation in the Early Modern World* (New York: Cambridge University Press, 2010), 65-66 and 175.
[48] The document identifies "Esperanta bint-i Şabatay" [sic] as "Kira demekle mağrufe." Galata Court Register, 21, 102.
[49] For similar legal disputes from Trabzon, see Ronald C. Jennings, "Pious Foundations in the Society and Economy of Ottoman Trabzon, 1565-1640: A Study Based on the Judicial Registers (Ṣerʿi Mahkeme Sicilleri) of Trabzon," *Journal of the Economic and Social History of the Orient* 33, no. 3 (1990), 328-329.
[50] Kept in the Turkish and Islamic Arts Museum in Istanbul, this copy was first published in 1945 by Osman Ergin, Fatih İmareti Vakfiyyesi. I rely on the comparative study of this and other copies of Mehmed II's endowment deeds in Kayoko Hayashi, "Fatih Vakfiyeleri'nin Tanzim Süreci Üzerine," *Belleten* 72, no. 263 (April 1, 2008): 73–94. For the list of these villages, see ibid. 93.

lands across the western shores of the Bosphorus were the endowment for the shrine of Abū Ayyūb al-Anṣārī, the pious foundation of Bāyezīd II, that of Şehzade Mehmed, and later that of Ahmed I. An account book of the pious endowment of Bāyezīd II dating to 1575, for example, enlisted the revenues gathered from vineyards, meadows, watermills, windmills, and vegetable gardens in Uskumru.[51] Such endowed status of villages created different forms of communal responsibilities and varying tax immunities to affect the lives of villagers for years to come. For instance, the estates of a non-Muslim who died without an heir in 1597 in a village called Vadi-i Kebir were claimed not by the imperial treasury but by the superintendent of the pious foundation of Şehzade Meḥmed due to the villager's status defined as taxpayer to the foundation.[52]

Ottoman Istanbul's commanding needs were satisfied by the imperial administration tapping into the human labor and natural resources of the regions under the city's magnet.[53] This nebulous city had amorphous boundaries, and, throughout ages, its dependencies stretched far and further. Liabilities to the imperial city heavily influenced a sizeable geographical area around Istanbul, liabilities such as social regulations, commercial constraints, and restrictions on the production, distribution, and sale of basic foodstuffs due to concerns about bringing sufficient

[51] BOA, TS.MA.d 5752.
[52] YK 21: 37. For a theoretical background of this allocation, see Halil İnalcık, "Autonomous Enclaves in Islamic States: Temlîks, Soyurghals, Yurdluḳ- Ocaḳlıḳs, Mâlikâne-Muḳâṭa'as and Awqāf," in *History and Historiography of Post-Mongol Central Asia and the Middle East: Studies in Honor of John E. Woods*, ed. John E. Woods et al. (Wiesbaden: Harrassowitz, 2006), 112–34.
[53] Suraiya Faroqhi, Suraiya Faroqhi, *Towns and Townsmen of Ottoman Anatolia: Trade, Crafts and Food Production in an Urban Setting, 1520–1650* (Cambridge: Cambridge University Press, 1984). It is also important to note here the existence and maintenance of gardens within the walled city itself. The produce of these gardens was also of such magnitude that it was sold in the market. See Aleksandar Shopov, "When Istanbul Was a City of Bostāns: Urban Agriculture and Agriculturists," in *A Companion to Early Modern Istanbul* (Brill, 2021), 279–307.

provisions to feed the city itself.[54] Grain supply was provided by the Danubian provinces and the coastal regions of the western Aegean, the Marmara, and the Black Sea, where the contracted agents of imperial administration oversaw grain transport and tried to implement the prohibition on its export.[55] Provisioning meat, primarily from the Balkans, was just as strictly regulated in favor of the Istanbul market.[56] Within this backdrop, the impact of the colossal imperial city on its immediate vicinity, as in the Bosphorus villages, cannot be overstated.

The Bosphorus villagers took up labor requisitions not only for the army in wartime but also for the palace on a regular basis. Their unpaid labor was considered crucial to the upkeep of imperial estates. One of the ways non-Muslims of the Bosphorus villages were

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[54] Bruce McGowan, *Economic Life in Ottoman Europe: Taxation, Trade, and the Struggle for Land, 1600-1800*, Studies in Modern Capitalism = Etudes Sur Le Capitalisme Moderne (Cambridge; New York: Cambridge University Press, 1981), 10-15.

[55] Lütfi Güçer, *XVI-XVII. Asırlarda Osmanlı İmparatorluğunda Hububat Meselesi ve Hububattan Alınan Vergiler* (İstanbul: İstanbul Üniversitesi Yayınları, 1964); Rhoads Murphey, "Provisioning Istanbul: The State and Subsistence in the Early Modern Middle East," *Food and Foodways* 2, no. 1 (April 1, 1987): 217–63; Selma Akyazici Özkoçak, "Two Urban Districts in Early Modern Istanbul: Edirnekapı and Yedikule," Urban History 30, no. 1 (May 2003): 26–43. On the provisioning of Istanbul from Egypt, see Alan Mikhail, *Nature and Empire in Ottoman Egypt: An Environmental History*, Studies in Environment and History (New York: Cambridge University Press, 2011). For the eighteenth-century grain supply, see Seven Ağir, "The Evolution of Grain Policy: The Ottoman Experience," *The Journal of Interdisciplinary History* 43, no. 4 (2013): 571–98. For a localized version of the provisioning priorities concerning the Hijaz, see Alan Mikhail, "Anatolian Timber and Egyptian Grain: Things That Made the Ottoman Empire," in *Early Modern Things: Objects and Their Histories, 1500-1800*, ed. Paula Findlen (Abingdon, Oxon; New York: Routledge, 2013).

[56] Antony Warren Greenwood, "Istanbul's Meat Provisioning: A Study of the Celepkeşan System" (1988). For the role of tax payments of the Greek Orthodox Patriarchs in compensating Istanbul's butchers for forced sale at fixed prices, Elif Bayraktar Tellan, "The Patriarch and the Sultan: The Struggle for Authority and the Quest for Order in the eighteenth-century Ottoman Empire" (Ph.D. Dissertation, Bilkent University, 2011), 38-41. For a mid-sixteenth century trial resulting from accusations targeting high-ranking officials in Istanbul for their involvement in selling produce to Europeans, see Tayyib Gökbilgin, "Rüstem Paşa ve Hakkındaki İthamlar," İstanbul Üniversitesi Edebiyat Fakültesi Tarih Dergisi 8, 1956, 11-50. For the relationship between maritime trade and the provisioning of food, see Murat Çizakça, "'The Ottoman Empire: Recent Research on Shipping and Shipbuilding in the Sixteenth to Nineteenth Centuries,'" in *Maritime History at the Crossroads: A Critical Review of Recent Historiography*, ed. Frank Broeze, Research in Maritime History (Liverpool University Press, 1995), 213–28.

required to provide compulsory work was the mowing of imperial meadows or the maintenance of boats allocated to carry the mowed grass and plants from imperial fields to imperial stables.[57]

These developments, such as the post-conquest haste to extend resettlement beyond the walled city from early on, as shown in the 1498 register, and the employment of enslaved sharecroppers, highlight the productive capacity of the close hinterland of the walled city — the long-term consequences of these developments proving Mehmed II's repopulation policies in greater Istanbul to be well-grounded. Settling the sharecroppers of servile status close to Istanbul proper stands out as a conscious policy of quickly reaping the benefits of the agricultural hinterland. Mehmed II's perception of the city as a wider area than the historical peninsula can be attested also in the two mosques, one in Rumelihisarı and another in Anadoluhisarı, that he ordered to be built and the construction of which ended long before the imperial mosque Mehmed II had started within the city walls. The commitment to Islamizing the imperial city and its surroundings after the conquest could be seen in the sultan's encouragement of the building activity of prominent figures in his entourage.[58] One of the long-term effects of these policies was Galata's demographic transformation. Typically associated with the Genoese presence, Galata was, in fact, populated by a growing number of Muslim residents and spotted with mosques already within about a hundred years after the conquest.[59] The same architectural expanse continued in Cihāngīr Mosque built by Süleymān, the construction of Sinān Paşa's

[57] YK 25: 22; YK 26: 121; YK 27: 61; YK 27: 133; YK 27: 136. For tallow that inhabitants of Istinye and Hisar were asked to provide for the Ottoman Fleet, YK 30, 113. For the work required for the stables, see Abdülkadir Özcan, "Istabl," in *TDV İslam Ansiklopedisi*.
[58] Çiğdem Kafescioğlu, *Constantinopolis/Istanbul: Cultural Encounter, Imperial Vision, and the Construction of the Ottoman Capital* (Pennsylvania State University Press, 2009).
[59] Edhem Eldem, "Ottoman Galata and Pera between Myth and Reality," in *From "Milieu de Mémoire" to "Lieu de Mémoire": The Cultural Memory of Istanbul in the 20th Century*, ed. Ulrike Tischler (München: M. Meidenbauer, 2006), 30.

mosque and the shrine of Yahya Efendi in the mid-sixteenth century in Beşiktaş, and the mosque of Kılıç ʿAlī Paşa in Tophane, completed in 1581, to name a few. In a petition to the sultan, the grand vizier Koca Sinān Paşa defended his building activity in Istanbul (read as greater Istanbul) with the shops he built and endowed in Tophane located on the western banks of the Bosphorus.[60]

However, in the shadow of these monumental structures, which stood out in greater Istanbul and consequently reached the western shores of the Bosphorus already in the sixteenth century, lay the life of commoners inhabiting the very same villages.

At the Intersection of Taxation and Migration

Beyond the documentation pointing to the revenues and resources of the suburban gardens, endowed properties, and sharecropping practices, it is also possible to witness the daily life and struggles of the Bosphorus villagers through administrative and fiscal documents and court registers. Over the sixteenth and seventeenth centuries, the fiscal status of inhabitants of Bosphorus settlements was subject to changes, most typically through the endowment of state lands, i.e., the conversion of *hass* villages to endowed ones. To this shuffling, one could also add changes in office holders to whom certain tax revenues were awarded.[61] This situation did not affect only villagers but also immigrants who increasingly came to the settlements across the Bosphorus to seek new residential arrangements, especially after the late sixteenth century.

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[60] Sinan Paşa, *Koca Sinan Paşa'nın telhisleri*, ed. Halil Sahillioğlu and Ekmeleddin İhsanoğlu, Osmanlı devleti ve medeniyeti tarihi serisi, no. 8 (İstanbul: İslam Tarih, Sanat ve Kültür Araştırma Merkezi, IRCICA, 2004), 85-86.
[61] Since the Bosphorus villages, albeit subject to different endowments, remained an attractive place for immigrants despite the changes in their status, these villages did not seem to undergo any adverse effects of such changes. However, villages could have detrimental consequences elsewhere once their endowed status was discontinued. See, for example, the abandonment of a village in Dimetoka, possibly because its endowment status was dropped, Kotzageorgis, "Haric Ez Defter and Hali an El-Reaya," 242.

As mentioned, one of the ways resources and lands changed hands in the villages was through changes in officeholders. Emblematic of high-ranking officials' experiences and precarious careers, the partial or complete confiscation of their property upon their death allowed the sultan to accrue outstanding economic accumulation from the governing elite, his servants (*kuls*).[62] Located on the seaside in Tarabya, a vegetable garden bordering the vineyard of a Christian woman named Aleksandra on one side and the endowed property belonging to the pious foundation of Bāyezīd II on the other was confiscated in 1624 by the imperial treasury from the estates of its owner, the recently murdered chief of the scribes (*reʾīs'ül-küttāb*) named Hamza Efendi, and was sold at a public auction.[63] Revenue sources such as agricultural lands, vineyards, gardens, and orchards changed hands so quickly and abruptly that this volatility affected the status of individuals whose taxes were assigned to high-ranking officials. An account book of 1512 documenting the high-ranking officials assigned with revenues of certain imperial orchards around Istanbul demonstrates the temporary and revocable land grants. The document clarifies: "what is known as the orchard of Gedik Aḥmed Paşa is now in the hands of Dāvūd Paşa, and what is known as the orchard of Ishak Paşa now belongs to Ibrahim Paşa!"[64]

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[62] Dror Ze'evi and Ilkim Buke, "Banishment, Confiscation, and the Instability of the Ottoman Elite Household," in *Society, Law, and Culture in the Middle East*, ed. Dror Ze'evi and Ehud R. Toledano (De Gruyter, 2015), 16–30; Tülay Artan, "The Politics of Ottoman Imperial Palaces: Waqfs and Architecture from the 16th to the 18th Centuries," in *The Politics of Ottoman Imperial Palaces: Waqfs and Architecture from the 16th to the 18th Centuries* (De Gruyter, 2015), 365–408. For more broadly on the *kul* status of the high-ranking officials, see Rifaat Ali Abou-El-Haj, "The Ottoman Vezir and Paşa Households 1683-1703: A Preliminary Report," *Journal of the American Oriental Society* 94, no. 4 (1974): 438–47; Metin Kunt, *The Sultan's Servants: The Transformation of Ottoman Provincial Government, 1550-1650*, Modern Middle East Series, no. 14 (New York: Columbia University Press, 1983); Dror Ze'evi, "Kul and Getting Cooler: The Dissolution of Elite Collective Identity and the Formation of Official Nationalism in the Ottoman Empire," Mediterranean Historical Review 11, no. 2 (December 1, 1996): 177–95.

[63] Coşkun Yılmaz, ed., *Rumeli Sadâreti Mahkemesi 40 Numaralı Sicil (H. 1033-1034 / M. 1623-1624)* (İstanbul: İstanbul Büyükşehir Belediyesi, Kültür A.Ş Yayınları, 2019), 63, Hüküm no: 22 Orijinal metin no: [4a-3]. For another case where Ali Ağa bin Abdülmennan was murdered by the order of the sultan, and the deceased's estates were to be confiscated by the agents of the imperial treasury, see GCR 24: 38a.

[64] BOA, TS.Mad 10056.

It is safe to assume that village residents around Istanbul were visited by several tax collectors: endowment supervisors and their agents in charge of land taxes of endowed plots of land, imperial agents collecting the same tax from state lands as well as certain other taxes such poll tax and *ağnam* tax, which were payable to the sultan everywhere regardless of the status of the land,[65] and officers responsible for collecting taxes from unregistered individuals, i.e., immigrants who had arrived in the villages anew. At the same time, these layers of affiliations and liabilities, either with an endowment or with an officeholder's land grant, inform not only who would collect taxes for that land but also the status of its inhabitants, creating categories of tax-exemptions and liabilities accordingly.[66] For example, in 1597, a non-Muslim villager, Mavridi, first claimed to have been of the taxpayers for an ağa (*ağa reʿāyāsı*) in Yeniköy. After the dissolution of that particular category (the reason for the dissolution is not explained in the document, but likely due to the shift in land use), he allegedly got his name enlisted as a taxpayer for the sultan (*sultan reʿāyāsı)*.[67] Mavridi was brought to the court by fellow villagers who considered him to be evading paying taxes and therefore overburdening the community. In another example from Yeniköy, a group of Christians complained that Todori son of Dimitri, abruptly stopped paying the extraordinary taxes. Todori, in turn, claimed that he used to make payments only to help the villagers, but he now became a taxpayer for the sultan (*sultan reʿāyāsı)*, hence exempt from the extraordinary taxes.[68] An imperial order that was sent to the judge of Galata in 1612 illustrates how such affiliations were instrumentalized by villagers:

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[65] Ömer Lütfi Barkan, "Türkiye'de İmparatorluk Devirlerinin Büyük Nüfus ve Arazi Tahrirleri ve Hakana Mahsus İstatistik Defterleri I," *İstanbul Üniversitesi İktisat Fakültesi Mecmuası* 2 (1940), 37.
[66] Ömer Lûtfi Barkan, *Türkiye'de Toprak Meselesi* (İstanbul: Gözlem Yayınları, 1980), 173-175.
[67] YK 21: 16.
[68] YK 21: 29. For a tax collector in charge of collecting dues from commoners classified as taxpayers for an endowment, see GCR 23: 20a; for taxpayers for the grand vizier, YK 27: 144.

While resident in Yeniköy, some villagers could receive a document from the endowment of the sultan's mother in Üsküdar which established them as taxpayers towards that particular endowment and which they then used against both the imperial tax collectors and the supervisor of the endowment of Bāyezīd II, to which they previously were assigned.[69]

The excuses thrown in by individuals or even groups of individuals to claim entitlement to exemptions from certain taxes are varied. An order sent to the judges of Istanbul, Galata, Haslar, and Üsküdar, for example, raised some of the possible excuses that individuals (Jews and Christians) paying taxes on taverns for the imperial treasury might present. These included that they sold wine and arak in their houses (i.e., they did not run a tavern and hence they should not pay any taxes placed on taverns), that they were *reʿāyā* of the sultanic endowments or they were detached (*serbest*) from land-based registration,[70] or that they were providers of specific services (such as millers, tile producers, or bakers).[71] Other similar documents distinguished between those tax-payers (*reʿāyā)* of vizierial domains, those subject to female members of the dynasty such as the sultan's mother, and the tax-exempt commoners that helped maintain roads, bridges, and watercourses.[72] Official documents state that communities would take advantage of changing dynamics by pitting different tax collectors against each other. By 1599, the taxes of the non-Muslims of Şile, located across the Black Sea coast on the Anatolian side, had been registered as

[69] YK 27: 132.
[70] For the importance of retaining the privileged status of a village for tax purposes and how a change in that status mobilized residents of two villages in the mid-seventeenth century in mainland Greece, see Giorgios Salakides, "Αναζητώντας Δικαιοσύνη Σε Καιρούς Οθωμανικούς (Anazetontas Dikaiosyne se Kairous Othomanikous)," in *Τουρκολογικά, Τιμητικός Τόμος Για Τον Αναστάσιο Κ. Ιορδάνογλου (Tourkologika, Timetikos Tomos Gia Ton Anastasio K. Iordanoglou)*, 2011.
[71] YK 22: 72a.
[72] For example, see YK 23: 54-55; YK 26: 113; YK 26: 159. For a court entry of 1612 that mentions some villagers of Yeniköy as taxpayers for the *paşmaklık* of Gevherḫān Sulṭān (d. 1660s [?]), daughter of Ahmed I, see YK 29: 29. *Paşmaklık* was a revenue source that was allocated for the female members of the dynasty.

payable to the pious endowment of Ebū Isḥaḳ Kāzerūnī (d. 1035) in Bursa, an endowment initially founded by Bāyezīd I.[73] This foundation was now under the authority of the *dārü's-saʿāde ağası* Osman Ağa, the supervisor of sultanic endowments. Half of the revenues from the taxes of Şile would go to the endowment, the other half to the imperial treasury.[74] The superintendent of the endowment of Kāzerūnī would oversee the collection of taxes and be responsible for handing over the half share to the imperial treasury. Similarly, the taxes of those who came from outside (*haricten gelen*) and settled in Şile would be split equally between the endowment and the treasury. According to the complaint of the superintendent, the new inhabitants appeared to decline to pay their taxes to him, claiming that they used to pay their taxes to the *yave emini* (responsible for collecting the taxes of unregistered people in a locality). When the *yave emini* required the taxes, the inhabitants, pretending to be suspicious of double payment of their dues, would claim that they would pay their taxes to the superintendent, since they were taxpayers for the endowment. Hovered over by tax collectors of different sorts tasked with tracking down taxpayers in a society bereft of cash, the villagers were seemingly willing to buy themselves time by sending off one collector while stating that they paid their dues to another official, only to have the two tax collectors end up either going to a judge or else to the sultan himself with their complaints.

This example is also illustrative of the willingness of state authority to absorb newcomers seeking new economic opportunities, relative stability, and safety in the environs of Istanbul in the early seventeenth century. The influx of immigrants to greater Istanbul was dictated by broader changes occurring in the Ottoman state and society in this period. Destabilization and

[73] Mustafa Kara, *Bursa'da tarikatlar ve tekkeler* (Bursa: Bursa Kültür A.Ş., 2012), 90.
[74] GCR, 22: 71a-71b.

economic distress over landholding, agricultural production, and taxation in the late sixteenth and seventeenth centuries accelerated peasants' abandonment of rural lands and their escape from the countryside to urban centers.[75] In the late sixteenth century, the unfavorable economic conditions due to the rapid inflation of prices and coinage devaluation had the most severe consequences on the daily lives of commoners.[76] The echoes of these monetary struggles afflicting all walks of life also appear in the Yeniköy court registers. In 1602, a deputy judge in Boğazkesen across the Bosphorus, Meḥmed Dede bin Ferhād, whose personal and moral world interestingly springs up across the court register he kept during his tenure, could not withhold his reflections even in a random court entry regarding tax assessment and collection. He lamented that most of the coins that had previously been gathered for the payment of the extraordinary taxes of the neighborhood lost their value. He stated that he had appealed to the community of the concerned neighborhood to attend to this grave situation, but to no avail. Expressing his sadness for how little money he could collect despite his diligent care, he insisted: "For God's

[75] It is disputed in Ottoman historiography whether it was the population increase in the sixteenth century that caused demographic pressure and catalyzed peasants' abandonment of rural lands and subsequent changes. For the view favoring demographic pressure, see Michael Cook, *Population Pressure in Rural Anatolia, 1450-1600*, London Oriental Series, v. 27 (London, New York: Oxford University Press, 1972). Both İnalcık and Faroqhi find it unlikely that there was enough demographic pressure in the sixteenth-century Ottoman Empire and, instead, they tend to emphasize the changes in fiscal regime and the political motives of peasants to refashion themselves as tax-exempt administrative classes: Halil İnalcık, "Military and Fiscal Transformation in the Ottoman Empire, 1600-1700," *Archivum Ottomanicum* 6 (1980): 283–337; Suraiya Faroqhi, "Crisis and Change, 1590-1699," in *An Economic and Social History of the Ottoman Empire, 1300-1914*, ed. Halil İnalcık and Donald Quataert (New York, NY: Cambridge University Press, 1994), 435-436; Suraiya Faroqhi, "Political Activity among Ottoman Taxpayers and the Problem of Sultanic Legitimation (1570-1650)," *Journal of the Economic and Social History of the Orient* 35, no. 1 (1992): 1–39. See also Bruce McGowan, "The Study of Land and Agriculture in the Ottoman Provinces within the Context of an Expanding World Economy in the 17th and 18th Centuries," *International Journal of Turkish Studies* 2, no. 1 (1981): 57–63.

[76] Ömer Lütfi Barkan, "The Price Revolution of the Sixteenth Century: A Turning Point in the Economic History of the Near East," *International Journal of Middle East Studies* 6, no. 1 (1975): 3–28. Şevket Pamuk revisits Barkan's arguments in light of recent European scholarship on the price revolution of the sixteenth century and claims that Barkan overemphasized the impact of silver inflation at the expense of other changes such as commercialization, monetization, the expansion of credit networks, and military needs. Şevket Pamuk, "The Price Revolution in the Ottoman Empire Reconsidered," *International Journal of Middle East Studies* 33, no. 1 (2001): 69–89.

approval (*riżā'*), I have attended to it [tax collection]; Muslims (*müslümānlar*) in the neighborhood are true believers (*müslimlerdir*), may they not forget [me] from their prayers."[77] The deputy judge Mehmed Dede's efforts were perhaps futile as the residents of the neighborhood were financially under dire circumstances due to inflation that, as historians have shown, had peaked between the 1580s and 1625 in the Ottoman Empire, with the inflation rate of the *akçe* reaching 225% during this period.[78]

This social and economic turbulence was accompanied by Ottoman fiscal and military crises whereby both monetary and structural needs of the military, thanks to the greater availability of firearms, led to the decreasing role of cavalry forces and the rise in importance of infantry forces.[79] In this context, the ease with which mercenaries, once demobilized, could turn into brigands and vice versa contributed to peasants' wishes to infiltrate the military-administrative class and gain the privileged position of those tax-exempt.[80] An acute sense of

[77] YK 28: 21. For Ottoman scholars' response to monetary problems, see Cemal Kafadar, "Prelude to Ottoman Decline Consciousness: Monetary Turbulence at the End of the Sixteenth Century and the Intellectual Response," *Journal of Ottoman Studies* 51 (2018): 265–95. For a different perspective on monetary crisis where the role of the unification of regional monetary zones is highlighted, see Baki Tezcan, "The Ottoman Monetary Crisis of 1585 Revisited," *Journal of the Economic and Social History of the Orient* 52, no. 3 (2009): 460–504.

[78] Linda T. Darling, *Revenue-Raising and Legitimacy: Tax Collection and Finance Administration in the Ottoman Empire, 1560-1660*, The Ottoman Empire and Its Heritage, v. 6 (Leiden; New York: E.J. Brill, 1996), 35-41.

[79] İnalcık, "Military and Fiscal Transformation in the Ottoman Empire, 1600-1700"; Michael Adas, ed., "The Socio-Political Effects of the Diffusion of Firearms in the Middle East," in *Technology and European Overseas Enterprise* (Routledge, 1996); Ronald C. Jennings, "Firearms, Bandits, And Gun-Control: Some Evidence on Ottoman Policy Towards Firearms in The Possession of Reaya, From Judicial Records Of Kayserl, 1600-1627," *Archivum Ottomanicum* 6 (1980): 339–58.

[80] For an overview of the development of historiography and the differing points of view as to how to analyze and explain sixteenth and seventeenth-century Ottoman social and political transformations, see Darling, *Revenue-Raising and Legitimacy*, 1-21; Oktay Özel, "Population Changes in Ottoman Anatolia during the 16th and 17th Centuries: The 'Demographic Crisis' Reconsidered," *International Journal of Middle East Studies* 36, no. 2 (2004): 183–205. For a reading of the same period from the environmental history perspective, see Sam White, "The Little Ice Age Crisis of the Ottoman Empire: A Conjuncture in Middle East Environmental History," in *Water on Sand: Environmental Histories of the Middle East and North Africa*, ed. Alan Mikhail (Oxford University Press, 2012).

instability and the disruption of social and economic order resulted in what is called *Celali* rebellions, a series of upheavals following peasants' flights and militarization.[81]

The quick transformations from a paid soldier to a brigand and back again inform an expressive reaction from a Christian villager from Yeniköy who was brought to the court of law by a janissary. According to the litigant's claim, the villager humiliated him by saying: "You prostitute! Destroyer of provinces, bloodsucker, you are an oppressor. You have been banished from the province; did you come here again?"[82] Virtually blaming the janissary for jinxing the village, the curse is indicative of tensions in place between the provinces and the city and between upheavals and social order as experienced in a place like Yeniköy, so close to the Ottoman imperial seat that one would expect its residents to feel safe. The blurred distinctions between orderly operations expected of state officials and their outright disregard for the same order they were supposed to protect enabled everyone to question any authority in the seventeenth century.[83] Among those who overstepped their roles or readily resorted to direct action were rebel governors, military deserters, Istanbul's madrasa students, and just sheer adventurers.

Against this backdrop, the greater Marmara region encompassing Bursa and Edirne alongside Istanbul drew what Mustafa Akdağ calls "the dangerous conglomerations of peasants

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[81] William J. Griswold, *The Great Anatolian Rebellion, 1000-1020/1591-1611*, Islamkundliche Untersuchungen, Bd. 83 (Berlin: K. Schwarz Verlag, 1983); Akdağ, *Türk halkının dirlik ve düzenlik kavgası*; Oktay Özel, *The Collapse of Rural Order in Ottoman Anatolia: Amasya 1576-1643*, The Ottoman Empire and Its Heritage, volume 61 (Leiden; Boston: Brill, 2016).
[82] YK 27: 51.
[83] For the blurred boundaries between "bandits and bureaucrats," Karen Barkey, Bandits *and Bureaucrats: The Ottoman Route to State Centralization*, Wilder House Series in Politics, History, and Culture (Ithaca, N.Y: Cornell University Press, 1994).

abandoning their lands."[84] Greater Istanbul then became a haven many immigrants strove to arrive at. The villages around the shores of the Bosphorus played the role of harboring immigrants despite occasional efforts by the state authorities to force migrants to return to their lands. Katib Çelebi notes that in 1634-35, with the order of the sultan, a former judge of Egypt was tasked with inspecting the neighborhoods of Istanbul to locate those who settled in the city in the past forty years due to the *Celali* uprisings in Anatolia. Despite the annoyance faced by the neighborhoods, Katib Çelebi states, the inspection yielded no result.[85]

Whereas immigrants posed immediate security problems and risks of social unrest from the perspective of Ottoman authorities, they also presented new initiatives for economic dynamism on agricultural, commercial, and fiscal fronts; the presence of immigrants meant a tax base coming closer. The Ottoman administrative responses to the migrant waves showed these various concerns all at once: criminalizing the uncontrolled flow of newcomers, expressing concerns over the financial loss due to the link broken between individuals' previous residence and tax liabilities, and a desire to register them for various revenue-raising apparatus in greater Istanbul. An imperial order from 1601 addressing the judge of Haslar ordered him to inspect and punish those "vagabonds" who wandered the town, some wearing a woolen cloak to be disguised as herders, some carrying rifles, who intercepted residents and seized their sheep and goats.[86] In 1607, the judge of Haslar was again tasked with catching those brigands and *Celali*s "who secretly came to Istanbul to hide." [87] When the criminalizing language was put aside, however,

[84] Mustafa Akdağ, *Türkiye'nin Iktisadî ve Içtimaî Tarihi* (Ankara: Tekin Yayınevi, 1979), vol. 2, 460. See also Darling, *Revenue-Raising and Legitimacy*, 41-43.
[85] Katib Çelebi, *Fezleke: Osmanlı Tarihi (1000-1065/1591-1655)*, ed. Zeynep Aycibin (İstanbul, 2016), v. 2, 750.
[86] BOA, İE-DH 5: 491.
[87] BOA, A.{DVNSMHM.d. 76: 18.

court registers, as well as administrative and fiscal documents of the period, often tended to make a distinction between so-called vagabonds and immigrants, with the latter being called "those who came of their own accord" (*kendi gelen*), and showed a willingness to clarify their tax status swiftly.[88] The overzealous efforts of the authorities to establish the links between newcomers and their new localities with respect to taxation necessitated distinguishing temporary passersby from villagers and those seeking to settle down. The commoners who came to work in Istanbul from the town of Ypati in mainland Greece (a town whose revenues belonged to the endowment of Ayşe Sultan) were protected from illegal taxation requests.[89] In another order sent to the deputy judge of Istinye in 1612, the tax collector of poll-tax (*cizye)* from dispersed (*perakende)*[90] communities was instructed not to disturb certain non-Muslims in the village who, despite not being residents in Istinye, were from Batum, where they continued paying their poll-tax, and who only came to Istanbul to bring stocks of foodstuffs.[91]

However, establishing whether a commoner was in their temporary or permanent place of residence was challenging. In an order sent to the judges of greater Istanbul, the collection of the poll tax of the year 1613-14 from dispersed (*perakende)* Greek Orthodox, Armenian, and non-Muslims from Trabzon was required to be completed.[92] Around the same time, a certain Istefani

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[88] GCR 25: 186. For a poll-tax register with the same expression, see Uriel Heyd, "The Jewish Communities of Istanbul in the Seventeenth Century," *Oriens* 6, no. 2 (1953), 306-307.
[89] Coşkun Yılmaz, ed., *İstanbul Kadı Sicilleri İstanbul Mahkemesi 3 Numaralı Sicil (H.1027/ M. 1618)* (İstanbul: İslâm Araştırmaları Merkezi (İSAM), 2010), sayfa: 469 Hüküm no: 722 Orijinal metin no: [88a-1].
[90] For *perakende*, see Svetlana Ivanova, "The Empire's 'Own' Foreigners: Armenians and Acem Tüccar in Rumeli in the Seventeenh and Eighteenth Centuries," *Oriente Moderno* 83, no. 3 (August 12, 2003): 681–703. Another term that refers to the unregistered individuals in a locality's tax surverys is *haymana*. See Ömer Lütfi Berkan, "Türkiye'de İmparatorluk Devirlerinin Nüfus ve Arazi Tahrirleri ve Hakana Mahsus İstatistik Defterleri I," *İstanbul Üniversitesi İktisat Fakültesi Mecmuası* 2 (1940): 24–59.
[91] YK 27: 137.
[92] ICR 1: 99b. A similar order from 1616-17 states the geographical expanse of "Armenians and Trabzon *keferesi*" instructed to pay the jizye: mahmiyye-i Istanbul, Galata, Haslar [Eyüb], Üsküdar, Yoros, İznikmid and Aydıncık. YK 30: 69.

Reis son (v.) of Yorgi argued against a tax collector who was in charge of collecting poll tax from those who were from Trabzon. Admitting that he was from Trabzon, Istefani asserted that he had registered himself in Tarabya and had been paying his poll tax there for six years. In a separate court entry, he wavered in his claim and stated that he was unaware of paying this tax. Immediately, he corrected himself by claiming that his aunt in Trabzon used to pay his poll tax back there before he was registered in Tarabya.[93] It seems that what began as uprooting by force post-conquest gave way to voluntary migration, commercial links, and family networks cultivated by people's voluntary movement to the imperial city.

Built upon the communities that were forcefully uprooted from the Balkans or Anatolia by Mehmed II and settled in greater Istanbul, some of which were even reduced into the category of sharecroppers of servile status, the early seventeenth-century Bosphorus villagers were populated by many communities absorbing newcomers. In an attempt to curb the layers of ambiguity as to one's status, an imperial order was dispatched in 1617, where we see the outlying areas around the city proper that attracted newcomers. Those Christians abandoning their homeland and coming to Istanbul and to such neighborhoods of Galata as Kasımpaşa, Tatavla, Tophane, Beyoğlu, Dörtyol Ağzı, Fındıklı, Beşiktaş, Kuruçeşme, Arnavutköy, Istinye Boğazkesen, and Sarıyer to engage in trade were to be registered as "*waqf reʿāyāsı*" for the mosque of Sultan Ahmed, which was at the time recently constructed.[94] The geographical span in the order should clarify the role of localities in the immediate environs of Istanbul proper in absorbing new immigrants and turning them into residents. Another practical tool at the hands of the Ottoman administration in managing the influx of newcomers flooding greater Istanbul was

[93] YK 26: 183.
[94] BOA, TS.MA.d 1321.

to demand oaths of personal surety (*kefālet*), a way of keeping people registered and creating mutual accountability between individuals. The Yeniköy court registers of the early seventeenth century teem with such entries linking newcomers to residents of the villages in such documents of personal surety.[95] A legal opinion of Ebū's-Suʿūd Efendi should be read against this background. In it, he claimed that when migrants from the Balkans and Anatolia had litigations in greater Istanbul, the judges of Istanbul would be authorized to hear their cases. Ebū's-Suʿūd Efendi adds that otherwise, these individuals would have difficulty finding each other to process adjudication.[96]

Bosphorus Villages as Scenery for Illegal Market and as Way Station for Fugitive Slaves

While identifying and tracking down taxpayers was of utmost importance, controlling migrants' mobility was not the only concern of the Ottoman administration for greater Istanbul. Establishing and maintaining a uniform tax zone linking all distinct parts of the city, including the Bosphorus villages, was a prioritized policy. An order sent to the judge of Galata in 1604 reads that the fixed price (*narḫ*) *in* Istanbul was uniform and thus should be applied in Galata and its dependent villages as it was applied in the old city.[97] Similarly, an imperial order of 1593 set the fixed prices for fruit in Galata, Eyüb, and Tophane the same as those in the walled city.[98] The same order also attempted to prohibit ships carrying fruit from docking in Galata, Eyüb, and Tophane. The Bosphorus villages, precisely because of their proximity to Istanbul proper and to

[95] For example, see YK 26: 186; YK 30: 19.
[96] Pehlül Düzenli and Abū al-Saʿūd Muḥammad ibn Muḥammad, *Maʿrûzât Şeyhülislâm Ebussuûd Efendi* (Istanbul: Klasik, 2013), 248.
[97] GCR 25: 191. For the policies of fixed prices, see Mübahat S. Kütükoğlu, *Osmanlılarda narh müessesesi ve 1640 tarihli narh defteri*, Enderun yayınları 13 (İstanbul: Enderun Kitabevi, 1983), 17 and 36.
[98] A.{DVNSMHM.d. 71: 323.

the main marketplaces, were the backstage of the attempts to smuggle produce, shiploads, and any commercial products to evade the market tax (*bāc-ı pazar*) levied on merchandise and produce. The judges of Galata, Haslar, and Üsküdar were repeatedly instructed to be vigilant of ships destined for Istanbul proper unloading their cargo in ports other than the designated ones.[99]

One important requirement for producers and merchants was to bring their produce to the official weighing and distribution centers (*kapan*) for staple goods.[100] A mid-sixteenth-century document issued for regulations concerning Unkapanı, the trading hall (*kapan*) for flour, demonstrates that porters and boat operators were considered complicit in transporting grain not officially weighed in the trading hall around the city.[101] The increasingly integrated character of greater Istanbul incentivized captains and merchants to circulate their produce and merchandise before passing the necessary official inspections.

Illegal imports of wine to the city to bypass the wine tax or periodic prohibitions of selling and drinking wine presents another disruptive encounter. In 1612, collectors of the wine tax were alarmed at wine illegally brought to the city. [102] In 1597, tax collectors even chased to the court two Christians who had been seen diving into the sea by Büyükdere to bring out barrels of wine from a ship belonging to Ali Reis that had recently sunk.[103] It seems that the barrels of

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[99] For two orders from 1608 for ships carrying grains: BOA, A.{DVNSMHM.d. 76: 248 and A.{DVNSMHM.d. 76: 34.

[100] For Unkapanı, the trading hall (*kapan*) for flour, see Namık Erkal, "Grain Scale of Ottoman Istanbul: Architecture of the Unkapanı Landing Square," *Journal of Urban History* 44, no. 3 (May 1, 2018): 351–81; Namık Erkal; Reserved Abundance: State Granaries of Early Modern Istanbul. Journal of the Society of Architectural Historians 1 March 2020; 79 (1): 17–38. For the regulations for ships bringing provisions, see Murat Çizakça, "The Ottoman Empire: Recent Research on Shipping and Shipbuilding in the Sixteenth to Nineteenth Centuries," in *Maritime History at the Crossroads: A Critical Review of Recent Historiography*, ed. Frank Broeze (Liverpool University Press, 1995), 213–28.

[101] Ahmet Akgündüz, ed., *Osmanlı kânûnnâmeleri ve hukûkî tahlilleri* (İstanbul, Turkey, 1990), vol. 6, 397. For an imperial order sent to the judge of Istanbul in 1604 that warns against the cattle being directly brought to Galata and Kasımpaşa rather than first taxed in Edirnekapı, GCR 25: 169 and 175.

[102] ICR 1: 18b and 23a.

[103] YK 21: 15.

wine remained unbroken and recoverable despite the shipwreck. The barrels were then carried to a Christian woman's house in the village and hidden there to bypass the wine tax. Earlier, an imperial order sent to the judge of Istanbul in 1573 recognized the failure to impose a complete ban on wine trade and consumption. With the wine tax forgone to impose a comprehensive ban on taverns and wine consumption, the authorities admitted that wine continued to be transferred *surreptitiously* to the city.[104] Relying on the chief jurisconsult's permission to tax wine, the order almost apologetically instructed that *rakı* and wine be brought to the city and sold, but not *publicly*. Business as usual at the time of restrictions and prohibitions is reflected in a case from Yeniköy, where in 1605, Panayot and Marino came to the court to set the record straight for the wine that Panayot had sold Marino earlier during the times of a previous and no-longer-in-effect prohibition of wine trade.[105]

In an utterly disruptive event amounting to the high-way robbery at sea, in the language of an imperial order of 1593, a group of brigands waylaid ships that carried foodstuff and merchandise such as grain, barley, honey, and oil to Istanbul by blocking their passage across the Bosphorus and stranding them in Beykoz and other Bosphorus villages.[106] The Ottoman administrative authorities were as concerned about the overall safety of the capital city as about

[104] BOA, A.{DVNSMHM.d..22: 256. Even when there was a comprehensive ban on taverns and wine trade, there was still a consideration as to how non-Muslims could access wine for their individual consumption. See for examples, Fikret Yılmaz, "Boş Vaktiniz Var Mı? Veya 16. Yüzyılda Şarap, Suç ve Eğlence," *Tarih ve Toplum* 50, no. 1 (2005), 28.
[105] YK 24: 15-16. The ban in question must be the one ordered by Mehmed III in 1601. See Cengiz Orhonlu, *Telhîsler, 1597-1607: Osmanlı harihine âid belgeler*, İstanbul Üniversitesi Edebiyat Fakültesi yayınları 1511 (İstanbul: Edebiyat Fakültesi Basımevi, 1970), 27. For an order sent to the judge of Galata in 1604 that reiterates a previous order banning taverns from openly selling wine to Muslims, see GCR 25: 189. It seems that the order was reiterated in response to the complaints of tax collectors due to the harsh measures implemented by the chief of police after the initial order.
[106] BOA, A.{DVNSMHM.d. 71: 306.

the safe passage of vessels. The same level of heightened fear would be felt due to the repeating Cossack raids on the Bosphorus in the first two decades of the seventeenth century.[107]

As aptly shown by Eunjeong Yi, the magnitude of immigration created the perception that the majority of the urban population was non-Muslim in the greater Istanbul area, with the consequence that interreligious tensions appeared more intensely in urban life.[108] One such issue where intercommunal dynamics were tested was the slave ownership of non-Muslims, which was considered to disrupt non-Muslims' subordinate legal status. The legal status of non-Muslims, as conceptualized in the term "*dhimmi,"* denoted their subjecthood to a Muslim polity and entailed the payment of poll tax. While this status was embedded in specific social and symbolic forms of subordination, relative inferiority, and inequality, a slave-holding non-Muslim theoretically obtained relative superiority in that master-slave relationship. The ownership of slaves by non-Muslims marked an important status symbol, so much so that the Mamluks, for instance, were severe in enforcing the prohibition of Jewish and Christian ownership of slaves.[109] As Yaron Ben-Naeh shows, Ottoman policies concerning this issue were not consistent, ranging

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[107] Victor Ostapchuk, "The Human Landscape of the Ottoman Black Sea in the Face of the Cossack Naval Raids," *Oriente Moderno* 20 (81), no. 1 (2001): 23–95.

[108] Eunjeong Yi, "Interreligious Relations in 17th Century Istanbul in the Light of Immigration and Demographic Change," *Radovi Zavoda Za Hrvatsku Povijest Filozofskoga Fakulteta Sveučilišta u Zagrebu* 51, no. 1 (2019): 117–44. For Armenians residing on both sides of the Bosphorus and a discussion based on the seventeenth-century account of Eremya Çelebi, who himself was born in Istanbul in 1637 after his family migrated from Anatolia due to the Celali uprisings, see Polina Ivanova, "Armenians in Urban Order and Disorder of seventeenth-century Istanbul," *Journal of the Ottoman and Turkish Studies Association* 4, no. 2 (2017): 239–60. See also Henry R. Shapiro, *The Rise of the Western Armenian Diaspora in the Early Modern Ottoman Empire: From Refugee Crisis to Renaissance*, *Non-Muslim Contributions to Islamic Civilisation* (Edinburgh: Edinburgh University Press, 2022). For migration to greater Istanbul in the eighteenth century, see Suraiya Faroqhi, "Migration into eighteenth-century Greater Istanbul' as Reflected in de Kadi Registers of Eyüp," *Turcica* 30 (1998): 163–83; Madoka Morita, "Between Hostility and Hospitality: Neighbourhoods and Dynamics of Urban Migration in Istanbul (1730–54)," *Turkish Historical Review* 7, no. 1 (2016): 58–85.

[109] Yaron Ben-Naeh, "Blond, Tall, with Honey-Colored Eyes: Jewish Ownership of Slaves in the Ottoman Empire," *Jewish History* 20, no. 3/4 (2006): 315–32; Minna Rozen, *A History of the Jewish Community in Istanbul: The Formative Years, 1453-1566* (Boston, MA: Brill, 2002), 23-24.

from absolute prohibition of non-Muslims holding slaves to the permission for owning female slaves only and to the prohibition of owning Muslim slaves regardless of gender. Two main contextual reasons for these changes are the periodic Muslim discomfort in the face of slaves owned by those who themselves were subordinate in status,[110] and the fluctuations in supply and demand of slaves. The times of social crisis created conditions for similar complaints to be repeatedly raised.[111]

In the late sixteenth century, however, Ottoman policy shifted to the imposition of a special tax to be paid by non-Muslims for the right to own slaves who, at least in theory, would not be Muslim.[112] The imposition of this tax, in addition to its fiscal benefit, also meant that non-Muslims' ownership of slaves was monitored officially in the early seventeenth century. The goal was not only to track down slaves of non-Muslims that remained untaxed but also to deter non-Muslims' ownership of Muslim slaves. Even in the earliest extant copy of the Yeniköy court registers from 1551-1552, one can find an instance of a Christian man named Malkoç brought to court by a Muslim man who, claiming that Malkoç had a Muslim slave woman in his possession, stated, "We do not want her to stay with him." In his defense, Malkoç argued, "She is a servant maintained out of charity and is an infidel woman."[113] It is telling that Malkoç not only insisted that the woman was non-Muslim but also added that he kept her for the purposes of charity,

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[110] It is noteworthy that twentieth-century historian Michael Vaporis is equally surprised about the mention of enslaved people owned by a Greek family in a document from the Patriarchate in 1698. He states: "It seems strange that a subject people would be permitted slaves." Vaporis, Zismind, 84.

[111] In a late sixteenth-century military rebellion in Egypt that occurred due to the delay of soldiers' payments, one of the demands of the rebellious soldiers was the prohibition of non-Muslims from possessing any slaves. See Adam Sabra, "'The Second Ottoman Conquest of Egypt': Rhetoric And Politics In Seventeenth Century Egyptian Historiography," in *The Islamic Scholarly Tradition: Studies in History, Law, and Thought in Honor of Professor Michael Allan Cook*, ed. Asam Q. Ahmed, Michael Bonner, and Behnam Sadeghi (Brill, 2011), 153.

[112] For non-Muslims who acquired male and female Muslims as slaves, Ben-Naeh, "Blond, Tall, with Honey-Colored Eyes."

[113] YK 1: 6. "Bende beslememdir, kafiredir."

thereby rejecting a master-slave relation. In another case, it was a group of Muslims from Yeniköy who claimed that Nikola son of Yani owned a manumitted Muslim female slave.[114] In the law court, the woman in question denied being Muslim and confirmed that Nikola had bought her from a Janissary.

An order from 1610 clarifies what was at stake for non-Muslim owners of slaves and what strategies they deployed to evade the slave-ownership tax: [115] Owners hid their slaves, or, when found without a voucher to show the payment of the tax, claimed that theirs was freed. Some male owners married their female slave to dodge the tax, in which case the order instructs that they too should pay the tax for the period before the marriage contract. Some owners sent away their slaves during the times of inspection or traveled with the slaves. Some others clung to their tax exemption status because of being of certain groups of professions, such as physicians, miners, butchers, herders, or gunpowder manufacturers. In hope of crossing out any objections that might be presented to tax collectors, the document even repudiates the claims of owners who proved their slaves to have been freed. As long as allegedly manumitted slaves stayed in the service of their master's household, those too were still subject to the tax on slave ownership.

Despite these strict orders, slaves often remained beyond the reach of tax collectors, only to be discovered in unexpected circumstances, such as during the composition of a probate inventory or the notice of an appointed legal guardian for orphans after the death of the patriarch of a family. Bali son of Hasan, an imperial gardener who was appointed as legal guardian for the orphans of Yanol son of Yanol in Tarabya, noticed that the household had a Muslim slave named

[114] YK 27: 25. For the collection of the tax, see YK 27: 135 and 158; YK 26: 184; YK 26: 122.
[115] YK 26: 154-155.

Mahmud, whom the deceased Yanol had acquired "somehow" (*bir tarikle*).[116] The gardener handed Mahmud over to his father, Receb, who was very likely a slave himself. A marginal note added to a probate inventory of another deceased Christian notified that two female slaves appeared after the initial compilation of the inventory, likely because the heirs hid them away during the official inheritance division.[117]

Enslaved individuals roamed the villages along the Bosphorus and the surrounding hills, gardens, orchards, vineyards, and forests in hope of boarding a ship home. This home could be anywhere around the Black Sea or the Mediterranean.[118] Some ran away from other parts of the expanding city, such as Üsküdar, Galata or Beşiktaş.[119] Some others came all the way from Bursa or other cities in Rumelia or Anatolia.[120] As observed by Yvonne Seng in the court registers of Üsküdar from the sixteenth century, boat operators (*kayıkçı*) appeared quite often to have been involved in what she calls "a lucrative illegal trade undertaken by boatmen of both sides of the Bosphorus." The court registers of Yeniköy also abound in the entries of slaves captured. Similar to early sixteenth century Üsküdar, which was "a point of confluence for fugitive slaves" eager to cross the Bosphorus,[121] the Bosphorus villages of the seventeenth century were an equally important destination. Ships that readily traveled across various ports of the Black Sea or the Mediterranean were the reason for the fugitives to reach the north of the

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[116] YK 27: 128.
[117] YK 25: 14.
[118] Literature on servile status in the Ottoman Empire is too numerous to cite here. I highlight this issue as part of the expanding city's pull-and-push effects and its population in flux. Still, for a recent evaluation of scholarship and analysis of cultural changes regarding slaveholding, see Hülya Canbakal and Alpay Filiztekin, "Slavery and Decline of Slave-Ownership in Ottoman Bursa 1460–1880," *International Labor and Working-Class History* 97 (April 2020): 57–80.
[119] YK 26: 114 and YK 24: 81 from Üsküdar; YK 25: 90 from Galata; YK 24: 82 from Kasımpaşa.
[120] YK 26: 123; YK 26: 146.
[121] Yvonne J. Seng, "Fugitives and Factotums: Slaves in Early Sixteenth-Century Istanbul," *Journal of the Economic and Social History of the Orient* 39, no. 2 (1996), 137.

Bosphorus, where many ships unloaded their cargo or docked. According to Fynes Moryson (d. 1630), an English traveler with a travel account dating to 1617, there were inspections onboard in Rumelihisarı and Anadoluhisarı to see if there were any runaway slaves in ships.[122] Therefore, it is no coincidence that Yeniköy and other villages in the region were where runaway slaves were frequently spotted and captured.

When fugitive slaves with a stamp of strangeness walked the streets of the villages where they were unknown, they exposed themselves more as they tried to mingle in an unknown territory. The primary reason for fugitive slaves being detected, as discussed by Seng, was that they behaved in a way that would draw the attention of suspicious eyes. For instance, it was almost impossible for slaves to pass unnoticed when several fugitives traveled together. Seng speculates about possible ethnic solidarity among fugitive slaves who might have taken courage in the companionship of their fellows who spoke their language. Unfortunately, my data have not given any clue about this type of solidarity. As for sartorial distinctions, Seng also thoughtfully argues that since slaves were possibly given their master's used clothes, there would have been a wide range of forms and shapes of clothes slaves wore depending on how well-off their master was. A number of Yeniköy cases show that strangers carrying valuables might have quickly lost their chance of passing unnoticed. In 1597, a suspected man in Istinye was questioned in the court since he was noticed to be carrying a couple of sealed papers and a large sack with different garments, although he did not look like a janissary or *sipahi*. Suspecting him of being either a renegade or a spy, the chief of police asked that he be checked to confirm that he had

[122] Fynes Moryson and Edward Chaney, *An Itinerary Vvritten by Fynes Moryson, Gent., First in the Latine Tongue, and Then Translated by Him into English: Containing His Ten Yeeres Travell through the Twelue Dominions of Germany, Bohmerland, Sweitzerland, Netherland, Denmarke, Poland, Italy, Turky, France, England, Scotland, and Ireland: Diuided into III Parts* (At London: Printed by John Beale, 1617), 216.

been circumcised.[123] Consequently, a physician declared him circumcised after examining him. To clear himself of the accusation of espionage, the suspect boldly announced that he was "an infidel here and Muslim there," giving the impression of an impromptu response. Here, the suspected person was considered not simply to be a fugitive slave but rather a spy or a renegade. The political climate in which the empire found itself in those years may have intensified a sense of insecurity and aggravated the need for a more careful handling of suspects — suspects that could be fugitive slaves, tax evaders, spies, or renegades, showing the fault lines of Ottoman social anxieties in the early seventeenth century.[124]

Both perseverance and commitment to marching to freedom reigned over fugitive slaves' often silenced reality. In one example, a slave captured by the chief of police in Büyükdere and brought to the presence of the judge in Istinye insists that he did not know his owner's name – in what seems to be an obvious defiance.[125] Interestingly, unlike the court registers of early sixteenth-century Üsküdar, those of early seventeenth-century Yeniköy presented cases of many fugitive female slaves.[126] One of them, Maria, admitted to having fled her master's house in Beşiktaş two months before her capture in Sarıyer.[127] Given that she managed to be on the run for two months, supposedly hiding in plain sight while passing on foot through landed property and villages on the dales and vales of the western shores of the Bosphorus, one would wonder how an enslaved woman could manage to survive that long and go unnoticed without any

[123] YK 21: 45 and 46.
[124] Gabor Agoston, "Information, Ideology and Limits of Imperial Policy: Ottoman Grand Strategy in the Context of Ottoman-Habsburg Rivalry," in *The Early Modern Ottomans: Remapping the Empire*, ed. Virginia H. Aksan and Daniel Goffman (Cambridge, UK; New York: Cambridge University Press, 2007), 75–103.
[125] YK 29: 3.
[126] Seng, "Fugitives and Factotums," 158. She finds only two cases of fugitive female slaves.
[127] YK 25: 133.

support.[128] In Maria's case, this remains unknown. Multiple cases, however, involved janissaries and *acemioğlans* as accomplices harboring fugitives. Some members of the military class seem to have been involved in this trade of facilitating escape for slaves.

The Yeniköy court registers present a dispiriting number of entries of slaves captured and returned to their master or sold at a public auction when the master was not found, with the money obtained going to the imperial treasury. These accounts, however, also show that the geographical location of the Bosphorus villages in the greater maritime network of the Black Sea and the Mediterranean provided opportunities, along with many risks, for valiant individuals who, having been enslaved, and with the full knowledge of the delicate edge they had to walk, turned their steps and hopes towards ships docked along the Bosphorus.

The Bosphorus Villages and The City

The kind of mobility covered so far deals with the movements of immigrants, enslaved individuals on the run, merchants unloading their merchandise, or captains docking their ships. It describes various forms, such as long-distance migration from the countryside to the urban centers or inter-city movements. Here, another kind of mobility should also be accounted for: daily excursions of villagers to Galata or *intra muros* Istanbul, to the Greek Orthodox Patriarch's seat in Fener, or to another village across the Bosphorus on the Anatolian side. The Bosphorus villages on the western shore were within walking distance of Galata, the town that was also a

[128] For the levels of the visibility of female slaves, see Kate Fleet, "The Extremes of Visibility: Slave Women in Ottoman Public Space," in *Ottoman Women in Public Space*, ed. Ebru Boyar and Kate Fleet (Brill, 2016), 128–49. See also Veruschka Wagner, "Mobile Actors, Mobile Slaves: Female Slaves from the Black Sea Region in seventeenth-century Istanbul," *Diyar* 2, no. 1 (2021): 83–104.

short boat ride away from Istanbul proper.[129] That is to say, the Bosphorus villages were also within easy reach of the city proper directly by boat. A fare list dating to 1591-92 enlisted the destinations of boats that plied between the coast of the Marmara Sea and the Bosphorus villages. Boats were available to move passengers to Tophane, Beşiktaş, Ortaköy, Kuruçeşme, Rumelihisarı and Istinye.[130] When the numbers of boatmen and boats are compared between 1680 and 1802, there is an undeniably drastic increase in both measures over time until the nineteenth century. However, this should not overshadow the fact that the early seventeenth-century inhabitants of the villages still entertained relatively frequent boat rides to and from the center. One court entry from 1610 identifies a scribe working for the Imperial Council as a resident of Istinye.[131] This can only mean that the scribe was able to make the trip daily to *intra muros* Istanbul and back home in Istinye via boats that were apparently frequent enough to accommodate his commuting. In the presence of the judge of Galata in 1582, a group of residents from Galata, Kasımpaşa, Beşiktaş, and Tophane complained about the traditional boats in use in Istanbul because men and women passengers had to sit side by side without enough physical distance to be maintained in the wave-tossed waters of the Bosphorus, as those boats were too narrow. An imperial order responding to this request instructed the judge of Istanbul to ban the

[129] Mobility as an analytical tool has proved helpful in understanding long-term trends. Among the perhaps most inventive application of this framework to Ottoman history is Reşat Kasaba's book, where he treats the entirety of Ottoman history in a refreshing approach with waves of migrations, displacements, and mobility: Reşat Kasaba, *A Moveable Empire: Ottoman Nomads, Migrants, and Refugees* (Seattle: University of Washington Press, 2009). Whereas Kasaba's work was published before the current refugee crisis began, a more recent keynote lecture titled "The Ottoman Empire and Turkey. A Great Place to visit, a Hard Place to live" by Edhem Eldem for the conference "Narrating Exile in and Between Europe and the Ottoman Empire/Modern Turkey" weaves the themes of mobility of various sorts in the Ottoman domains with the current humanitarian crisis around the Mediterranean and Southwestern Asia: https://www.youtube.com/watch?v=nkaYtsx1CTU [accessed April 17, 2022].
[130] Cengiz Orhonlu, "Boat Transportation in Istanbul: A Historical Survey," *Turkish Studies Association Bulletin* 13, no. 1 (1989): 1–21. For a broader discussion of transportation, see Suraiya Faroqhi, "Camels, Wagons, and the Ottoman State in the Sixteenth and Seventeenth Centuries," *International Journal of Middle East Studies* 14, no. 4 (1982): 523–39.
[131] YK 26: 97-98.

construction of this type of boat and to replace them with those allowing more passengers to board spaciously.[132] It would be misleading to establish the connection between the villages of only one side of the Bosphorous with the city. The inhabitants of Yoros and Şile, two villages of the Asian side that were under the jurisdiction of Üsküdar in the seventeenth century, often appeared as litigants on the other side of the water in the courts of Yeniköy, Istinye, and Rumelihisarı.[133]

The perceptions of villagers, and to a certain extent court personnel, as to the relative distance of the suburban villages of the Bosphorus from the city can be observed from court cases. Legal disputes that can be found in the Yeniköy court registers reveal not only the extent of easily traversable roads, but also greater Istanbul's interconnectedness. In a contract according to which a certain Apostol son of Kiryaki sold a vineyard in Arnavutköy in 1616 to a Jewish woman named Kalbiyye who was represented in the court by her legal agent, the location of the property was described as "next to the thoroughfare to Istanbul."[134] The same road is also identified in another court entry from 1612 as passing near Rumelihisarı.[135] That road to Istanbul was easily traversable, and not only for humans. In 1615, Aişe Ḫātūn daughter of Ilyas Ağa from Rumelihisarı, after getting a *ḫul'* divorce once — which would often require the wife to forego some or all of her material rights in marriage — agreed to remarry her ex-husband, Nebi Bey son of Mustafa. This time around, a stipulation that was added to their marriage contract included conditional divorce, which would take place in the event that the husband did not keep his oath neither to defame Aişe Ḫātūn nor to say inappropriate things about her in coffeehouses in the

[132] BOA, A.{DVNSMHM.d. 48: 27.
[133] See for instance YK 30, 108.
[134] YK 30: 81.
[135] YK 28: 10: "Istanbul yolu demek ile ma'ruf mevżi'de"

Citadel (Rumelihisarı) and Istanbul.[136] The agreement aimed to protect Aişe Ḫātūn's honor vis-à-vis a rumor mill that overflowed through chatter over coffee and across the wide ranges of urban and rural communal gatherings in greater Istanbul. The city and its suburban villages were linked via boats, trails, and, apparently, gossip that just as quickly traveled.[137]

Legal visitors came to the courts of Istanbul from every corner of the empire to resolve their lingering disputes or to secure a firm decision away from the local politics of their place of residence. As illustrated in one legal opinion of the chief jurisconsult, Ḫoca Saʿdeddīn, the ordeal of visiting Istanbul to acquire an imperial order or follow up on an existing judicial case could be demanding of time and money:

> If several people sent Zeyd to Istanbul for a court case and said to him, "However much *akçe* you spend on the issuance of orders and legal opinions as well as on travel expenses, we will give it to you upon your coming back here." and if Zeyd came back after accomplishing the task as requested, would they [the people who sent Zeyd to Istanbul] be able not to give the amount that Zeyd expended over travel and the issuance of orders and legal opinions?[138]

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[136] YK 30: 56. For the inclusion of conditional divorce in marriage contracts comprising restrictive stipulations imposed on the husband, such as abstaining from a second wife, refraining from physical abuse, and not changing place of residence after marriage, see Amira El Azhary Sonbol, ed., "Marriage among Merchant Families in Seventeenth-Century Cairo," in *Women, the Family, and Divorce Laws in Islamic History* (Syracuse, N.Y: Syracuse University Press, 1996), 146-149. For a detailed treatment of this issue during the Ottoman period, see Colin Imber, "'Involuntary' Annulment of Marriage and Its Solutions in Ottoman Law," *Turcica* 25 (1993): 39–73. In the early sixteenth century court registers of Aintab, Leslie Peirce observes that stipulations for conditional divorce in marriage contracts were the most authentically preserved speech forms where idiosyncratic statements were not as much tampered with as in the major forms of divorce cases. Leslie Peirce, "'She Is Trouble… and I Will Divorce Her': Orality, Honor, and Representation in the Ottoman Court of ʿAintab," in *Women in the Medieval Islamic World: Power, Patronage, and Piety*, ed. Gavin Hambly (New York: St. Martin's Press, 1998), 282.

[137] For rumor as a political tool in an expanding public sphere in the aftermath of the deposition and execution of Osman II, Murat Dağli, "Bir Haber Şayi Oldu ki 'Rumor and Regicide,'" *Osmanlı Araştırmaları* 35, 137-180, (2010). For the role of coffeehouses in the dissemination of news and rumors, Uğur Kömeçoğlu, "Homo Ludens ve Homo Sapiens Arasında Kamusallık ve Toplumsallık: Osmanlı Kahvehaneleri," in *Osmanlı Kahvehaneleri: Mekân, Sosyalleşme, Iktidar*, ed. Ahmet Yaşar (Istanbul: Kitap Yayınevi, 2009).

[138] Rabia Salur, "Şeyhülislam Hoca Sâdeddin Efendi`nin Fetva mecmuası ve tahlili" (M.A., Sakarya Üniversitesi, 2019), 162. In the mid-sixteenth century, a petition to the Imperial Council would cost 32 *akçe*, and a written imperial order in response to that petition would cost 38 *akçe*. Necipoglu, *The Age of Sinan*, 56. According to the late seventeenth-century rate, a legal opinion of the chief jurisconsult would cost at least more than 7 *akçe*. Hezarfen Hüseyin Efendi, *Telhîsü'l-beyân fî kavânîn-i Âl-i Osmân*, ed. Sevim İllgürel (Ankara: Türk Tarih Kurumu Basımevi, 1998), 200.

The answer confirms Zeyd's entitlement to the payment if the original agreement is proven. Unlike legal visitors coming to Istanbul from the provinces, residents of greater Istanbul in the early seventeenth century had many options to choose from due to the numerous courts available to them. Theoretically, it was the defendant whose preference for the court of law would be prioritized in case the litigant and the defendant opted for different courts in a city.[139] This principle informs this legal opinion of Ebū's-Suʿūd Efendi:

> When Zeyd the Jew arrived in Galata from Istanbul for an issue, if Amr the Christian said: "You owe me, let us go to the judge of Galata," would Zeyd be able to say: "My judgeship is the judgeship of Istanbul, let us go to him." The answer: Yes, he would.[140]

The Yeniköy court registers kept communications between the judge of Galata and the deputy judge of Yeniköy for the transfer of cases to either court. Likewise, petitions of individuals seeking permission or some form of enforcement in their favor to transfer their cases to other courts in the city were preserved. In a petition recorded in the court registers of Yeniköy, a woman named Kurtişe addressed and directly pleaded to the sultan in 1615 for an unspecified complaint, likely for the collection of debt. Unable to persuade her interlocutors, who were three non-Muslim men, to present themselves together in a specific court, she pleaded: "(…they) do injustice to a poor woman of meager means like me and postpone [a court hearing] by [claiming to appeal] to the Imperial Council or Istanbul, in order not to give me what I am entitled to."[141] Her petition was meant to secure her a court proceeding that would occur in Yeniköy, not

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[139] Abdülaziz Bayındır, *İslâm muhakeme hukuku: Osmanlı devri uygulaması*, İslâmî İlimler Araştırma Vakfı yayınları 7 (Fatih, İstanbul: İslâmî İlimler Araştırma Vakfı, 1986), 95-96.
[140] Abū al-Saʿūd Muḥammad ibn Muḥammad, *Şeyhülislâm Ebussuud Efendi Fetvaları Işığında 16. Asır Türk Hayatı*, ed. M. Ertuğrul Düzdağ (Beyazıt, İstanbul: Enderun Kitabevi, 1972), 99.
[141] YK 24: 88.

elsewhere in the wider city. It is not only the suspense of her delayed and unresolved legal dispute that troubled her, but also the possibility that she might face financial and personal inconvenience to attend to the dispute in a random court across the city. Unlike Kurtişe, who tried to ensure she would not be dragged from court to court, Maide Ḫātūn from Boğazkesen submitted a petition in 1615 to the Imperial Council for permission to transfer her case from Boğazkesen to Galata. Her adversary Mehmed Çelebi, she claimed, slandered her and wanted to torment her with [false] witnesses.[142] She was granted her request; the judge of Galata dispatched a letter to the deputy judge of Boğazkesen and asked him to send the concerned individuals to his court.

Forum shopping for legal matters was not limited to picking up a specific Islamic court in greater Istanbul. It also meant for non-Muslims an option to appeal to their communal legal authorities. Divorce cases from the second half of the seventeenth century in the documents of the Patriarchate, for instance, show couples from το Κερασοχώρι (parts of Kasımpaşa and what is later called Feriköy), τα Ταταύλα (Tatavla), τα Ασώματα (Arnavutköy), το Νεοχωρίον (Yeniköy), το Σταυροδρόμι (Pera), and Μπουγιούκ Ντερέ (Büyükdere), among other places from the wider city and beyond.[143] The choice of going to the Patriarchate for a legal matter

[142] YK 30: 72 and 74. In a similar transfer of a case in response to the petition of a woman named Rabia daughter of Hasan from Sarıyer who wanted her case against two Christians to be heard by the judge of Galata. YK 27: 153. See for another letter from the judge of Galata communicating to the deputy judge of Istinye that a certain person's case should be heard in Galata, YK 26: 121.Unfortunately, such petitions do not reveal much about why such cases were deemed necessary to be transferred to another court.

[143] Gennadios Arapmatzoglou, *Φωτίειος Βιβλιοθήκη: Ήτοι Επίσημα Και Ιδιωτικά Έγγραφα Και Άλλα Μνημεία Σχετικά Προς Την Ιστορίαν Του Οικουμενικού Πατριαρχείου: Μετά Γενικών Και Ειδικών Προλεγομένων (Photieios Vivliotheke: Etoi Episema Kai Idiotika Eggrapha Kai Alla Mnemeia Schetika Pros Ten Istorian Tou Oikoumenikou Patriarcheiou: Meta Genikon Kai Eidikon Proleyomenon)* (Konstantinoupoli: Fazilet Matbaası, 1935), v. 2, 124-166. For an in-depth analysis of these cases from the late seventeenth century, together with relevant court cases of marriage and divorce from the Bab Court of Istanbul, see Gamze Yavuzer, "Legal Plurality in Family Law: Muslim and Christian Families in seventeenth-century Istanbul" (University of Maryland, College Park, 2022). While Greek Orthodox residents of Büyükçekmece frequently showed up in the Islamic courts of Eyüb, Galata, and Yeniköy, they also had a chance to address their issues to the bishopric of Metrai (Çatalca) and Athyra (Büyükçekmece). For a

manifested itself in an unspecified dispute between two Christians in Yeniköy in 1607, as recorded in the Yeniköy court registers. It enables us to catch a striking conversation about the Patriarchate: Yani the Captain, who was seemingly a third party not involved in the dispute at hand in the court, commented, "Down there, there is the great man, let us go to him/there." When asked who the great man is, he replied, "The great man is the Patriarchate [sic]."[144] Not satisfied with the court case he witnessed, Yani spoke out loudly about the other available option for the Greek Orthodox. The patriarchate also features in one of the legal opinions of the chief jurisconsult Ḫoca Saʿdeddīn Efendi:

> Zeyd, an unbeliever, invites Amr, a Muslim, and proves his claim in the presence of a judge. If Amr the Muslim tells Zeyd the unbeliever: "I am not satisfied with this legal decision; let us go to the Patriarchate with you!", what should be done with Amr? The

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thematic list of court entries, with the earliest entry being from 1579, in an ecclesiastical codex of this bishopric, see Kyriake Mamone, "Τρεις Κώδικες Της Επισκοπής Μετρών Και Αθύρα: ο Υπ'αριθ. 182, 1579-1803, ο Υπ'αριθ. 185, 1762-1865 Και ο Υπ'αριθ. 184, 1822-1887 (Treis Kodikes Tes Episkopes Metron Kai Atyra: O Yp'arith. 182, 1579-1803, o Yp'arith. 185, 1762-1865 Kai o Yp'arith. 184, 1822-1887)," *Εταιρεία Θρακικών Μελετών (Etaireia Thrakikon Meleton)* 52 (1956): 133–55. One of the few fully cited entries in this publication shows an order sent to the bishopric of Metrai and Athyra by the Patriarchate in 1588 as the latter authority permits a resident of a village in the vicinity of Athyra (Büyükçekmece) to remarry after the disappearance of his wife twelve years before. It is unclear from the text if it was the husband who wanted to bring his case to the Patriarchate or if this was his last resort after failing to receive the bishopric's permission or if it was only under the Patriarchate's jurisdiction to issue such permissions. Among the entries in the codex of the bishopric are marriage registration, divorce (the earliest one registered in 1584), ecclesiastical permission to marry (άδεια γάμου), dissolution of engagement (διαλυσις μνηστείας), and sale of property. Indeed, a wide range of cases, beyond disputes regarding family law, were brought to the ecclesiastical courts during the Ottoman period. For the example of a land dispute between two Christians in 1667 in Kastoria, see Eustathios Pelagides, *Ο Κώδικας Της Μητροπόλεως Καστοριάς 1665-1769 (O Kodikas Tes Metropoleos Kastorias 1665-1769)* (Thessalonike, 1990), 19.

[144] YK 25: 151. It is not unusual to find this type of tangential comments and records of occurrences among court entries. These tangential comments are mostly raw material that was not shaped and standardized with respect to the norms of the legal language of documents issued by the court. This fleeting mention of the Patriarchal Court in Istanbul is noteworthy. Historians working primarily on court registers from Anatolia have noticed the absence of any reference to other legal venues such as ecclesiastical or communal courts in Islamic court registers and have questioned whether such venues were at all available in pre-modern Anatolia. See, for instance, both Ronald Jennings and Suraiya Faroqhi in their respective works on central Anatolian cities in the 17th century: Ronald C. Jennings, "Zimmis (Non-Muslims) in Early 17th Century Ottoman Judicial Records: The Sharia Court of Anatolian Kayseri," *Journal of the Economic and Social History of the Orient* 21, no. 3 (1978), 271 and 274; Suraiya Faroqhi, *Men of Modest Substance: House Owners and House Property in Seventeenth-Century Ankara and Kayseri*, Cambridge Studies in Islamic Civilization (Cambridge; New York: Cambridge University Press, 1987), 200-201. While one can argue that in central Anatolia, the ecclesiastical courts might be missing, it might be also futile to seek evidence from Muslim court registers to prove the existence of other communal venues.

> answer: He would become an unbeliever. If he renewed his faith with genuine repentance, he would escape from capital punishment and receive heavy discretionary punishment.[145]

What is in question here in Ḫoca Saʿdeddīn's legal opinion is not the authority of the Patriarchate but rather the disregard of a Muslim for a legal decision reached in an Islamic court. As argued by Anastasopoulos, the Ottoman legal scholars perceived ecclesiastical courts as yet another venue of amicable settlement (*ṣulḥ*), akin to any dispute resolution concluded between the concerned parties out of the Islamic court.[146] A mid-sixteenth-century court entry from Üsküdar exhibits this nature of the ecclesiastical courts: from the village of Kadıköy on the Anatolian side, the Greek Orthodox Synadinos son (*b.)* of Manol claims in the Islamic court of Üsküdar that Ali son of Abdullah owed him 80 *akçe*.[147] In his defense, Ali argued that they had previously settled the issue in the presence of the metropolitan bishop for one gold coin, and he had accordingly paid his debt. When Synadinos rejected the occurrence of the settlement before the metropolitan bishop, the witnesses for Ali's claim were two Greek Orthodox men: Aleksi son (*b.)* of Karaoğlan and Dimitri son (*b.)* of Yorgi. The judge accepted their testimony. The Greek Orthodox of the Bosphorus villages were frequenting their communal legal institutions, and their appeal to these institutions was an option well-known by their Muslim neighbors, too, to the extent of making Muslims consider it a viable option for an out-of-Islamic-court settlement. In

[145] Rabia Salur, "Şeyhülislam Hoca Sâdeddin Efendi`nin Fetva mecmuası ve tahlili" (M.A., Sakarya Üniversitesi, 2019), 245.
[146] Antonis Anastasopoulos, "Non-Muslims and Ottoman Justice(s?)," in *Law and Empire: Ideas, Practices, Actors*, ed. Jeroen Duindam et al. (Brill, 2013), 275–92.
[147] Coşkun Yılmaz, ed., *İstanbul Kadı Sicilleri Üsküdar Mahkemesi 14 Numaralı Sicil (H.953-955/ M. 1546-1549)* (İstanbul: İslâm Araştırmaları Merkezi (İSAM), 2010), sayfa: 214 Hüküm no: 430 Orijinal metin no: [61a-1]. For a similar debt dispute, but between two Greek Orthodox men, that was previously settled in the presence of the metropolitan bishop and later brought to the Muslim judge of Üsküdar, see ibid., sayfa: 202 Hüküm no: 391 Orijinal metin no: [56a-2].

fact, the debt settlement between Synadinos and Ali, as concluded by the metropolitan bishop, anecdotally runs counter to the historiographical consensus that the Greek Orthodox ecclesiastical courts in the Ottoman context, just like other communal courts, had the limited means of enforcement that made them a less viable option for financial disputes.

Adjusting our lenses to include the Bosphorus villages in conceptualizing early modern Istanbul is all the more necessary, given this background of interconnectedness that is legal, cultural, social, and economic. Robert Mantran's classical study of seventeenth-century Istanbul lists the villages of the Bosphorus altogether as one of the outer quartiers of Istanbul along with such quarters as Galata, Tophane, Üsküdar and those of Golden Horn, such as Kasımpaşa.[148] In his early twentieth-century writings, popular historian Ahmet Refik calls Silivri (a town that is even today outside of the metropolitan area in its strictest sense) a neighborhood of Istanbul. Their twentieth-century perception of Ottoman Istanbul aligned with the Ottomans' all-pervading city views. For example, the district of Tophane, located along the Bosphorus coast down the hill upon which the Cihangir mosque was constructed, found its place in Laṭīfī's sixteenth-century *Evṣāf-ı İstānbūl*.[149]

[148] Robert Mantran, *17. yüzyılın ikinci yarısında İstanbul: kurumsal, iktisadi, toplumsal tarih denemesi*, trans. Mehmet Ali Kılıçbay and Enver Özcan (Ankara: V yayınları, 1986), 85-88.
[149] Hatice Aynur, "Şehri Sözle Resmetmek: Osmanlı Edebî Metinlerinde İstanbul," in *Antik Çağ'dan XXI. Yüzyıla Büyük İstanbul Tarihi*, vol. 7 (İstanbul, 2015), 141.

Figure 2: Map of the western hinterland of Istanbul proper (made with QGIS)

The perceived urban-rural fringe, however, can also be attested in Ottoman-era sources. In a list compiled in 1604 by Antonios Paterakis of Athens, a church in Tatavla is placed under the headline "End of the City. Beginning of the Villages and […] of *Hasion*."[150] *Hasion* here apparently corresponds to the judgeship of Haslar (Eyüb). In Paterakis' understanding, the city ended beyond Tatavla. As a foreign visitor to Istanbul, the Frenchman du Fresne-Canaye also perceived the city along with its far-fetched regions in 1573: "A single continuous city from the vineyards of Pera up to the Black Sea."[151] Another demarcation was made in an imperial order from the early seventeenth century when an imperial gatekeeper was appointed to collect the

[150] Arapmatzoglou, *Photieios Vivliotheke*, vol 2, 45. The list is published by A. Papadopoulos-Kerameus, "Ναοί Της Κωνσταντινουπόλεως Κατά Το 1503 Και 1604 (Naoi Tes Konstantinoupoleos Kata to 1503 Kai 1604)," *Περιοδικόν Του Ελληνικού Φιλολογικού Συλλόγου Κωνσταντινουπόλεως (Periodikon Tou Ellenikou Philologikou Syllogou Konstantinoupoleos)* 28 (1904): 118–44.
[151] Necipoğlu, "The Suburban Landscape of sixteenth-century Istanbul," 33.

poll-tax from Armenians who were residents in places stretching "from Anadoluhisarı up to the Strait (i.e., to the coast of the Black Sea) and likewise from Rumelihisarı upwards."[152] In the 1580s, Iakovos Meloites (d. circa. 1588), about whom the only known biographical information is that he was born in Patmos, also made a similar distinction between the urban stretch reaching all the way to the Black Sea and the remaining inland hinterland. In his itinerary around greater Istanbul after 1584, Yeniköy and Tarabya were called small cities as opposed to Kıyıköy (*Μήδια*), which was the first village Meloites mentioned after reaching the Black Sea from the Bosphorus and which he qualified as the countryside (χώρα).[153]

This urban-rural fringe, be its starting point Anadoluhisarı or Tatavla, is helpful to qualify the experiences of the villagers of the Bosphorus. Take the example of a disruptive remark of a mid-sixteenth-century poet, "It would be good if the Kızılbaş were to reach Üsküdar and the infidels Çekmece."[154] The poet sees Üsküdar and Çekmece — the former being the starting point of the army for Anatolian campaigns and the latter a Thracian village on the way to Silivri and a distant dependent of the Eyüb district during Ottoman times — as the gates leading to the imperial throne and the localities where, should the armies of enemies lay siege to the imperial city, the sultan would feel threatened. Notably, Çekmece was chosen to mark the safe zone around Istanbul proper for an imaginary siege from the land.

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[152] YK 29: 78.
[153] Spyridon Papageorgiou, ed., "Ὁδοιπορικόν Ιακώβου Μηλοϊτη (Odoiporikon Iakovou Meloite)," *Παρνασσός (Parnassos)* 6 (1882), 636. For Meloites, see Stefanos Yerasimos, *Les voyageurs dans l'Empire Ottoman, XIVe-XVIe siècles: bibliografie, itinéraires et inventaire des lieux habités*, Publications de la Société turque d'histoire. Serie VII, no. 117 (Ankara: Société turque d'histoire, 1991), 366-367.
[154] I have become aware of this verse from Zeynep Tezer's dissertation, where it is cited from Aşık Çelebi, Meşâ'irü'ş-Şu'arâ, 2010, 2: 652. "Miskīn her zemānda Ḳızılbaş Üsküdar'a ve kāfir Çekmece'ye gelse eyü ḥādiṣe idi." Zeynep Tezer, "The Poet Smiles to the Fool: Critical Discourse and Marginalization in the Ottoman Empire, ca. 1550–ca. 1650" (Ph.D. Dissertation, The University of Chicago, 2023).

Given this background, it becomes clear that by the early seventeenth century, the Ottomans opted for a distinction to be occasionally made between *intra muros* and greater Istanbul. One way of marking this difference was in the use of *Islāmbol* (lit. "abounding with Islam") for *intra muros*, while reserving *Istānbūl* for the greater region that encompassed the other three towns as well as their dependencies. An early eighteenth-century manuscript copy of Pīrī Reʾīs' (d. 1553) *Kitāb-ı Baḥriye* opts for this same distinction (Fig. 1).[155] Another duality that the Ottomans put into use to make the same distinction is Kostantiniyye and Istanbul — in this pair, the former in reference to greater Istanbul and the latter to the walled city.[156] Another way of specifying *intra muros* Istanbul as opposed to its surroundings was *nefs-i Istanbul*. These distinct uses were not always consistent but often used interchangeably. When the distinctions were needed, though, it reflected an understanding of the walled city of Istanbul being in an unbreakable symbiosis with its surroundings, scaling back and forth between the walled city and a wider urban stretch.

[155] Süleymaniye Manuscript Library, Ayasofya 3161, 201a. Both the seal and the endowment record of the manuscript indicates that it was endowed by Mahmud I (r. 1730-1754).

[156] In an email exchange over the H-TURK listserv on May 5, 2001, Daniel Goffman expressed this impression of his that the Ottomans used Kostantiniyye for greater Istanbul and Istanbul for the walled city in the sixteenth and seventeenth centuries. See https://lists.h-net.org/cgi-bin/logbrowse.pl?trx=vx&list=h-turk&month=0105&week=a&msg=C6m5NUBfgbVaRU5e0stKTw&user=&pw= (accessed January 3, 2024). The entire thread over this topic on H-TURK is interesting; my goal here is not to establish precisely when the Ottomans used either name of the city but rather to buttress Goffman's impression that sometimes the Ottoman's use of a specific name for the City was deliberate and meaningful. For a long list of names used for Istanbul in manuscripts, see Sami Arslan, *Osmanlı'da Bilginin Dolaşımı: Bilgiyi İstinsahla Çoğaltmak* (Istanbul: Ketebe Yayınları, 2020), 242-248.

Figure 3: Map of greater Istanbul from Pīrī Reʾīs' (d. 1553) *Kitāb-ı Baḥriye* (Süleymaniye Manuscript Library, Ayasofya 3161, 201a). At the very top of the image, the map is called "Eşkāl-i İstānbūl," which is composed of Galata, Üsküdar, and *intra muros*, which is called *Islāmbol*.

In the case of the western Bosphorus villages, what should these localities then be called? Are they villages in the countryside or suburbs? The answer to this question should take into account the manifold qualities of these villages: labor force, tax base, and the great responsibility of feeding the capital, among others. The Yeniköy court registers kept naming the Bosphorus villages as "villages" (*ḳarye*, in plural *ḳurā*) throughout the period under study, with Istinye or Yeniköy occasionally designated as deputy judgeship (*nāḥiye*) due to the presence of a deputy judge serving there. There were deputy judges in some other villages such as Rumelihisarı, whose distinct ledgers of court entries can be found among the court registers inventoried and classified as the Yeniköy Court Registers in the digital collections at the Ottoman Archives (BOA) and at ISAM. In fact, the court registers of Yeniköy dating to 959 (Islamic calendar) can be counted among the earliest extant court registers of greater Istanbul, with those of Üsküdar dating to 919, Galata dating to 943, Hasköy 955, Beşiktaş and Tophane to 960, and Eyüb to 978.[157] Beşiktaş was often mentioned as a town (*ḳaṣaba*), more of an explicit urban branding, in its court registers.[158] Moving away from the court registers, Evliya Çelebi's travel account refers to a variety of the Bosphorus villages, such as Ortaköy, Kuruçeşme, Arnavutköy, Istinye, Yeniköy, Tarabya, Büyükdere, Beykoz, Çengelköy, and Sarıyer, as town (*ḳaṣaba*), while naming Beşiktaş as a city (*şehir*).[159]

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[157] Abdülaziz Bayındır, *İslâm muhakeme hukuku: Osmanlı devri uygulaması* (İstanbul: İslâmî İlimler Araştırma Vakfı, 1986), 27-28. Note that while the earliest extant court registers among the residential jurisdictions belong to Üsküdar, the registers of imperial pious endowments date to an even earlier period, namely to 888.
[158] Coşkun Yılmaz, ed., *İstanbul Kadı Sicilleri Galata Mahkemesi 20 Numaralı Sicil (H. 1005-1007 / M. 1596-1599)* (İstanbul: İslâm Araştırmaları Merkezi (İSAM), 2012), 56a.
[159] Evliya Çelebi, *Evliya Çelebi Seyahatnâmesi*, ed. Orhan Şaik Gökyay et al. (İstanbul: Yapı Kredi Yayınları, 1996), vol 1, 209-219.

Apart from the presence of numerous deputy judges, the construction of mosques in the Bosphorus villages, mainly from the sixteenth century onwards, can only be explained by the demographic, social, and economic significance of these areas in close proximity to the imperial city.[160] When approached from a legal perspective on conditions for the performance of Friday prayers in a locality, it can be seen that post-classical jurists of the Hanafi legal school struggled with reaching a clear-cut differentiation of urban and rural dwellings and establishing a sharp distinction for instance, between a large village and a small town, much like modern urban sociologists' discussions over such terminology.[161] Urban historians and urban sociologists working on the theoretical framework of such concepts as periphery, center, hinterland, and suburban and urban/rural divide of a megalopolis have questioned dichotomies of this sort, factoring in often overlapping administrative, economic, cultural, ecological, and climatic spatial units with different and conflicting boundaries.[162]

The late sixteenth-century reorganization of the judicial districts in greater Istanbul should be analyzed against the background of an urban-rural continuum and the demographic and economic conditions described in this chapter. As discussed earlier, the Bosphorus villages were administratively linked to the judgeship of Haslar in the early sixteenth century. This continued into the middle of the sixteenth century when, for example, Kuruçeşme, as a

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[160] For a discussion of the importance of religious infrastructure both in city hinterlands and rural villages in Ottoman Syria and Palestine, see James Grehan, *Twilight of the Saints: Everyday Religion in Ottoman Syria and Palestine* (Oxford: Oxford University Press, 2014), 21-41.

[161] Baber Johansen, "The All-Embracing Town and Its Mosques: Al-Misr al-Gâmi," in *Contingency in a Sacred Law: Legal and Ethical Norms in the Muslim Fiqh* (Leiden; Boston: Brill, 1999), 89.

[162] See Nikos Katsikis, "From Hinterland to Hinterglobe" (Ph.D. Dissertation, Harvard University, 2016). Özlem Altınkaya Genel, in her doctoral dissertation, focuses on the early twenty-first-century transformations of Istanbul by emphasizing the historical unity of the whole Marmara basin. See Özlem Altınkaya Genel, "Shifting Scales of Urban Transformation: The Emergence of the Marmara Urban Region between 1990 and 2015" (Ph.D. Dissertation, Harvard University, 2016).

Bosphorus village, was still mentioned in a court entry as linked to Haslar.[163] In the second half of the sixteenth century, significant changes were initiated in the judicial districts around Istanbul proper. Üsküdar, after first having been detached from the judgeship of Gebze and then turned into a judgeship on its own in the early sixteenth century, came to encompass Şile and Kandıra as its deputy judgeships in 1583, when it gained the dignitary rank for its officeholder.[164] Similarly, the villages of the western shores of the Bosphorus, from Fındıklı to the Black Sea, were defined as attached to the judgeship of Galata in 1580, creating one dignitary judgeship each for Haslar and Galata.[165]

When Bahā'e'd-dīn-zāde Efendi (d. 1588) was appointed as judge to Galata under this new configuration, he withdrew from the appointment by complaining to the grand vizier that the previous jurisdiction of Galata encompassing Haslar would have been suitable for his dignitary merit and that, with the newly made jurisdictional division, the judgeship of Galata was falling short of financial necessities of his dignitary rank.[166] Bahā'e'd-dīn-zāde Efendi's complaint was brushed aside. Another dignitary judge gladly accepted the office in his stead. The new jurisdiction of the judgeship of Galata, with its share of villages to the north, would remain in

[163] Coşkun Yılmaz, ed., *İstanbul Kadı Sicilleri Beşiktaş Mahkemesi 2 Numaralı Sicil (H. 966-968 / M. 1558-1561)* (İstanbul: İstanbul Büyükşehir Belediyesi, Kültür A.Ş Yayınları, 2019), sayfa: 302 Hüküm no: 635 Orijinal metin no: [84a-3].
[164] İsmail Hakkı Uzunçarşılı, *Osmanli Devletinin Ilmiye Teşkilâti*, Türk Tarih Kurumu Yayınları, no. 17 (Ankara: Türk Tarih Yurumu Basimevi, 1965), 96. For the institutionalization of Üsküdar as a separate judgeship, see Bilgin Aydın and Ekrem Tak, "Üsküdar Mahkemesi ve Sicilleri," in *İstanbul Kadı Sicilleri Üsküdar Mahkemesi 1 Numaralı Sicil (H. 919-927 / M. 1513-1521)*, ed. Coşkun Yılmaz (İstanbul: Türkiye Diyanet Vakfı İslâm Araştırmaları Merkezi (İSAM), 2008), 17–23. 17-18.
[165] Fikret Yılmaz, "Osmanlı Hanedanı, Kullar ve Korsanlar: Beşiktaş'ın Doğuşu ve İktidar Rekabeti. (1534-1557)," *Journal of Turkish Studies* 52 (2009), 415.
[166] Nev'îzâde Atâyî, *Hadâ'iku'l-Hakâ'ik Fî Tekmileti'ş-Şakâ'ik* (Türkiye Yazma Eserler Kurumu Başkanlığı, 2017) vol. 1, 897.

effect. The growing population of greater Istanbul could sustain its quadruple districts, with the courts presided over by a dignitary judge in each district.

With the explicit inclusion of the western Bosphorus villages under the judgeship of Galata, the jurisdictional separation between inland (around Haslar) and littoral territories (the Bosphorus) should not come as a surprise. The demographic and geographic expansion of Istanbul proper and its adjacent districts over the late fifteenth and sixteenth centuries may have dictated the conditions for reshuffling administrative and judicial jurisdictions. The boundaries of judicial districts depended on financial revenues extractable from the resident population. The separation of Haslar and Galata as two distinct judgeships capable of sustaining judges of dignitary status shows that the population increase in these regions was sufficient to support this jurisdictional move.

The same kind of jurisdictional reorientation occurred in the reorganization of the metropolitan bishopric of Derkoi (tr. Terkos). One of the earliest mentions of the metropolitan see of Derkoi after Constantinople's conquest dates to 1466 in an order issued by the Patriarchate addressing the metropolitan bishop of Derkoi and the bishop of Metrai (Çatalca).[167] After 1466, there seemed to have been a hiatus in the ecclesiastical appointments to this post, which means that in the meantime, the metropolitan bishopric of Derkoi disappeared and that its territories and jurisdictions were placed under either the Patriarchate itself or other bishoprics in Thrace. The history of changes in the ecclesiastical organization of the Greek Orthodox Church is fuzzy. However, it is clear that the metropolitan bishopric of Derkoi was re-institutionalized by 1655,

[167] Demetrios Kampouroglou, *Μνημεία Της Ιστορίας Των Αθηναίων (Mnemeia Tes Istorias Ton Athenaion)* (Athena, 1890), vol. 2, 354. Vaporis notes: “In the fourteenth century, Derkoi lost its rank of archdiocese only to be re-established in 1685, at which time the diocese of Neochorion [Yeniköy] was added to it.” There seems to be some confusion on the part of Vaporis as to the exact time of the reconstitution of this historical bishopric.

with its residence in Tarabya.[168] The Greek Orthodox Patriarchate revived this historical bishopric in order to cover the territorial region similar to the combined administrative units of Galata and Haslar, including their villages.[169] Social, economic, and demographic changes in Yeniköy and other Bosphorus villages must have led to the reconstitution of this historical bishopric.[170] The parallels or possible motives for the separation of Haslar and Galata as judgeships by the Ottoman administration and the restructuring of the bishopric of Derkoi by the Patriarchate should be analyzed comparatively. The management of resources and revenues, and population growth along the Bosphorus, or more broadly in greater Istanbul, must be behind the similar decisions made by the imperial court and the Patriarchate within about seventy years.

Conclusion

In this chapter, I have shown the gradual integration of the western Bosphorus villages into greater Istanbul's urban terrain. In this integration, the provisioning of Istanbul, the administration of state lands near the city, the absorption of migration in its hinterland, and the imperial city's security all played a role. The imperial administration responded to these developments by establishing three separate judgeships (Galata, Eyüb, and Üsküdar), creating a

[168] Konstantinos Sathas, *Μεσαιωνική Βιβλιοθήκη ή Συλλογή Ανεκδότων Μνημείων Της Ελληνικής Ιστορίας (Mesaionike Vivliotheke e Sylloge Anekdoton Mnemeion Tes Ellenikes Istorias)* (Venetia, 1872), vol. 2, 590-91; Arapmatzoglou, *Photieios Vivliotheke*, vol. 2, 45-46, citing from Manuel Gedeon, *Πατριαρχικοί Πίνακες: Ειδήσεις Ιστορικαί Βιογραφικαί Περί Των Πατριαρχών Κωνσταντινουπόλεως: Από Ανδρέου Του Πρωτοκλήτου Μέχρις Ιωακείμ Γ' Του Από Θεσσαλονίκης 36-1884 (Patriarchikoi Pinakes: Eideseis Istrorikai Viografikai Peri Ton Patriarchon Konstantinoupoleos: Apo Andreou Tou Protokletou Mechris Ioakeim III Tou Apo Thessalonikes 36-1884)* (Konstantinoupoli, 1885), 584.

[169] Vaporis, "A Study of Ziskind Manuscript No. 22 of the Yale University Library," 35-36.

[170] Both Vaporis and Papadopoullos provide numerous examples of the shrinking or expanding of ecclesiastical districts, with the consequences of changes in the hierarchical ranks of regions. Whereas the diminishing flock of a region lowered its ecclesiastical rank, the population increase of a territory resulted in the recognition of a higher status in the ecclesiastical organization. Vaporis, "A Study of Ziskind Manuscript No. 22 of the Yale University Library"; Theodoros Papadopoullos, *Studies and Documents Relating to the History of the Greek Church and People under Turkish Domination* (Brussels, 1952).

uniform tax zone in greater Istanbul, and taking advantage of a tax and labor base that voluntarily came to its center. From the perspective of the denizens of and newcomers to these villages, the shores of the Bosphorus presented a relatively easy entry point to a sense of safety, neighborhoods, and professional and religious networks already in place in close proximity to the imperial center.

In this study, while referring to the Bosphorus villages, I will use terms of suburbs, villages, and suburban villages interchangeably and at liberty in the following pages, for my sources incline towards this kind of rural-to-urban transition with no clear designation. I hope that my leaving the terminology crudely loose in this respect will be put into perspective in the following chapter, where I discuss the fate of the Yeniköy church in the aftermath of a judicial debate in the early seventeenth century between the judge of Galata and the chief jurisconsult. This debate, too, reached a conclusion with a discussion of the adjacent nature of Yeniköy vis-à-vis the city.

Chapter 2: A Judicial Predicament following a Christian Religious Parade in the streets of Yeniköy of Galata

The previous chapter has established the social dynamics and the changing circumstances affecting daily life in the western Bosphorus villages by the early seventeenth century. This chapter will focus on an early seventeenth-century legal debate that occurred after a complaint regarding a Christian procession in the streets of Yeniköy, one of the villages on the western shores of the Bosphorus. The debate was triggered in the process of the certification of a legal document issued by Taşköprüzāde[1] Kemāleddīn Efendi (d. 1621) in the law court of Galata after the complaint. The initial disagreement over a phrase in the document triggered a vehement exchange of arguments between the judge of Galata Taşköprüzāde Kemāleddīn Efendi and the chief jurisconsult Ḫocazāde Meḥmed Efendi (d. 1615). Their debate was concluded with a discussion of the status of Yeniköy as a village, its contested existence at the time of the conquest, and the status of the church around which the religious procession had been organized. In the end, a disagreement between two legal authorities concerning a legal document in the Ottoman administration culminated in the demolition of a church in Yeniköy.

In explicating the arguments presented in the debate, I focus primarily on two things. On the one hand, I trace the mutual transformation of legal and urban facts due to the evolution of

[1] Modern renderings of this epithet come in many forms, but mainly as Taşköprüzāde, Taşköprīzāde in line with Arabic orthography, or Taşköprülüzāde with the Turkish suffix -lü to indicate place of origin. For the occurrences of each of these orthographic versions, see Mustakim Arıcı and Mehmet Arıkan, *Taşköprülüzâdeler ve İsâmüddin Ahmed Efendi* (İLEM Yayınları, 2020), 9-11. Arıcı and Arıkan have spotted the use of Taşköprülüzāde in court registers during Taşköprüzāde Aḥmed's tenure as the judge of Istanbul as well as in some contemporaneous manuscript copies. At the same time, however, they have noted the use of Taşköprüzāde by Taşköprüzāde Aḥmed himself in *al-Shaqāʾiq* as well as in his ownership statements (*tamalluk*) in his books. I forego the Arabic orthography of Taşköprīzāde after a contemporaneous explanation provided on how the epithet lost its Turkish suffix -lü — hence my rendition of this family epithet as Taşköprüzāde throughout this dissertation. Arıcan and Arıkan, however, end up opting for Taşköprülüzāde.

greater Istanbul's urban history. On the other hand, I point out two developments in Ottoman judicial practice: First, the typical classification of legal documents was supported via the standardization of signature templates in document formulation. Secondly, a restrictive and prohibitive tone was adopted about the religious and social affairs of non-Muslims in Ottoman administrative and legal documents.

The debate itself unfolds in three polemical exchanges preserved in two manuscript copies, a brief codicological discussion of which will be covered in an excursus at the end of this chapter.[2] The first section of each manuscript is in the form of an epistle written by the judge of Galata, the second part legal opinions written or issued by the chief jurisconsult, and finally, the third part a response, again in the form of an epistle, from the judge to the chief jurisconsult's legal opinions. There is no circumstantial evidence of how these texts were exchanged between these two individuals. Did it happen in a scholarly gathering, perhaps in the sultan's presence? In a session of the Imperial Council (*Dīvān-ı Hümāyūn*)? Were the epistles widely circulated? There is no evidence from chronicles or biographical accounts to weigh these questions.

In what follows, I will discuss in detail the arguments presented by the two sides of the debate. In doing so, particular attention will be drawn to several aspects of Ottoman legal culture, such as the intricacies of legal translations, especially in the registration of court cases, and the Ottoman standardization of different types of legal documents via the conventions of document certification.

[2] The two copies I work on are Ms.or.oct. 985 of the Berlin State Library (henceforth Berlin MS) and Aşir Efendi 417 of Süleymaniye Manuscript Library (henceforth Süleymaniye MS). Additional copies of the debate might very well be found eventually in manuscript collections worldwide, as there are problems of misattribution even in the two known copies at hand. For this, see the excursus at the end of this chapter.

The Debate
Part 1: Defending a Legal Document

At the beginning of the first epistle, Kemāleddīn Efendi, the judge of Galata at the time of the debate, narrates how an imperial gatekeeper (*bevvāb*), resident of Yeniköy, initiated a legal case in the court of Galata. The imperial gatekeeper, together with Muslim residents of Yeniköy, complained about the Christians of the village who, the gatekeeper claims, organized religious processions in the streets of the village during their holy days while *publicly* parading around with crosses, icons, and other religious paraphernalia. Although the Christians of the village denied the charges in court, the accusation was then proved based on eyewitness testimonies. The Christian villagers were ordered not to repeat these acts, and a legal document was issued accordingly. The judge of Galata gave the document to the gatekeeper tasked with delivering it to the chief jurisconsult so that the latter could approve (*imżāʾ*) it. When presented with the document, the chief jurisconsult crossed out a part of the document on the ground that it had been formulated with a wrong expression. The document was sent back to the judge to amend its phrasing.

These are the only known details of the initial legal case, as described in the summary Kemāleddīn Efendi provides at the beginning of his epistle.[3] He then sets out by quoting the relevant part of the court document, which he issued earlier in Turkish, and out of which the chief jurisconsult struck out a particular phrase:

[3] I could not locate this legal case in Galata's court registers. I will elaborate on the debate's dating further in my discussion of the two manuscript copies in which this debate can be followed; my chronological assessment potentially dates this event to between 1608 and 1611 based on certain contextual evidence. However, the court registers of Galata from these years are only partially extant. There is, of course, still the possibility of the original legal document being crammed, reproduced, or copied in another year of the extant court registers of Galata or perhaps even of Yeniköy.

> Based on the aforementioned reason, since it has been proven that they [i.e., the Yeniköy Christians] displayed [religious paraphernalia] in public, they have been unequivocally and strictly warned against doing so outside the church and displaying it [religious paraphernalia or unbelief in the broader sense] in public, and they have been forbidden from displaying it openly, and [commanded] that, *even if they do, they do it surreptitiously* within their church.[4]

Kemāleddīn Efendi clarifies that it was the phrase "even if they do, they do it surreptitiously" that the chief jurisconsult Ḫocazāde Meḥmed Efendi considered to be a mistake in the document. In his defense in the epistle, Kemāleddīn Efendi states that these expressions were merely a translation, without alteration, from Arabic into Turkish from reputable books of the early authorities of the Ḥanafī school of legal thought.[5] In support of his defense, he cites Ibn al-Humām's (d. 1457) *Fatḥ al-Qadīr*, a commentary on *al-Hidāya* of Burhānaddin al-Marghīnānī (d. 1196), and Ibn Nujaym's (d. 1563) *al-Baḥr al-rā'iq*, a commentary on al-Nasafī's (d. 1310) *Kanz al-daqā'iq*. A direct quote he provides from Ibn al-Humām is in Arabic and given as such in the epistle:

> And if it is known that it [a town, *balda* in Arabic] was conquered by contract, we rule that they [conquerors] recognize them [existing religious buildings] as places of worship and that they [non-Muslims] are not prevented from this [worshipping] in them [i.e., places of worship] but instead they are banned from making it [their worship] visible (*iẓhār*). Look into al-Karkhī's statement: if there is a religious festival of theirs during which they take out their crosses and other things, *let them do* (فليصنعوا; *fa'l-yaṣnaʿū*) *in*

[4] Berlin MS, 3a; Süleymaniye MS, 321a.
[5] For the emergence of canon consciousness among scholarly and judicial circles in the Ottoman Empire concerning the texts of the Ḥanafī legal tradition, see Guy Burak, "Reliable Books: Islamic Law, Canonization, and Manuscripts in the Ottoman Empire. (Sixteenth to Eighteenth Centuries)," in *Canonical Texts and Scholarly Practices: A Global Comparative Approach*, ed. Anthony Grafton and Glenn W. Most (Cambridge, United Kingdom: Cambridge University Press, 2016), 14–33; Pehlul Düzenli, "Osmanlı Fetvasında 'Muteber Kaynak' ve 'Müfta Bih Mesele' Problemi," *Türkiye Araştırmaları Literatür Dergisi* 11, no. 22 (2017): 9–78.

their old churches[6] *such things as they wish*. As for their taking it [the cross or religious paraphernalia in general] out of the churches so that it appears in the city, they may not do this; let them go out surreptitiously from their churches.[7]

The quote rules that the religious festivals of non-Muslims could be celebrated only within the premises of non-Muslim places of worship in lands conquered by Muslims by way of contract.[8] Consequently, by definition, non-Muslims were prohibited from public manifestation of their religious practice in cities.[9] Based on this quote, Kemāleddīn Efendi asserts that his writing of "even if they do, they do it surreptitiously within their church" in the legal document is merely a rendering in Turkish of the opinions of such early authorities as al-Karkhī (d. 952), a tenth-century Ḥanafī jurist from Iraq. He argues that the original expression of "let them do" (or "they may do") (فليصنعوا; *fa'l-yaṣnaʿū*) in Arabic, which is a conjugated verb in the third person plural as an indirect imperative in Arabic, is for unrestricted choice (*ibāḥa*) with regards to Christians performing their rite within the confines of a church.

According to Kemāleddīn Efendi, al-Karkhī's statement is ambiguous in a manner so as even to allude to a greater degree of legal dispensation (*rukhṣa*) accommodating Christians' going out of their church with religious paraphernalia, albeit surreptitiously. On the contrary, his

[6] In my translation of the word *kanīsa* in this section, I interchangeably use both "church" and "place of worship" because the case at hand that this quotation was applied to concerns the Christian villagers of Yeniköy. However, it is important to note that the word *kanīsa* might refer to both Christian and Jewish places of worship in Ottoman documents, that is to say, places of worship of the people of the Book. Translations are mine unless otherwise stated.
[7] Berlin MS, 3b; Süleymaniye MS, 321b. Ibn al-Humām, Sharḥ Fatḥ al-Qadīr ʻalá al-Hidāya sharḥ Bidāyat al-mubtadī, Bayrūt: Dār al-Kutub al-ʻIlmīya, 2017, vol. 6, 55.
[8] More elaboration on the status of land as defined by way of conquest by Muslims will follow later in the chapter.
[9] The prohibition on the public display of non-Muslim religious practice, especially in cities and mixed settlements, is commonly expressed in the versions of Pact Umar. The same principle is reiterated in the peace treaties contracted at the times of conquest and in the early Ottoman law books. For the example of the aftermath of the conquest of Constantinople, Halil İnalcık, "Ottoman Galata, 1453–1553," in *Essays in Ottoman History* (Eren Yayıncılık, 1998), 271–374; Ahmet Akgündüz, ed., *Osmanlı kânûnnâmeleri ve hukûkî tahlilleri* (İstanbul, Turkey, 1990), vol. 1: 476-479.

formulation of the legal document overcomes such ambiguity, and adds an extra layer of prohibition, emphasizing "they may not publicly display it" as a negative command explicitly rendered in Turkish. From Kemāleddīn Efendi's perspective, this is a matter of legal translation: he relies on books of jurisprudence in Arabic while issuing a court document in Turkish. He asserts that adherence to the conciseness of the original texts of the Ḥanafī authorities as closely and faithfully as possible would have generated the same kind of ambiguity that overshadows the meaning of the Arabic imperative in the original sources. To ward off hints of obscurity, he amplifies these legal authorities' concise language in the original imperative of "let them do" in Arabic by assertively stating, with a negative command in his translation, the prohibition of public manifestations of Christian religious practice. Since he approaches the debate as a disagreement over a translation challenge, he asserts that "the erudite learned class who are familiar with the field of literary styles of speech and the areas of the requirements of precision"[10] would comprehend his choices in translation. He insinuates that he does not consider the chief jurisconsult to be among those scholars knowledgeable about linguistic precision and legal translation.

In this first installment of the debate, Kemāleddīn Efendi approaches the crossed-out expression in the legal document solely from an angle of legal translation. He concludes this first epistle by stating that the chief jurisconsult was quibbling about the formulation of the legal document from the court of Galata, and his rejection of the document's approval was no less than an insult. Moreover, Kemāleddīn Efendi adds that the chief jurisconsult, in insulting a judge who was following his school's tradition, insulted those legal authorities established in the legal

[10] "ʿārif-i esālīb-i fāris-i meydān-ı kelām ve mürāʿī-ı muḳteżayyāt-ı tamām olan ʿulemā-ı aʿlāma maʿlūmdur" Berlin MS, 4a; Süleymaniye MS, 322a.

school — the very authorities that Kemāleddīn Efendi consulted with in composing the legal document for the Yeniköy incident.

Part 2: Five Legal Opinions against the Defended Document

The second part of the debate consists of the chief jurisconsult Meḥmed Efendi's legal opinions which explicate the reasons why the chief jurisconsult rejected to authenticate Kemāleddīn Efendi's legal document concerning the Yeniköy incident. In this sense, these legal opinions were clearly written in response to Kemāleddīn Efendi's epistle, although they were formulated in a typical question-and-answer format with anonymized descriptions of the details of the debate. In each legal opinion, five in total, Meḥmed Efendi addresses a different component of the problem and responds to possible counterarguments. Each opinion introduces another layer of detail in the legal treatment of the judicial document in question, on the one hand, and in response to the first epistle, on the other.

The chief jurisconsult's primary objection to the legal document in question is that it should have sufficed to state, "From now on, you may not display the rite of unbelief." In Meḥmed Efendi's view, the problematic expression "even if they do, they may do (فليصنعوا; *fa'l-yaṣnaʿū*) it surreptitiously within their church," which he crossed out in the legal document sent from the judge, approves of unbelief in a legal document. According to him, this approval also veers towards unbelief on the part of the judge who issued the legal judgment. The chief jurisconsult's objections revolve around the two broad categories of statements in Arabic linguistic theory. One type of statement is declarative utterances (*khabar, ikhbār*) subject to evaluation as true or false. A declarative utterance is a report, and its primary linguistic form is indicative conjugation denoting the past, present, or future time. The other type of statement is

called performative utterances (*inshāʾ*), which covers questions, commands, wishes, requests, and exclamations.[11] In the chief jurisconsult's approach, when the judge issues a document in a court case, his judicial ruling is by its very nature prescriptive.[12] In this sense, an imperative, as in "let them do" (or "they may do") (فليصنعوا; *fa'l-yaṣnaʿū*), in a legal document carries a performative value. That is to say, the statement "even if they do, they may do it surreptitiously within their church" creates a legal consequence and turns into an imposition of an obligation to perform the Christian faith.

Unlike a judicial decision, the chief jurisconsult adds, al-Karkhī's statements, including the imperative in "let them do" (or "they may do") (فليصنعوا; *fa'l-yaṣnaʿū*), are from part of a jurisprudential text where the main argument is that old churches in a land that Muslims conquer through the peaceful surrender of inhabitants are preserved as their places of worship. The chief jurisconsult stresses that the quote in question cannot be used to extract a legal ruling that commands Christians to practice their religion in churches. Relying on the authority of al-Qudūrī

[11] For the kind of categories of speech that came to be considered performative, see ʿAbd al-Raḥmān ibn Isḥāq Zajjājī and C. H. M. Versteegh, *The Explanation of Linguistic Causes: Az-Zaǧǧāǧī's Theory of Grammar: Introduction, Translation, Commentary*, Amsterdam Studies in the Theory and History of Linguistic Science, (Amsterdam ; Philadelphia: J. Benjamins, 1995), 35. In Islamic legal practice, the past tense in Arabic can be used to generate contracts, such as for sale or marriage, with a performative (*inshāʾī*) meaning where the past tense is taken to show finality: see Aron Zysow, "The Problem of Offer and Acceptance: A Study of Implied-in-Fact Contracts in Islamic Law and the Common Law," *Cleveland State Law Review* 34, no. 1 (1985), 75. For Abu Hanifa's consideration of a judge's decision as performative, see Baber Johansen, "Wahrheit Und Geltungsanspruch: Zur Begründung Und Begrenzung Der Autorität des Qadi-Urteils Im Islamischen Recht," in *La Giustizia Nell'alto Medioevo (Secoli IX-XI)*, ed. O. Capitani (Spoleto: Centro italiano di studi sull'alto medioevo, 1997), 1024-1030.

[12] Although of the Mālikī breed, the thirteenth-century scholar al-Qarāfī's characterization of the differences between jurists and judges as regards the outcome of their respective professions is illuminating. He mentions that while the jurist's legal opinion remains informative, the judge's decision has a binding nature; that is to say, his judgment is a performative utterance, regardless its grammatical form. See Shihab al-Din Ahmad ibn Idris Al-Qarafi al-Maliki, *The Criterion for Distinguishing Legal Opinions from Judicial Rulings and the Administrative Acts of Judges and Rulers*, World Thought in Translation (New Haven, CT: Yale University Press, 2017), 80 and 117-119.

(d. 1037) and Abū Yūsuf (d. 798), and on what he calls "*Mabsūṭ*s"[13] and "*Muḥīṭ*s,"[14] a reference to a chain of books and commentaries of the Ḥanafī legal tradition, he maintains that the expression of "they may do" is simply used with the meaning of lack of hindrance and objection to Christians' religious observance and that it should not be reiterated in the context of a document issued in an Islamic court. After all, the legal document for the Yeniköy case was issued in the aftermath of the complaint by the Muslim residents of the village about the public display of Christian religious practice. According to the chief jurisconsult, such a document was written for the Muslims to strengthen their religion; the encouragement accorded to the Christian villagers to "do it hiddenly" with an explicit statement in the same document would serve no intended utility. A restrictive expression alone, such as "they have been warned against displaying it," would have been an indirect but sufficient indication of legal dispensation (*rukhṣa*) that the Christian villagers were not prohibited from their religious observance behind closed doors in the privacy of a church. However, the chief jurisconsult adds, this implicit legal dispensation (*rukhṣa*) in the warning against the public manifestation of the Christian faith should not be explicitly declared as such, nor should it be put into writing in a legal document. In the chief jurisconsult's eyes, the specified "let them do," as stated in the legal document by Kemāleddīn Efendi, however, turns this implicit legal dispensation into an affirmative command emphatically enjoining Christians to practice their religion. Once put in the form of an affirmative command to be fulfilled, the specified "let them do" in the legal document, the chief

[13] mabsūṭ is a genre of legal texts that cover a detailed exposition of differences of opinions on legal matters. In Ḥanafī tradition, there are numerous books whose title includes "*al-Mabsūṭ*." To name a few here: That of Muḥammad al-Sarakhsī (d. 1090), al-Aṣl of Muḥammad b. al-Ḥasan al-Shaybānī (d. 805), which is also known as al-*Mabsūṭ*, and commentaries on al-Shaybānī's *Mabsūṭ*, such as that of Khāharzāda (d. 1090) and of Ḥalwānī (d. 1060).

[14] The two most famous books bearing this title are that of Burhān al-Dīn Ibn Māza's (d. 1219) and of al-Sarakhsī (d. 1149).

jurisconsult argues, reads, “Go and worship the idols,” which, once read as such, amounts to an obligation to perform unbelief due to the performative character of legal documents.[15]

The chief jurisconsult then disagrees with Kemāleddīn Efendi's identification of “let them do” (or “they may do”) (فليصنعوا; *fa'l-yaṣnaʿū*) as *ibāḥa*, a term that has also appeared in Kemāleddīn Efendi's epistle. The chief jurisconsult takes *ibāḥa* not as a linguistic term in the sense of unrestricted choice, as Kemāleddīn Efendi did or will claim in the second epistle that he did so, but as a legal-moral category applied for the assessment of acts in Islamic legal theory. To be more precise, the two sides of the debate adopt the term *ibāḥa* from two different disciplines: one from rhetoric and one from Islamic legal theory. Many terms have been used across several disciplines in the Arabic intellectual tradition, and Arabic terminological edifices of kindred scholarly disciplines emerged in conversation with each other. The shared cross-disciplinary terms were sometimes used in more or less the same sense and sometimes in vastly different meanings specific to each discipline.[16] *Ibāḥa,* as a verbal noun with its lexical meaning “making something permissible” is one such term that contains a tremendous semantic capacity.[17] Its lexical meaning is appropriated for different contexts. Sunni Muslim jurists employed this word in their discussions of the absence of legal obligations in the Abode of War (*dār al-ḥarb*), which was then sometimes rendered as the Abode of non-obligation (*dār al-*

[15] Berlin MS, 5b; Süleymaniye MS, 323a.
[16] M. G. Carter, *Sībawayhi’s Principles: Arabic Grammar and Law in Early Islamic Thought* (Atlanta, Georgia: Lockwood Press, 2016), 89. There are numerous terms, to name a few, ijmāʿ (consensus), qiyās (analogy), and ʿilla (cause), that are used across disciplines. For a study of the technical utilization of the concept ʿilla in the Arabic grammatical tradition, with references to other scholarly disciplines, see Yasir Suleiman, *The Arabic Grammatical Tradition: A Study in Taʿlīl* (Edinburgh: Edinburgh University Press, 1999). For the employment of linguistic terminology by the early commentators of the Qur’ān, see C. H. M. Versteegh, *Arabic Grammar and Qur’ānic Exegesis in Early Islam* (Brill, 1993).
[17] J. Schacht, “Ibāḥa,” in *Encyclopaedia of Islam, Second Edition* (Brill, 2012).

ibāḥa).[18] In criticisms of their neglect of religious prescriptions, antinomian Sufis were blamed for licentiousness (*ibāḥa*), that is to say, their extreme permissiveness in, most notably, allowing practices that were forbidden in Islam.[19] However, the most extensive use of *ibāḥa* is its terminological employment in Islamic legal theory, which is also the sense that the chief jurisconsult in the Yeniköy debate reads the term in Kemāleddīn Efendi's epistle.

Classical Islamic legal theory came to assess human acts within five main legal-moral categories which grew out of the neat classification of acts as found in the Qurʾān: those permitted (*ḥalāl*) and those prohibited (*ḥarām*).[20] The full-fledged elaboration of legal acts scale from the obligated to the prohibited on a spectrum, depending on the degrees of encouragement or discouragement concerning the performance or omission of a particular act. The five-fold assessment of legal acts is as follows: obligation (*farḍ* and *wujūb*),[21] recommendation (*nadb*), indifference/neutrality (*ibāḥa*), disapproval (*karāha*), and prohibition (*harām*). Legal indifference (*ibāḥa*), sometimes translated as permissibility, here refers to neutral acts, the realization of which is not prohibited nor legally obligated. The chief jurisconsult gives a paradigmatic instance of this category from among the Qurʾānic commands: "Eat, drink!"[22] As enclosed in the legal maxim "Permissibility (*ibāḥa*) is the original status of things" (*al-aṣl fī al-*

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[18] Mohammad Fadel, "International Law in General in the Medieval Islamic World," in *The Cambridge History of International Law Volume VIII: International Law in the Islamic World Part I: International Law in the Medieval Islamic World (622-1453) (Forthcoming).*

[19] Ahmet T. Karamustafa, *Sufism: The Formative Period*, The New Edinburgh Islamic Surveys (Edinburgh: Edinburgh University Press, 2007), 105-106 and 157-161.

[20] For a brief discussion of the historical evolution of this classification, see Baber Johansen, "Introduction: The Muslim Fiqh as a Sacred Law. Religion, Law and Ethics in a Normative System," in *Contingency in a Sacred Law: Legal and Ethical Norms in the Muslim Fiqh* (Leiden; Boston: Brill, 1999), 69-70. See also Bernard G. Weiss, *The Search for God's Law: Islamic Jurisprudence in the Writings of Sayf al-Dīn al-Āmidī*, Revised ed (Salt Lake City: Herndon, Va: University of Utah Press; International Institute of Islamic Thought, 2010), 94-106.

[21] On the relation and differences between *fard* and *wujūb*, A. Kevin Reinhart, "'Like the Difference Between Heaven and Earth': Ḥanafī and Shāfiʿī Discussions of Farḍ and Wājib," in *Studies in Islamic Legal Theory*, ed. Bernard Weiss (Leiden: Brill, 2001), 205–34.

[22] Q: 2:187.

ashyāʾ al-ibāḥa), this neutral category refers to a broad range of human deeds that most notably include worldly, non-ritual affairs that do not fall under the categories of obligations and prohibitions.[23]

Assuming that Kemāleddīn Efendi reads the imperative "let them do" (فليصنعوا; *fa'l-yaṣnaʿū*) in al-Karkhī's statements with the meaning of legal indifference (*ibāḥa*), the chief jurisconsult Meḥmed Efendi blames him for overstretching the scope of this term. The rest of the chief jurisconsult's refutation rests upon the agreement of the founding figures of the Ḥanafī school of thought on the inapplicability of Islamic legal-moral categories of acts to non-Muslims. Although the Qurʾānic commands are deemed universal and address humankind altogether, non-Muslims are excluded from the legal obligations of Islam (*wājibāt*). Still, they are subject to certain prohibitions, such as fornication and homicide. [24] As for non-Muslim religious practices, these are allowed based on non-Muslims' contractual acceptance of civil protection (*dhimmiya*).[25] Therefore, legal indifference (*ibāḥa*) as an Islamic legal category was not employed concerning non-Muslim religious practice. The chief jurisconsult accuses Kemāleddīn Efendi of lumping together and putting on equal footing such mundane acts that are typically denoted with legal indifference (*ibāḥa*) in Islamic law, on the one hand, and non-Muslims' entitlement to professing their religion within the confines of their places of worship, on the other.

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[23] Muslim jurists were occupied with the question of under what conditions a deed should be accorded this neutral status. For example, for a discussion of when entertainment and pastime activities could be considered permissible and treated with *ibāḥa*, see Muhammad Al Atawneh, "Leisure and Entertainment (Malāhī) in Contemporary Islamic Legal Thought: Music and the Audio-Visual Media," *Islamic Law and Society* 19 (2012): 397–415.

[24] For the rich discussions of pre-modern Muslim jurists in analyzing God's speech to humanity and Islam's universalist claims vis-à-vis non-Muslims, A. Kevin Reinhart, "Failures of Practice or Failures of Faith: Are Non-Muslims Subject to the Sharia?," in *Between Heaven and Hell: Islam, Salvation, and the Fate of Others*, ed. Mohammad Hassan Khalil (Oxford University Press, 2013), 13–34.

[25] Ibid. 19.

To question Kemāleddīn Efendi's attribution of legal indifference (*ibāḥa*) to the imperative mood in the sources he cites, the chief jurisconsult ventures to provide examples of the semantic range of the imperative form from the Qurʾān. Identifying the intended meaning behind divine commands in the form of the imperative mood or other linguistic forms constitutes a major field of study and analysis in many disciplines, such as jurisprudence, theology, and Qurʾānic exegesis. Examining the role of language, including its scope and limitations, in transmitting the divine will contributed to the historical development of Arabic linguistics in its various specialized branches such as semantics, rhetoric, and grammar. The imperative mood, especially in its Qurʾānic usages, was meticulously analyzed in Islamic intellectual tradition to establish when it necessitates obligation and when it conveys other meanings and legal consequences.[26] Alluding to the linguistic challenge of determining the legal ramifications of the imperative mood, the chief jurisconsult questions Kemāleddīn Efendi's competence as a judge by charging him with misidentifying the potential meanings of the imperative mood. He quotes several Qurʾānic verses to show the meaning of threat and admonition expressed in the imperative mood: "*Do whatever you want,*"[27] "*Whoever wills let them disbelieve*"[28] and *"Enjoy your disbelief for a little while! You will certainly be one of the inmates of the fire*."[29] He stresses that legal indifference (*ibāḥa*) cannot be implied in these examples where unbelievers are addressed.

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[26] For the discussion of Sunni jurists on whether a particular linguistic form (especially the imperative mood) should be associated with the concept of command and whether the command conveys strict obligation, see Aron Zysow, *The Economy of Certainty: An Introduction to the Typology of Islamic Legal Theory* (Atlanta, GA: Lockwood Press, 2013), 60-73. For an in-depth treatment of the legal ramifications of the imperative, see Bernard Weiss, *The Search for God's law*, 322-381.

[27] aʿmalū ma shīʿtum: Q.41:40. For ten-odd meanings of the imperative form that are identified by Muslim jurisprudents, see Weiss, *The Search for God's Law*, 343-344.

[28] Man shāʾa fa'l-yakfur: Q.18:29

[29] Qul tamattaʿ bi-kufrika qalīlan innaka min aṣḥāb al-nār: Q39:8.

Harking back to the performative character of judicial decisions, the chief jurisconsult argues that the expression “let them do” in a legal document is tantamount to a command addressed to the Christians that obligates them to profess their unbelief. That is to say, from the chief jurisconsult’s perspective, Kemāleddīn Efendi, by explicitly stating such an affirmative command encouraging the practice of the Christian faith in a church, elevates the level of legal indifference (*ibāḥa*) to the category of obligation (*wujūb*) or recommendation (*nadb*). Citing *Fatāwā Qāḍīkhān* (d. 1196) to illustrate what Kemāleddīn Efendi should have done, the chief jurisconsult provides examples of vigilant shunning from accommodating and aiding unbelievers' practice of their religion. One of these exemplary attitudes mentioned by the chief jurisconsult is expressed in a somewhat paradoxically restrictive opinion that while it is permissible for a Muslim to go to church to bring his unbelieving parent who is unable to walk, it is not permissible to take the parent to the church. Through such examples, the chief jurisconsult claims that Kemāleddīn Efendi falls short of a similar kind of circumspection and proper restraint required to avoid any association with unbelief.

In a somewhat imperious language, the chief jurisconsult maintains that he would have called the document null and void. Instead, after sending the document back, he offered the judge a chance to correct himself. Behind this high-handed facade of the higher moral ground in presenting his interlocutor with the opportunity to accept their mistake, the chief jurisconsult associates the judge of Galata Kemāleddīn Efendi with ignorance, lack of competence to base his rulings on the early Ḥanafī authorities, and even the risk of bordering on unbelief. These two primary assertions of the chief jurisconsult Meḥmed Efendi — namely Kemāleddīn Efendi's questionable qualifications to serve as a judge and, as a result, his propagation of unbelief in a

document issued in the Islamic court — were, unsurprisingly, considered no less than a personal attack by Kemāleddīn Efendi, as we shall see in his bitter rejoinder to these legal opinions.

Part 3: The Response of Kemāleddīn Efendi

It is no wonder that in the second epistle, written as a response to the chief jurisconsult's legal opinions, Kemāleddīn Efendi does not mince words. To extricate himself from the charges of incompetence as a judge, he constructs an acerbic critique of all the issues advanced by the chief jurisconsult. Kemāleddīn Efendi blames the jurist primarily for misunderstanding, lack of knowledge, and the misrepresentation of the allegedly existing legal judgment in the document. In doing so, he, in turn, challenges the qualifications of the chief jurisconsult.

Kemāleddīn Efendi begins this second epistle with an exposition of his use of terminology *rukhṣa* and *ibāḥa* and, in doing so, returns the accusation of incompetence to the jurisconsult himself. He avers that his arguments in the first epistle were garbled by his interlocutor's confounding the linguistic use of *ibāḥa* in the literal meaning of "unrestricted choice" with its use in legal theory in the legal terminological meaning of the category of "legal indifference." He insists that, contrary to the chief jurist's claims, he has not employed *ibāḥa* in the first epistle to mean legal indifference, let alone elevate it to the category of obligation (*wujūb*) or recommendation (*nadb*). To show the literal meaning of *ibāḥa* in the sense of expressing unrestricted choice in speech, Kemāleddīn Efendi points to one of the classic grammatical examples of this use: "Sit with Ḥasan or Ibn Sīrīn" (*Jālis al-Ḥasan aw Ibn Sīrīn),* stating "either/or" and "both" — a sentence that defines for the interlocutor free choice of doing

as they wish between the two options, allowing also the combination of those options.[30] This expression of choice is usually presented in the books of grammar and rhetoric (*balāgha*) in stark contrast with restricted choice (*takhyīr*), which instructs a strict and exclusive "either/or" division between two alternatives with no possibility of combining the two.[31] To emphasize the rhetorical meaning of unrestricted choice (*ibāḥa*) in his legal document, Kemāleddīn Efendi introduces the term license (*idhn*) in this second epistle and employs it abundantly in what seems to be an effort to demarcate the difference between the rhetorical category of unrestricted choice (*ibāḥa*) and the legal terminological meaning of legal indifference (*ibāḥa*). License (*idhn*) is not a special term in Islamic legal theory. However, it is commonly employed to explain the terms of permission (*jawāz*) and the aforementioned legal indifference (*ibāḥa*).[32] The introduction of the term of the license (*idhn*) at this point in the debate is helpful for Kemāleddīn Efendi's purposes to convey the meaning of unrestricted choice in the term *ibāḥa* as embedded in his use of the imperative. While unbelievers may display religious paraphernalia within the confined space of their church [the license (*idhn*) as an unrestricted choice (*ibāḥa*)], they may not display them openly in public [where the prohibition prevails and outweighs the license].

In addition to these clarifications presented for the use of the term *ibāḥa*, Kemāleddīn Efendi also extends his elaboration to *rukhṣa*, with a similar move to suggest that he employs (*rukhṣa*) not in its legal terminological meaning of legal dispensation, but instead in its literal sense, which, he argues, is also synonymous with a license (*idhn*). This argument seems to be put

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[30] Muḥammad ibn Aḥmad Shirbīnī and M. G. Carter, *Arab Linguistics: An Introductory Classical Text with Translation and Notes*, Amsterdam Studies in the Theory and History of Linguistic Science, v. 24 (Amsterdam: J. Benjamins, 1981).
[31] Ahmet Özel, "Tahyîr," TDV İslam Ansiklopedisi; Shirbīnī and Carter, *Arab Linguistics*, 280. Carter gives the classic example for *takhyīr*: "Marry either Zaynab or her sister" (*tazawwaj Zaynab 'aw 'ukhtāha*). As marrying two sisters simultaneously is forbidden, this sentence cannot be classified as an unrestricted choice (*ibāḥa*).
[32] Yunus Apaydın, "İzin," TDV İslam Ansiklopedisi.

in place to respond to the chief jurisconsult's claim that legal dispensation (*rukhṣa*) and general stipulation (*ʿazīma*) are inapplicable to the case in question. This point is mentioned by the chief jurisconsult only in passing and without further explanation. Moreover, the chief jurisconsult himself continues using the same term (*rukhṣa*) in his insistence that a negative command admonishing Christians and prohibiting them from publicly displaying their religious rite would imply legal dispensation (*rukhṣa*) that they may practice their religion within churches. In response to the criticism of the application of the term (*rukhṣa*), Kemāleddīn Efendi states that his use of legal dispensation (*rukhṣa*) is not in the sense that would call for its binary opposition, that is general stipulation (*ʿazīma*).

The pair of legal dispensation (*rukhṣa*) and general stipulation (*ʿazīma*) in legal theory is elucidated on various levels.[33] In the narrowest sense, a legal dispensation (*rukhṣa*) is temporarily granted in the case of hardship or risks to mitigate the exertion of strict adherence to a rule that is initially ordained in a general stipulation (*ʿazīma*) and valid under usual circumstances. One typical example of this category of alleviative measures is the practice of tayammum (permission to use sand) to attain ritual purity in the absence of water. Another example is the latitude granted to be excused from fasting during Ramadan because of travel beyond a certain distance. In this sense, a legal dispensation (*rukhṣa*) provides an exception to a general rule (*ʿazīma*) under unusual circumstances, defining necessary accommodations.

Rukhṣa, translated as concession by M. J. Kister, however, is also closely connected with the idea of abrogation (*naskh*), the "permanent alteration of law" by the Qurʾān and prophetic

[33] M.J. Kister, "On 'Concessions' and Conduct: A Study in Early Ḥadīth," in *Studies on the First Century of Islamic Society*, ed. G. H. A. Juynboll, Near Eastern History Group (Oxford, England), and University of Pennsylvania (Carbondale: Southern Illinois University Press, 1982), 89–107.

tradition, especially to give it a lenient character, in which case *rukhṣa* is called "alleviation through abrogation" by Ze'ev Maghen.[34] Derivative of this understanding, *rukhṣa* also refers to Islam's self-identified historical role as easing what it considers to be the restrictive nature of Judaism and Christianity.[35] Ultimately, as Kister showed, *rukhṣa* gains a broader sense of alleviating rigorous and harsh practices while regulating social relations. On this grander scale, *rukhṣa*, broadly conceived as a way of life and worldview, can be understood as an inclination toward leniency and extenuation.[36]

Because of this general intuitive sense of the term *rukhṣa*, Kemāleddīn Efendi considers it analogous with a license (*idhn*) and breaks it away from its binary juxtaposition with *ʿazīma*.[37] That is to say, if one needs to fit the legal issue in question in the Yeniköy case into this broader legal treatment, non-Muslims would have to be granted latitude to practice their belief to underline the absence of compulsion.[38] The Christians of Yeniköy may have flouted the restrictions on the public display of their religious practice, yet they were nonetheless given legal dispensation for having their religious observance accommodated under specific conditions (in

[34] Ze'ev Maghen, *After Hardship Cometh Ease: The Jews as Backdrop for Muslim Moderation* (Berlin; New York: W. de Gruyter, 2006), 47.
[35] Ze'ev Maghen calls this 'the macrocosmic rukhṣa-naskh process' Maghen, *After Hardship Cometh Ease*, 161-230. See also Kister, "On 'Concessions' and Conduct," 6-7.
[36] Kister, "On 'Concessions' and Conduct"; R. Peters and J. G. J. ter Haar, "Rukhṣa," in *Encyclopaedia of Islam, Second Edition* (Brill, 2012). Through this concessionary spirit, the Andalusian jurist al-Shāṭibī (d. 1388), for instance, criticizes the rigorous practices of Sufis whose exaggerated conduct and stringencies deliberately impose cumbersome and undue difficulties on ordinary believers. Wael B. Hallaq, *A History of Islamic Legal Theories: An Introduction to Sunnī Uṣūl al-Fiqh* (Cambridge: Cambridge University Press, 1997), 176-180.
[37] For the use of *rukhṣa* by jurists in the early Islamic period about Muslims' purchase of land in territories conquered by peaceful surrender. M. J. Kister, "Land Property and Jihad," *Journal of the Economic and Social History of the Orient* 34, no. 3 (January 1, 1991), 273.
[38] For a general treatment of the Qurʾānic statement of "no compulsion in religion" and its translation to social practice, see Yohanan Friedmann, *Tolerance and Coercion in Islam: Interfaith Relations in the Muslim Tradition*, Cambridge Studies in Islamic Civilization (New York: Cambridge University Press, 2003); Patricia Crone, "No Compulsion in Religion: Q. 2:256 in Mediaeval and Modern Interpretation," in *The Qurʾānic Pagans and Related Matters* (Brill, 2016), 351–409.

their churches and without publicly displaying their religious practice). One could also argue that in the long run, while *jawāz* and *ibāḥa* (and their adjectival versions *jāʾiz* and *mubāḥ*) remained to be employed in a religio-moral sense, *idhn* and *rukhṣa*, given that they did not have a fully-fledged terminological specificity in the Islamic jurisprudence, were adopted freely into the idiom of Ottoman administrative and legal language. For instance, a seventeenth-century lawbook employed "permitted" and "authorized" (*meʾẕūn* ve *muraḫḫaṣ*, i.e., adjectival forms of *idhn* and *rukhṣa*) to refer to the tasks and duties of the grand vizier.[39] Both *idhn* and *rukhṣa* can often be seen in imperial orders introducing sultanic permissions (*iẕn-i sulṭāni* or *iẕn-i humāyūn*). These two words, *idhn* and *rukhṣa*, were also commonly used in sultanic authorizations permitting the restoration of non-Muslim places of worship.[40]

Kemāleddīn Efendi also raises objections to the chief jurisconsult's conviction that it would suffice to say "they may not display it" through a negative command without explicitly stating the legal dispensation (*rukhṣa*) in the legal document issued in the court of Galata. He acknowledges that the statement would have been more concise without mentioning the legal dispensation (*rukhṣa*), but there was no harm in explicitly stating the permission. Reiterating his arguments in the first epistle, he justifies this with the necessity of elaborate translations from Arabic into Turkish while conveying ideas from "books of high repute" in jurisprudence, sacrificing conciseness along the way. He argues that brevity found in Arabic was sacrificed for clarity in Turkish in the legal document he drew up.

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[39] ʿAbdurraḥman ʿAbdī, *Abdurrahmân Abdî Paşa kanunnâmesi*, ed. H. Ahmet Arslantürk, 1. (İstanbul: Okur Kitaplığı, 2012), 22.

[40] Rossitsa Gradeva, "From the Bottom Up and Back Again until Who Knows When: Church Restoration Procedures in the Ottoman Empire, Seventeenth-Eighteenth Centuries (Preliminary Notes)," in *Political Initiatives "From the Bottom Up" In the Ottoman Empire*, ed. Antonis Anastasopoulos (Crete University Press, 2012), 141-142.

The exact expressions of positive commands for non-Muslim religious practice, albeit with accompanying restrictions, can be observed in a handful of administrative documents. The most famous example is the peace contract (*ʿahdnāme*), which was concluded between the Genoese of Galata and Meḥmed II at the time of the conquest of Constantinople:[41] "I ordered […] that they [the Genoese of Galata] *keep their churches and perform their customary rites* [*in them*], but that they not ring their church bells or beat handbells (*nāqūs*)."[42] The prohibition on the construction of new churches was also mentioned separately. That "[they may] *perform their customary rites in them*" confines non-Muslim religious practice to places of worship and only implicitly bans public display of their religious rites. The law books for the province of Bosnia, which were arranged in the years 1516, 1530, and 1542, and the lawbook of 1539 for Bosnia, Herzegovina, and Zvornik mentioned, in addition to the prohibition on the construction of new churches, the necessity of removing crosses erected across roads.[43] The law books of Bosnia, while introducing what seems to have been a local issue of crosses located in the open and out of church precincts, more explicitly covered the distinction between what was communally acceptable within places of worship and what was acceptable in the public.

It seems that the Ottoman administrative language rather swiftly developed a prohibitive tone that, when necessary, nested "what should be done" into the negative commands of "what

[41] Eugène Dallegio d'Alessio., "Traité entre les Génois de Galata et Mehmet II (1er juin 1453)," *Revue des études byzantines* 39, no. 197 (1940): 161–75; Halil İnalcık, "Ottoman Galata, 1453–1553," in *Essays in Ottoman History* (Eren Yayıncılık, 1998), 271–374.
[42] Translation taken from İnalcık's work: ibid., 276. For the transcription of the text in Turkish, see Ahmet Akgündüz, ed., *Osmanlı kânûnnâmeleri ve hukûkî tahlilleri* (İstanbul, Turkey, 1990), vol. 1, 477-479.
[43] For the lawbook issued dating to 1516 see Akgündüz, *Osmanlı kânûnnâmeleri ve hukûkî tahlilleri*, vol. 3, 377-78; Ömer Lûtfi Barkan, *XV. ve XVI. Asırlarda Osmanlı Imparatorluğunda Ziraî Ekonominin Hukukî ve Malî Esasları* (İstanbul: Bürhaneddin Matbaası, 1943), 397. For the lawbook of 1530, Akgündüz, *Osmanlı kânûnnâmeleri ve hukûkî tahlilleri*, vol. 6, 425. For the lawbook of 1539, ibid., vol. 6, 436. For that of 1542, ibid., vol. 6, 444. These issues were not expressed in the lawbook of Herzegovina from 1585. Ibid., vol. 8, 260-63.

should not be." The emergence of this linguistic tradition can be tracked in appointment deeds given to the Greek Orthodox Patriarchs — deeds that recognized the responsibilities and rights of the Patriarchs. In an early example, Ieremeas I's appointment deed, dating to 1525, authorizes him in the following language:

> […] the aforementioned Patriarch *shall* handle marriages within the community of infidels according to their rites.
> […] While metropolitans, bishops, priors, priests, and vineyards, holy springs, feasts, mills, and gardens belonging to the churches *shall* be held by the patriarch in the same way as the previous patriarchs, he *shall not* be interfered with by any Muslim or unbeliever except those appointed by him.[44]

Here, in the example of two instructions out of many that are grammatically conjugated in the imperative mood, both the standalone affirmative command (the one about contracting marriages) and the interdiction were listed together. Yet, increasingly, the affirmative commands addressing the affairs of non-Muslims in Ottoman documents would preferably appear in subordinate clauses within a main clause built as a negative command. The same tendency would also frame the production of relevant texts in other circumstances. For instance, an imperial order in 1530 instructed judges "not to let anything against the law be done and not let infidels gather and wander publicly in their days [religious holidays] to act immorally."[45]

Going back to the document drawn up by Kemāleddīn Efendi, although the stipulation on performing religious rites in churches is expressed as a positive command in the form of the imperative mood, it is nested within a negative command by complying with the established

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[44] Hasan Çolak and Elif Bayraktar Tellan, *The Orthodox Church as an Ottoman Institution: A Study of Early Modern Patriarchal Berats* (Istanbul: The Isis Press, 2019), 71-72 and 198-199. I have slightly changed the translation made by the authors here to reflect the original Turkish expression.
[45] Akgündüz, *Osmanlı kânûnnâmeleri ve hukûkî tahlilleri*, vol. 6, 338. "Ve kefere dahi eyyâmlarında alâniyyen fısk u fücûr edüb cem'iyyet ile gezdirmeyüb hilâf-ı şer'-i şerif iş etdürmesiz."

linguistic norms in administrative documents by the seventeenth century. In the absence of the original legal document at hand, one can reconstruct Kemāleddīn Efendi's formulation in the following way based on the summary he provides in the first epistle:

> They may not act as such outside the church, and while they *may* act as such surreptitiously within their church, they *may not* publicly display it [religious paraphernalia, or more broadly, unbelief].

Unsurprisingly, Kemāleddīn Efendi draws attention to the prohibitive tone, which is not lacking in the document. One can safely assume that Kemāleddīn Efendi treats the legal document for the Yeniköy case as a reflection of this administrative language subordinating "what should be" to a list of interdictions.

Moreover, Kemāleddīn Efendi's intervention in his epistle demonstrates that he also considered not only the document but the case itself to be of an administrative nature. This is evident as he, after making terminological clarifications for legal dispensation (*rukhṣa*) and unrestricted choice (*ibāḥa*), shifts the focus of the debate to an insistence that a legal judgment is absent in the document issued. This is a crucial claim pushing back against the chief jurisconsult's emphasis on the performative character of legal judgments. Interestingly, however, rather than prove the absence of a judgment and channel his critique on the chief jurisconsult's failure to detect the lack of judgment in the document, Kemāleddīn Efendi responds to potential counterarguments to be raised if one were to accept that there was a legal judgment passed in the document. For the sake of argument, Kemāleddīn Efendi plays along with several possible readings of the document: a) that there is no legal judgment (Kemāleddīn Efendi's position), b) that a legal judgment is passed, but it is only applicable to a certain section of a sentence in the document, or c) that the entire sentence can be considered the legal judgment. He invites the

interested parties — an open call to readers, but most conveniently to other members of the Ottoman learned hierarchy — to have a look at the document itself, which was still in possession of the litigant, namely, the imperial gatekeeper, to see for themselves that no legal judgment has been passed therein.

On the supposition that the document includes a legal judgment, Kemāleddīn Efendi insists that the judgment can be applied not to the entirety of the sentence but to a specific part of it only, where he admonishes the Christians of Yeniköy through the negative command prohibiting them from the public display of their rituals. If a legal ruling could be drawn from the document, Kemāleddīn Efendi speculates, it would comprise a phrase independent of the preceding sentences. That is to say, the chief jurisconsult's erroneous reading of the alleged legal judgment in the phrase "they may not publicly display it" as a continuation of the previous declarative utterance (*khabar, ikhbār*), "they may do it within their churches," misrepresents the original legal document. Here, Kemāleddīn Efendi reduces the performative (*inshā'ī*) character from the entirety of the document to the negative command. The preceding statement, "they may do it within their churches," albeit phrased in the imperative mood, is then categorized as a declarative utterance (*khabar, ikhbār*) of unrestricted choice (*ibāḥa*), which, while having no legal effect, communicates the permission (*idhn* and *rukhṣa*) of the Christians' entitlement to practicing their faith under lawful conditions. In this analysis, once "they may do it within their churches" is accepted as a declarative utterance, that declarative utterance cannot be included in the supposed ruling if we concur that there is a legal judgment in the document. Kemāleddīn Efendi also postulates that the supposedly existing legal ruling, when read as a whole sentence including the declarative utterance, would not produce an error either because in this reading,

too, "they may do it within their churches" would explicitly constitute a license (*idhn*), hardly a legal obligation to the effect that "they certainly should do it." In his conceptualization of license, Kemāleddīn Efendi invokes the authority of Abū Yūsuf's *Kharāj*.[46]

Kemāleddīn Efendi asserts that the expression of "unbelievers may do as they wish in their churches" should not be read with the meanings of threat and admonition, as done by the chief jurisconsult, because this reading would have necessitated a command to be taken as prohibition hindering non-Muslims from even practicing their religion within churches. However, when taken to be a declarative sentence (*ikhbār)*, the expression "unbelievers may do as they wish in their churches" states the reality without giving it any meaning of legal consequence as in obligation or prohibition. Kemāleddīn Efendi is aware that discussing the possibility of reading the expression "they may do it within their churches" in the imperative mood as a declarative sentence would prompt further objections from his detractors since declarative sentences might figuratively convey the sense of command. To respond to this potential objection, he brings up a Qurʾānic example of a declarative sentence considered by Muslim jurists to express an obligation: "*and mothers breastfeed their offspring*" (Q.2:233). Here Kemāleddīn Efendi directly cites *al-Talwīḥ* of Saʿd al-dīn al-Taftāzānī (d. 1390), a commentary on *al-Tawdīḥ fī uṣūl al-fiqh* of Sadr al-Shariʿa ʿUbayd Allah b. Masʿud (d. 1346-47), a Bukharan Ḥanafī jurist.[47] The quotation in Arabic Kemāleddīn Efendi provides from *al-Talwīḥ* explains

[46] Interestingly, as also ascribed to Abū Yūsuf in Qāḍīkhān, the opinion that the Christians may be allowed to take the cross out of their church only during their religious feasts is not at all brought up during the Yeniköy debate. See al-Ḥasan ibn Manṣūr Qāḍīkhān, *Fatāwá Qāḍīkhān Fī Madhhab Al-Imām al-aʾẓam Abī Ḥanīfah al-Nuʾmān* (Bayrūt: Dār al-Kutub al-'Ilmīyah, 2009), vol 3, 534.

[47] The quote is from Saʿd al-Dīn Masʿūd b. ʿUmar al-Taftāzānī, *Al-Talwīḥ ʿalā al-Tawdiḥ Fī Uṣūl al-Fiqh* (Bayrūt: Dār al-Kutub al-'Ilmīyah, 1996), vol. 1, 281. For a brief discussion of this commentary tradition, see Mürteza Bedir, "Books on Islamic Legal Theory (Uṣūl al-Fiqh)," in *Treasures of Knowledge: An Inventory of the Ottoman Palace Library (1502/3-1503/4),* ed. Gülru Necipoglu, Cemal Kafadar, and Cornell H. Fleischer (Brill, 2019), vol 1, 423–38. For a more detailed study of commentaries on al-Taftāzānī's al-Talwīḥ in the 15th-century Ottoman intellectual

how "*and mothers breastfeed their offspring*" is a strengthened command in the form of a declarative sentence, obligating mothers to breastfeed. However, this interpretation, Kemāleddīn Efendi adds, cannot be applied to the statement "they may do it within their churches," which is already expressed in the imperative mood, because this line of thinking would first construe the imperative mood as a declarative sentence, and then convert the declarative sentence into a command with the meaning of threat and admonition. Kemāleddīn Efendi concludes that the declarative character of the license for unbelievers to profess their religion in their places of worship can be extracted directly from the intrinsic figurative meanings of the imperative mood.

Types of Legal Documents

It is still quite striking that Kemāleddīn Efendi downplays the disagreement over whether or not there is a legal judgment in the document. Therefore, while the controversy shifts to a discussion of the presence of a legal judgment or lack thereof in a legal document, these two towering figures of the Ottoman legal establishment cannot concur if a document comprises a legal judgment. Although Kemāleddīn Efendi disavows the accusation of passing a legal judgment in this final epistle, he still entertains the possibility of a legal judgment existing in the document, which, in his opinion, would still not jeopardize the validity of the document itself.

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milieus, with a focus on legal responsibility, see İmam Rabbani Çelik, "XV. Yy. Osmanlı Düşüncesinde Telvîh Hâşiyeleri: Teklîfe Dair Tartışmalar" (Ph.D. Dissertation, İstanbul, Marmara University, 2021). Kemāleddīn Efendi's father Taşköprüzade Ahmed wrote a work on a famous debate on the interpretation of a Qurʾānic verse between al-Taftāzānī and al-Sayyid al-Sharif al-Jurjānī (d. 1413) that occurred at the court of Timur (d. 1405). For an edition of Taşköprüzade Ahmed's work on this debate, see Hüseyin Sırrı Sunar, "Emrullah Muhammed B. Zeyrek Efendinin Şerhu Mesâliki'l-Halâs Fî Mehâliki'l-Havâs' Adlı Eserinin Edisyon Kritiği" (MA thesis, Erzurum, Atatürk Üniversitesi, 2015). On the interest in al-Jurjani's work *Sharh al-Mawāqif* in the Ottoman world, see Mustakim Arıcı, "Bir 'Otorite' Olarak Seyyid Şerif Cürcânî ve Osmanlı İlim Hayatındaki Yeri," in *İslam Düşüncesinde Süreklilik ve Değişim: Seyyid Şerif Cürcânî Örneği*, ed. M. Cüneyt Kaya (İstanbul: Klasik, 2015), 61–95. Kemāleddīn Efendi's grandfather was also one of those who wrote a commentary on al-Jurjani's work that Kemāleddīn Efendi later made a copy of. See Arıcı and Arıkan, *Taşköprülüzâdeler*, 56.

After all, he argues, even with an alleged judgment to be taken from his writing in the legal document, the judgment remains valid and within the limits of conventions.

Kemāleddīn Efendi's insistence on the absence of a legal judgment in his document could be warranted. There is a distinction in the judicial practice between the facts of a case (*thubūt*) and a judicial decision (*hukm*).[48] In his observations based on a collection of Mamluk documents from Jerusalem, Christian Müller concludes that litigations might be resolved without the need for the issuance of a legal judgment and that, once facts concerning a dispute were certified (*thubūt*) in court without a formal judgment (*ḥukm*) being passed, the documents produced for such legal cases were treated, in effect and concerning enforceability, similarly to documents in which the judge passed a legal judgment.[49] Müller maintains that the inclusion or omission of a legal judgment depends on certain legal aspects of a litigated case. Some legal domains, such as the pronouncement of *qiṣāṣ* punishment, required passing a judgment for their enforcement. Unlike Müller, who approaches the different document types through extant legal documents, Mohammad Fadel offers the elaborate theoretical exposition of the Mamluk jurist al-Qarafī on differences between the establishment of facts (*thubūt)*, a legal judgment (*ḥukm*) and an administrative decree of a public official (*taṣarruf bi'l-imāma)*. Endorsing a narrower definition for a legal judgment, al-Qarafī maintains that when the perfect establishment of legal facts (*thubūt*) is followed by the judge's enforcement (*taṇfīdh*) of a preexisting rule, this practice does

[48] See these distinctions in practice in Mamluk Damascus in an early 14th century Ḥanafī judge's handbook, Gabriela Linda Guellil, *Damaszener Akten des 8./14. Jahrhunderts nach aṭ-Ṭarsūsīs Kitāb al-I'lām: eine Studie zum arabischen Justizwesen*, Islamwissenschaftliche Quellen und Texte aus deutschen Bibliotheken, Bd. 2 (Bamberg: Aku, 1985), 397-399.

[49] Christian Müller, "Settling Litigation without Judgment: The Importance of a Ḥukm in Qāḍī Cases of Mamlūk Jerusalem," in *Dispensing Justice in Islam: Qadis and Their Judgements*, ed. Muhammad Khalid Masud, Rudolph Peters, and David Powers (Brill, 2006), 50.

not elicit a performative utterance from the judge.[50] As shown by Mariam Sheibani, disagreements over these distinctions of a judge's tasks were brought up in a late Ayyubid legal dispute over the judicial authorization of the marriage of a minor orphan girl and the subsequent annulment of the marriage. In this particular case, the late Ayyubid jurists discussed whether a deputy judge's certification of the marriage of the minor orphan would qualify as a legal judgment (*ḥukm*). The jurists' take on this question had important ramifications on the annulment of the marriage contract — annulment being the bone of contention in the dispute.[51]

The same considerations in demarcating different document types (i.e., notarial acts that include voluntary legal acts such as sales, gifts, and wills; legal judgments; and administrative decrees) emanating from judicial practice lie behind the categorization of document drafts in the Ottoman-era legal handbooks. The first known Ottoman legal handbook (*ṣakk mecmuası*), titled *Biḍā'a al-qāḍī*, written in Arabic,[52] differentiates between a *şer'ī* document (*ṣakk shar'ī*) and a *ḳanūnī* document (*ṣakk ḳānūnī*). *Ḳanūnī* document (*ṣakk ḳānūnī*) refers to Ottoman administrative transactions that, this legal handbook recognizes, became part of custom over

[50] Shihab al-Din Ahmad ibn Idris Al-Qarafi al-Maliki, *The Criterion for Distinguishing Legal Opinions from Judicial Rulings and the Administrative Acts of Judges and Rulers*, World Thought in Translation (New Haven, CT: Yale University Press, 2017), 11-18 and 159-160. For the Mughal standardization between the seventeenth and nineteenth centuries of a specific form of a declaratory legal document confirming a person's report of injury, witness statements, or any other form of 'establishment of facts,' see Nandini Chatterjee, "Mahzar-Namas in the Mughal and British Empires: The Uses of an Indo-Islamic Legal Form," *Comparative Studies in Society and History* 58, no. 2 (2016): 379–406.

[51] Mariam Sheibani, "Judicial Crisis in Damascus on the Eve of Baybars's Reform: The Case of the Minor Orphan Girl (651–55/1253–57)," *Islamic Law and Society* 29, no. 4 (2022): 425–56.

[52] Two works appear under this title in manuscript form, one attributed to the famous 16th-century chief jurisconsult Ebūʾs-Suʿūd Efendi (d. 1574) and the other to a 16th-century judge named al-Bursawī (d. after 1530), with clear overlaps between the two versions. The authorship attribution of and variations between the two texts are not significant for my discussion here because both versions aptly elicit the Ottoman realities for document types. For a discussion of the authorship of this legal handbook, see Muharrem Kılıç, "Muhakeme Hukukunun Biçimsel Rasyonalitesi Bağlamında Osmanlı Hukukunda Belge Tanzimi Kadı Ebussuud'un Sak Risalesi," *Türk Hukuk Tarihi Araştırmaları Dergisi* 2, no. 5 (2008), 55-56; Munther Al-Sabbagh, "Before Banks: Credit, Society, and Law in sixteenth-century Palestine and Syria" (UC Santa Barbara, 2018), 43. Al-Sabbagh works on a copy attributed to al-Bursawī. For a published version of the text, see Ahmet Ali Balcı, "Ebüssuud Efendi'nin Bida'atü'l-Kadı Adlı Risalesinin Tahkik ve Tahlili" (İstanbul, Marmara Üniversitesi, 2016).

time.[53] An example given to these types of documents is financial transactions between the tax-exempt. The conventional distinction between *şer'ī* documents (i.e., those with a legal judgment and those without) is mentioned separately. This distinction was rendered in later Ottoman legal handbooks with the terms *i'lām* and *ḥuccet*. Whereas *i'lām* was reserved to identify documents with a legal judgment (*ḥukm*), *ḥuccet* was used for documents whose content did not include a legal judgment (*ḥukm*). Despite carrying the judge's seal and signature, *ḥuccet* documents pertained to two parties acknowledging and confirming each other's claims — documents that were products of judges' notarial services.[54] When Kemāleddīn Efendi argues that there was no judgment in his document, he resorts to this overarching classification of documents released from an Islamic court.

The same classification of legal documents also informs specific certification (*imżāʾ*) templates found in the Ottoman-era legal handbooks. The legal handbook *Biḍā'a al-qāḍī* provides specific expressions of certification (*imżāʾ*) to be used according to varying document types. The handbook suggests that when judges issue a *ḳanūnī* document (*ṣakk ḳānūnī*), they need to certify it with the expression "The matter is as mentioned" (*al-amr kamā dhukira*). Certification expressions in the two different types of *şer'ī* documents also differ. A document certified with a legal judgment should be signed as "This [the legal case] occurred in my presence and I passed a legal judgment on it, and I am so-and-so in the city of so-and-so." (*jarā*

[53] Balcı, "Ebüssuud Efendi'nin Bida'atü'l-Kadı Adlı Risalesinin Tahkik ve Tahlili," 44-45; Al-Sabbagh, "Before Banks," 96-97. Mālikī jurist Al-Qarāfī (d. 1285) makes a similar distinction between judicial decisions and administrative acts. See Al-Qarafi al-Maliki, *The Criterion for Distinguishing Legal Opinions from Judicial Rulings and the Administrative Acts of Judges and Rulers*, 191.

[54] Mübahat S. Kütükoğlu, *Osmanlı belgelerinin dili: diplomatik* (İstanbul: Kubbealtı Akademisi Kültür ve San'at Vakfı, 1994), 350. Al-Sabbagh, however, confuses the distinction between a legal document and an administrative act with the one between a judicial decision with a legal ruling and the one without it. See Al-Sabbagh, "Before Banks," 96-97.

mā fīhi indī wa-ḥakamtu bihi wa-ana al-faqīr fulān bin fulān al-muwallā bi-fulān) or as "It is valid in my view and I passed a legal judgment on it" (*ṣahha mā fīhi indī wa-ḥakamtu bihi*). As for documents that lack a legal judgment, the expression is, "It [the case] occurred in my presence. The ruling was established according to some *ulemā*" (*jarā mā fīhi indī. Thabata ḥukm inda baḍ al-ulamā'*).[55]

Well-known signatures in Arabic, as in chief jurisconsults' ending of their legal opinions with "the poor one wrote it" (*katabahu al-faqir*) or versions of it, or as in judges' signatures in documents they issued, were conventions of document formulations. Signatures were also used to authenticate different types of administrative and legal documents by the Ottoman learned establishment of various ranks. These signatures were similarly short, often formulaic, one-sentence approval of the validity of the content of signed documents, with the expressions changing based on document types.[56] In a thorough study of signatures of the Ottoman legal establishment, Mehmet İpşirli provides a couple of examples of endorsement (*taṣdīḳ*) in the signature format of chief jurisconsults and chief justices;[57] The contextual and procedural dimensions of these endorsements are not always elucidated by the author.[58] İpşirli examines the

[55] Balcı, "Ebüssuud Efendi'nin Bida'atü'l-Kadı Adlı Risalesinin Tahkik ve Tahlili," 44. For a detailed discussion of this work, see Kılıç, "Kadı Ebussuud Un Sak Risalesi,"45–63. For the evolution of this genre during the Ottoman period and different compilations of ṣakk/ṣukūk, see Süleyman Kaya, "Mahkeme Kayıtlarının Kılavuzu: Sakk Mecmuaları," *Türkiye Araştırmaları Literatür Dergisi*, no. 5 (May 1, 2005): 379–416.
[56] For the use of signatures by other officials, see Mehmet İpşirli, "İmza," TDV İslam Ansiklopedisi.
[57] İpşirli also gives examples of signatures of nakibüleşraf, ordinary judges, deputy judges, and madrasa teachers.
[58] One legal document (ḥuccet) from 1697 has an endorsement penned by both chief justices in addition to the signature of the local judge of Amid. İpşirli does not elaborate on the type of this legal document and why it was issued. When looked closely, the legal document of the judge of Amid confirms the transfer of tax farm revenues from several villages to two tax farmers in the region. With the endorsement of the two chief justices in the form of their signatures on top of it, the document is followed by an arz/petition that requests an imperial command (*ferman*) that would allow an imperial diploma/patent (*berat*) to be dispatched so that the appointment of the concerned tax farmers can be officially bestowed. Given that the local judge of Amid was not present in Istanbul to sign the document along with the two chief justices, how and why did a document most probably issued by him receive those two other signatures? Since this issue concerns the financial administration of resources, the appointment of tax farmers may have necessitated an official confirmation from the center when the petitioner(s) sought their

signatures of the chief jurisconsults under two categories: those they used in their legal opinions and those in executive documents.[59] As for the signatures of the chief justices, he recognizes that the chief justices signed documents such as endowment deeds (*vakfiyye)*, legal documents (*ḥuccet)*, and bequests (*vaṣiyyet)*, after they mentioned whether the issue was in accordance with the Islamic law and whether the document was valid. Apart from this brief mention of chief justices authenticating the content of documents, İpşirli does not discuss the issue of a legal document having a legal judgment (*ḥukm)* as a differentiating factor impacting the choice of a signature.[60] In a legal handbook from the seventeenth century, the examples of certification came at the end of the compilation and were all given as a list in Arabic.[61] No clear distinction was noted whether a legal judgment was involved, depending on signature types. Despite multiple variations, these signature models do not differ much from the signature templates given in the mid-sixteenth-century legal handbook *Biḍā'a al-qāḍī*.

From what has been described so far, it might be assumed that judges resorted to several stock phrases to certify a legal document, phrases that must have been learned and memorized early on in one's career. In the Yeniköy court registers from 1611-13, a deputy judge of Ḳalʿa-i Boġazkesen (Rumelihisarı), Meḥmed Dede bin Ferhād, one of the many deputy judges working

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appointment documents in Istanbul. For the concerning documents, BOA, İE.ADL. 7, 413. I will present a comprehensive discussion of the handling of such cases in Chapter 3.

[59] In another context, in his study on Ottoman endorsement (*taḳrīż* and *imżā'*) practices for newly written texts as part of promotion, review, praise, and even nuanced criticism of such works, Burak underlines that the endorsers, among whom prominent members of the imperial learned hierarchy feature quite often, chose to write in Arabic for the purpose of addressing the larger community of scholars and jurists of the empire. Guy Burak, "Sansür, Kanonizasyon ve Osmanlı İmzâ-Takrîz Pratikleri Üzerine Düşünceler," in *Eski Metinlere Yeni Bağlamlar - Osmanlı Edebiyatı Çalışmalarında Yeni Yönelimler*, ed. Ali Emre Özyıldırım et al., Eski Türk Edebiyatı Çalışmaları, X (İstanbul: Klasik Yayınları, 2015), 96–117.

[60] Mehmet İpşirli, "İlmiye Mensublarının İmzâ ve Tasdik Formülleri", Tarih Boyunca Paleografya ve Diplomatik Semineri, 30 Nisan-2 Mayıs 1986: Bildiriler," in *Tarih Boyunca Paleografya ve Diplomatik Semineri, 30 Nisan-2 Mayıs 1986: Bildiriler* (İstanbul, 1988), 183.

[61] Atif Bakır, "Kadılık kılavuzu olarak Sakk mecmuaları" (MA thesis, Kırıkkale Üniversitesi, 2018), 87-88.

under the jurisdiction of the judge of Galata,[62] took the liberty to write down certain expressions of certification in two separate folios by breaking down various categories of document types. He starts the list by saying: "I have recorded these certifications [lit. signatures (*imdhaʾ*)] so that, when they are needed, they [judges/deputy judges] sign [accordingly]."[63] According to this list, different phrases of certification are required depending on whether a legal document carries a fixed content with facts being established, whether it is written to quickly grasp what is said/what has happened, or whether a document's content is not established. In the translated list that I provide here, the purpose of the certification phrase is originally given in Turkish, and the template phrase itself (italicized below) that followed is in Arabic:

> The following is the version when the content of a legal document is established:[64]
> *When the content of this legal document and the meaning of this judgment concerning a judicial decision was established by the testimony of the two righteous men, so-and-so son of so-and-so and so-and-so son of so-and-so, whose names are written at the end of the document, I approved and certified and executed it. I am the poor, so-and-so son of so-and-so, the mūwallā of the New Castle [i.e., Boğazkesen] and the like*.
>
> This is the signature for a document that is written to quickly grasp the content of what is said:[65]
> *This has to do with whatever the poor so-and-so investigated.*

[62] Evliya Çelebi noted that in the seventeenth century there were about forty deputy judges covering the business of dispensing justice in villages attached to the judgeship of Galata. Evliya Çelebi, *Evliya Çelebi Seyahatnâmesi*, ed. Orhan Şaik Gökyay et al. (İstanbul: Yapı Kredi Yayınları, 1996), vol. 1, 201. The deputy judge of Ḳal'a-i Boġazkesen was one of these deputy judges.

[63] YK 28: 44: "Bu imżāʿları ḳayd ettim buna, gün lāzım oldukta imżāʿ edeler." For another list of signature samples by the same deputy judge, see YK 28: 18.

[64] "İş bu ṣūret bir ḥuccetin mażmūnı ṣābit olıcak böyle yazılır, suret budur: Lammā thabata wa taḥaqqaqa madhmūn hadh'al-kitāb al-shar'ī wa mafhūm dhāka al-ḥiṭāb al-mar'ī 'alā wajh al-qadā al- shar'ī bī-shahāda al-rajilīn al-'adilīn al-mudda'ūn fulān bin fulān wa fulān bin fulān al-masṭūr ismhumā bī-dhayl ladayyī qabiltuhu ve imdhaytuhu wa naffadhtuhu wa anā al-faqīr fulān bin fulān al-mūwallā bī-[al-]qal'[a] al-jadīda [wa] khilāfuhu."

[65] "Bir ḥüccetin dāḫī mażmūnı hemān mücerred żabt-ı maḳāl için yazılmış olsa imżā' budur: Ta'allaqa bī-mā fīhi naẓara al-faqīr fulān bin fulān."

And if the content of a document is *shar'ī*, but its content is not established, then this is the signature:[66]
I looked at what was in it, [ ]*, and I found it in accordance with the sharia. It was written by so-and-so.*

The signature for a sole *ḥüccet* is this:[67]
The matter is as written, and I am the poor so-and-so son of so-and-so.[68]

These signature components are typically missing in extant court registers because such certifying signatures were only employed when a document was issued, hence finishing off a text arranged for any party to a legal case who sought written documentation. It is necessary to posit here that these signature models given by the deputy judge slightly differ from what was outlined by the mid-sixteenth-century legal handbook *Biḍā'a al-qāḍī*. Despite the desire to create uniformity and standardization in written records of court hearings, there seems to be a certain degree of individualized coloring of signature types. What is consistent, however, in the exposition of such signatures is that differences in document types were essential and meaningful for scribes and judges as well as litigants or defendants who would seek such documents.

The enclosure of documents was standardized depending on document types. This is not so much about whether judges or scribes knew if the document had a legal judgment or if it was a mere recognition of facts. They could have told this from a glimpse into the content of the document at hand. In the hands of the Ottoman administrative and judicial hierarchy, these

[66] "Ve bir huccetin mażmūnı şer'ī olsa lākin mażmūnı s̱ābit olmasa üzerine imżā' budur: Ṭāla'at mā fīhi wa aṭala'tu 'alā […] wa wajadtuhu muwāfiqan lil-shar' ḥarrarahu al-faqīr fulān."
[67] "Mahza hüccete imza-ı şerif budur: al-amr kamā hurrira wa anā al-faqīr ilayhi subhanahu fulān bin fulān."
[68] There is one more certification type given in the list that is for contracts of interest-bearing loan (istighlāl): "Al-bay' lil- istighlāl wa waqa'a 'andī 'alā hadhā'l-minvāl wa anā al-faqīr." For a discussion of these types of contracts in the Ottoman context, see Haim Gerber, *State, Society, and Law in Islam: Ottoman Law in Comparative Perspective* (Albany: State University of New York Press, 1994), 74.

"signatures" turned into professional signs of validity, as also suggested by Asparouh Velkov.[69] Standardization offered a shared bureaucratic and professional language while deliberately making the Arabic enclosure notes impenetrable to the uninitiated.

In his work on the Istanbul court register of 1612-1613, Recep Çiğdem makes an interesting observation about the choice of language between Arabic and Turkish based on the types of legal documents. Çiğdem demonstrates that half of the entries were in Arabic in the register he works on. More importantly, Arabic was preferred over Turkish in *ḥuccet* documents (i.e., documents without a legal judgment), such as those composed for contracts, property transfer, and manumission. In contrast, *i'lām* documents, comprising a legal judgment, were formulated in Turkish. For the latter case, Çiğdem speculates that since such documents were "real lawsuits containing the claims, counterclaims, replies, and defense of the contestants," they perhaps were made legible in Turkish to the parties involved in such cases. As for documents formulated in Arabic, Çiğdem raises intriguing questions: Were the registered copies of documents in Arabic "identical with the documents handed over to the parties, and if so, how could they understand their contents? Did they learn the Arabic language [at all], or at least enough to understand such certificates?"[70] The first question can be answered through a marginal note in the same court register of Istanbul as the one Çiğdem has worked on. The note, next to a

[69] Velkov compiles 123 signature-formularies from documents kept at St. Cyrill and St. Methodius National Library in Sofia and publishes facsimiles with translations into French. As the compiled documents date from the early seventeenth century to the mid-nineteenth century, Velkov observes that these signature formularies did not change much over time. Velkov does not distinguish between documents with or without a judgment, though. Asparouh Velkov, "Signatures-Formules Des Agents Judiciaires Dans Les Documents Ottomans à Caractère Financier et Juridique," *Turcica* 24 (1992): 193–240. In analyzing different components of judicial documents, Klara Hegyi also briefly provides several examples of certifying expressions. Klara Hegyi, "The Terminology of the Ottoman-Turkish Judicial Documents on the Basis of the Sources from Hungary," *Acta Orientalia Academiae Scientiarum Hungaricae* 18, no. 1/2 (1965): 191–203.

[70] Recep Çiğdem, "The Register of the Law Court of Istanbul 1612-1613: A Legal Analysis" (Ph.D. Dissertation, The University of Manchester, 2001), 44.

court entry in Arabic for a legal case of property sale, contains a crucial warning: "A copy of it in Turkish has been issued. May one not be oblivious to it (*ġaflet olunmaya*)."[71] This attention to the language difference between the document given to the parties of the dispute and the copy kept within the court register was to reassure that if there was ever a need to refer to the case in the register (likely to compare the issued document with the records of the court), judges and scribes should not dismiss the issued copy as a false and fabricated document because of the difference in language. This note also shows that courts in the early seventeenth century functioned within the dual linguistic realm and that translation from Arabic to Turkish and vice versa was commonplace.

Signature models assigned to different types of legal documents were constantly preserved in Arabic, strikingly so if one considers the many efforts put into place in the process of vernacularization of religion and law in the early modern Ottoman Empire. As is well known, Ottoman legal literature and judicial documentation moved from the domain of an Arabic-dominated production to that of Turkish over the sixteenth and seventeenth centuries, with Turkish gaining the prestige it had lacked earlier. This gradual linguistic shift can be observed in the choice of language in the Ottoman legal handbooks during this period. In his mid-sixteenth-century legal handbook composed in Arabic, *Biḍāʿa al-qadī,* Ebū's-Suʿūd Efendi states that judges were required to acquire a good command of Arabic because the majority of court documents were written in that language. Süleyman Kaya rightly notes the discrepancy between Ebū's-Suʿūd Efendi's emphasis on the use of Arabic and the actual court registers themselves

[71] ICR 1: 83b. I believe Çiğdem missed this information because he may have worked either with photocopies or microfilms of the original registers where the marginal note may have been cut off.

from early sixteenth-century Üsküdar that are predominantly in Turkish.[72] Intriguingly, despite this discrepancy, the most famous legal handbooks from the early to mid-sixteenth century provided document examples in Arabic only. Towards the end of the sixteenth century, however, some legal handbook collections were mixed with documents in Arabic and Turkish. Finally, later collections of legal documents produced in the Balkans and Anatolia included documents only in Turkish. In his early seventeenth-century legal handbook, Baldırzāde Şeyḫ Meḥmed el-Bursevī (ö.1060/1650), who initially expressed hesitation about what language to write his book in, finally decided to pen it in Turkish. Rather than fully achieving their aim to guide judges in formulating court documents, legal handbooks seemingly followed the trend in the language used in court registers.[73] This is also in line with how these legal handbooks were usually compiled; a collection of actual court documents was edited to create templates for judges' and scribes' consultation.[74]

Apart from the composition of legal handbooks in Turkish with the specified aim of providing aid to court personnel, translations of jurisprudential texts from Arabic —and to a lesser degree from Persian — into Turkish in the early modern Ottoman scholarly circles also attest to the needs and changing linguistic preferences for reading and writing practices. These translation activities include texts of legal theory and substantive law both from different genres and from classical and post-classical periods — such texts as al-Nasafī's (d. 1310) *Manār al-Anwār* in legal theory, and Burhān al-Sharīʿa Mahṃūd's (d. 1329-30) *al-Wiqāya al-Riwāya*, Abū Yūsuf's *Kitāb al-Kharāj*, al-Nasafī's *Kanz al-daqā'iq*, al-Qudūrī's *Mukhtaṣar*, and Marghinānī's

[72] Kaya, "Mahkeme Kayıtlarının Kılavuzu." Again, it is also important to emphasize Recep Çiğdem's observation of court registers still being kept in Arabic to a certain extent in the early seventeenth century, as mentioned earlier.
[73] Kaya, "Mahkeme Kayıtlarının Kılavuzu."
[74] Kılıç, "Kadı Ebussuud Un Sak Risalesi."

(d. 1197) *Bidāya al-Mubtadī* in substantive law.[75] Usually, translators of these texts openly stated their purpose for undertaking the task. As a common trope, the idea of making these texts accessible to their intended audience was expressed as the primary motivation for translations into Turkish. The intended audience was named as students, commoners, and literati. The illiterate were also named as the audience when the translation was done, along with the conversion of prose into poetry to help the illiterate memorize the content of translations.[76]

Translation of jurisprudential texts and legal handbooks was crucial for the emergence of Turkish as a self-contained and eloquent language in legal matters. However, as no translation is transparent and straightforward, these translated texts came with new concepts and formulations. Indicative of this transformative nature of translation endeavors, the average length of exemplary legal documents in legal handbooks in Turkish, as observed by Süleyman Kaya, increased from the sixteenth century onwards.[77] Kemāleddīn Efendi's acknowledgment of opting for lengthy translations in the target language at the expense of characteristic conciseness preserved in the original Arabic texts is emblematic of linguistic considerations of the time about how to render legal documents issued in a court and jurisprudential texts sound and faithful to the intended meanings.

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[75] Sadık Yazar, "Osmanlı Döneminde Fıkıh Sahasında Yapılmış Türkçe Tercümeler," *Türkiye Araştırmaları Literatür Dergisi* 12, no. 23 (May 23, 2017): 49–166. For an early example, see Sara Nur Yıldız, "A Hanafi Law Manual in the Vernacular: Devletoğlu Yūsuf Balıḳesrī's Turkish Verse Adaptation of the Hidāya-WiqāyaTextual Tradition for the Ottoman Sultan Murad II (827/1424)," *Bulletin of the School of Oriental and African Studies* 80, no. 2 (2017): 283–304.

[76] Sadık Yazar, "Osmanlı Döneminde Fıkıh Sahasında Yapılmış Türkçe Tercümeler."

[77] Kaya, "Mahkeme Kayıtlarının Kılavuzu." Heywood observes a similar increase in the text length of administrative documents issued to authorize post-couriers to be received in stations along their route: Colin Heywood, "The Evolution of the Courier Order (ulaḳ ḥükmi) in Ottoman Chancery Practice (Fifteenth to Eighteenth Centuries)," in *Osmanische Welten: Quellen und Fallstudien: Festschrift für Michael Ursinus*, ed. Michael Ursinus et al. (Bamberg: University of Bamberg Press, 2016), 269–312.

In addition to creating legal literature in the vernacular, these efforts were preoccupied with the very substantial need to translate the daily language of commoners into the classifications and formulations of jurisprudential texts. For example, the legal opinion collections of the Ottoman chief jurisconsults struggled to identify utterances in Turkish that initiated divorce by the husband. The chief jurisconsults classified them in a way so as to correspond to different types of divorce according to Islamic law.[78] The chief jurisconsults' concerns ranged from mispronounced Arabic divorce utterances — obviously by non-Arabophone subjects of the empire — to the startling variations of similar utterances in Turkish that the jurisconsults struggled to make legible to legal procedural measures and standards in court proceedings. In the latter case, the translation was not between the two languages but from divorce-initiating statements in Turkish into legal significance. Such legal translations of social contexts should be read in parallel to similar processes of legal translation, both in form and substance, in other non-Arabophone Islamicate contexts.[79]

From the fifteenth through seventeenth centuries, there was a massive intellectual investment in engineering Turkish as a language capable of expressing the demands of the

[78] Pehlul Düzenli, "Türkçe talâk tabirleri ve fıkhî sonuçları," *Necmettin Erbakan Üniversitesi İlahiyat Fakültesi Dergisi* 46 (2019): 107–40. For a theoretical discussion of Muslim jurists' treatment of intent and ambiguous and unambiguous speech while evaluating divorce statements, see Paul R. Powers, *Intent in Islamic Law: Motive and Meaning in Medieval Sunnī Fiqh*, Studies in Islamic Law and Society, v. 25 (Leiden; Boston: Brill, 2006), 130-153.
[79] See Ken'ichi Isogai, "A Commentary on the Closing Formula Found in the Central Asian Waqf Documents," in *Persian Documents: Social History of Iran and Turan in the Fifteenth to Nineteenth Centuries*, ed. Kondo Nobuaki, New Horizons in Islamic Studies (London ; New York: Routledge, 2003), 3–12; Chatterjee, "Mahzar-Namas in the Mughal and British Empires: The Uses of an Indo-Islamic Legal Form"; Elizabeth M. Thelen, "Disputed Transactions: Documents, Language and Authority in Eighteenth-Century Marwar," *Journal of the Economic and Social History of the Orient* 64 (2021): 792–825; Nandini Chatterjee, "Translating Obligations: Tamassuk and Fārigh-Khaṭṭī in the Indo-Persian World," *Journal of the Economic and Social History of the Orient* 64, no. 5–6 (2021): 541–82. For examples from the Safavid context, see Zahir Bhalloo, *Islamic Law in Early Modern Iran: Shari'a Court Practice in the Sixteenth to Twentieth Centuries*, Studies in the History and Culture of the Middle East, (Berlin: De Gruyter, 2023); Zahir Bhalloo and Omid Rezai, "Inscribing Authority: Scribal and Archival Practices of a Safavid Decree," *Journal of the Economic and Social History of the Orient* 62, no. 5–6 (November 12, 2019): 824–55.

Ottoman bureaucracy, administration, and judicial machine.[80] The legal dispute from Yeniköy can be gauged against this backdrop of the development and evolution of legal language and terminology in Turkish.

From What is Lost in Translation to the Demolition of a Church in Yeniköy

All the defensive language on the part of Kemāleddīn Efendi aims to push back on the chief jurisconsult's accusation that the legal document exhibited explicit leniency to unbelievers. A legal opinion of Ebū's-Suʿūd Efendi demonstrates the potentially damaging amalgam of discursive accommodation and any degree of leniency in practice:

> In a town, the Christian community gathers in a place three times a year and makes celebrations based on their ancient customs *without doing any harm to anyone* and *without annoying Muslims at all*. Would the Jewish community be capable of debarring them based on their animosity towards the Christians? The response: It is the community of Muslims that should debar them. Saying, "This does no harm to anyone," is an evident

[80] It is necessary to express the obvious here: This boom in the production of vernacular scholarly works in the sixteenth and seventeenth centuries was not only in the domains of legal literature. For hagiographical texts, see John Curry, "The Growth of a Turkish-Language Hagiographical Literature Within the Halveti Order of the 16th and 17th Centuries," in *The Turks*, ed. Hasan Celâl Güzel et al., vol. 3 (Ankara: Yeni Türkiye, 2002), 912–20. For dynastic and universal histories composed in Turkish in the domain of historiography, see Cornell H. Fleischer, *Bureaucrat and Intellectual in the Ottoman Empire: The Historian Mustafa Âli (1541-1600)* (Princeton, N.J: Princeton University Press, 1986), 241-242. For the perspective of the astronomical and astrological textual corpus, see Ahmet Tunç Şen, "The Emergence of a New Scholarly Language: The Case of Ottoman Turkish," in *Routledge Handbook on the Sciences in Islamicate Societies*, ed. Sonja Brentjes, Peter Barker, and Rana Brentjes (London: Routledge, 2023), 240–47. For a survey of translations into Turkish of works in political thought, see Özgür Kavak, "Rûmîyâne Libâs-ile Pîrâste ve Türkî Etvâr-ile Ârâste: Siyaset Düşüncesi Eserlerinin Osmanlı Türkçesine Tercüme Sebepleri Üzerine Bazı Tespitler," *İslam Tetkikleri Dergisi* 13, no. 1 (2023): 423–63. For studies on translators and their motivations, see Gottfried Hagen, "Translations and Translators in a Multilingual Society: A Case Study of Persian-Ottoman Translations, Late Fifteenth to Early Seventeenth Century," *Eurasian Studies* 2, no. 1 (2003): 95–134; Tijana Krstić, "Of Translation And Empire: Sixteenth-Century Ottoman Imperial Interpreters as Renaissance Go-Betweens," in *The Ottoman World*, ed. Christine Woodhead (London: Routledge, 2011). See also Christine Woodhead, "Ottoman Inşa and the Art Of Letter-Writing Influences Upon The Career Of The Nişancı And Prose Stylist Okçuzade (d. 1630)," *Osmanlı Araştırmaları* 07–08, no. 07–08 (June 1, 1988); Ferenc Csirkés, "Turkish/Turkic Books of Poetry, Turkish and Persian Lexicography: The Politics of Language under Bayezid II," in *Treasures of Knowledge: An Inventory of the Ottoman Palace Library (1502/3-1503/4)*, ed. Gülru Necipoğlu, Cemal Kafadar, and Cornell H. Fleischer (Leiden ; Boston: Brill, 2019), 673–733. Vernacularization can be observed even in Muslim epitaphs where the transition from Arabic to Turkish occurred over the sixteenth century: Edhem Eldem, "Urban Voices from beyond: Identity, Status and Social Strategies in Ottoman Muslim Funerary Epitaphs of Istanbul (1700-1850)," in *The Early Modern Ottomans: Remapping the Empire*, ed. Virginia H. Aksan and Daniel Goffman (Cambridge: Cambridge University Press, 2007), 236.

> lie and unbelief. In a town where the Friday prayers are performed, the Christians' public display of the symbols of unbelief in this way is harmful to religion. It is permissible for neither Christians nor Jews to act in this manner. The judge is required to dispel their gathering forcibly. If he is lenient with them, his dismissal is obligatory.[81]

Curiously, the scaffolding of the opinion insists on Muslims not getting harmed as Christians make celebrations publicly. Ebū's-Suʿūd Efendi's response first deals with those Muslims failing to distance themselves from unbelief and then mentions the role of the judge in preventing such public celebrations of non-Muslims in towns where the Friday prayers are performed. In such circumstances, the negligent attitude of the judge would necessitate his dismissal from office. It turns out that the performance of the Friday prayers was also brought up in the Yeniköy debate and translated into another layer of disagreement between Kemāleddīn Efendi and the chief jurisconsult Meḥmed Efendi. Consequently, the Yeniköy debate did not rest at the abstract level. Instead, it reached a crescendo, escalating from a disagreement over the correct way of formulating a legal document and ending up with the demolition of a church in Yeniköy as a result of a legal ruling of the chief jurisconsult.

In his second epistle responding to the chief jurisconsult's legal opinions, Kemāleddīn Efendi broaches the subject of another legal opinion of the chief jurisconsult bearing on an issue unaddressed up to that point in the previous legal opinions in the second section of the debate. As gleaned from Kemāleddīn Efendi's defense in the second epistle, this additional legal opinion contested the church's status in Yeniköy. It demanded the church's demolition, apparently after the debate between the judge of Galata and the chief jurisconsult regarding the document issued

[81] Abū al-Saʿūd Muḥammad ibn Muḥammad, *Şeyhülislâm Ebussuud Efendi Fetvaları Işığında 16. Asır Türk Hayatı*, ed. M. Ertuğrul Düzdağ (Beyazıt, İstanbul: Enderun Kitabevi, 1972), 96. Emphasis added.

for the religious procession in Yeniköy. The addition of this opinion in the second epistle of Kemāleddīn Efendi indicates that the last installment of the debate, as it survived in the manuscript copies, may have been written after a certain amount of time during which the demolition of the Yeniköy church materialized.[82] In this second epistle, Kemāleddīn Efendi also has objections to the legal reasoning behind the demolition of the church in the village.

From Kemāleddīn Efendi's objections, it is understood that the chief jurisconsult considered the church in Yeniköy to be a new one that was constructed after the Muslim conquest, on the ground that the village is named *New Village* in Turkish.[83] However, Kemāleddīn Efendi finds the meaning of the village's name to be insufficient evidence to act upon, given that a mere village name hardly proves the recent habitation of the village or the new construction of its church. At this point, he propounds several hypotheses as to why Yeniköy's name can be irrelevant to the standing of the village or its church: there may have been an actual village there at the time of the conquest, and the village may have been called *New Village* in Turkish afterward; or even though the village may have been a new one, the construction of the church may have predated it. To illustrate this latter case, he gives the example of standalone churches without any surrounding settlements in the Balkans. This suggests the possibility of the Yeniköy church being of this kind, with the village emerging around an existing church and hence taking the name *New Village*. Finally, Kemāleddīn Efendi insists that even if the church had been constructed after the Ottoman conquest of the area, demolishing it would not have been

[82] In a court entry dating to 1613 for an amicable settlement that was reached between two villagers of Yeniköy to resolve a dispute over the usufruct of a plot of land, the disputed parcel of land was described as "near the old church," (eski kenīse ḳurbunda) which I suppose is a reference to the church demolished in the aftermath of the debate discussed here. YK 29: 69.

[83] In the court registers of Yeniköy, the village also occasionally appears as Ḳarye-i Cedīde. For example, see YK 24: 8.

necessary. Quoting Burhān al-Dīn Ibn Māza's (d.1219) *Dhakhīra al-fatāwa*, Kemāleddīn Efendi underlines that if Yeniköy was considered to be conquered by contract, this new church would still be a legal construction in a non-Muslim village after the Muslim conquest but before the settlement of Muslims there. To a hypothetical question as to how the type of conquest of the village would be known in certainty, Kemāleddīn Efendi states that the chief jurisconsult himself acted on this premise: Rather than articulate his legal opinion on the assumption that the area was conquered by force and that all the churches in the area could be confiscated and repurposed by the sultan, the chief jurisconsult opined on the idea that the church was a recent construction. No other consideration had been made to question whether the area was conquered by force.

This is a clear appeal to the legal status of non-Muslim places of worship depending on the various categories of land conquered by Muslims. The way conquest materialized directly impacted the use, maintenance, renovation, and relocation of non-Muslim places of worship under Muslim rule. Conventionally, two broad categories of land are defined: lands that are conquered by force (*ʿanwatan*) and those that are conquered through treaty (*ṣulḥan*).[84] Kemāleddīn Efendi's quotation from Ibn al-Humām in the first epistle to justify the phrasing of his legal document operates within the category of lands conquered by peaceful contract. Conquest by peaceful contract would leave non-Muslim places of worship in possession of their communities and allow them to function. Theoretically, while no new places of worship could be constructed in mixed settings and towns, the existing ones could be repaired with their present form preserved. All the remaining articulations and jurisprudential arguments, including the

[84] For an overview of the categories of lands and its implications for land ownership and taxation in early Islamic period, see Daniel Clement Dennett, *Conversion and the Poll Tax in Early Islam* (Cambridge: Harvard University Press, 1950); Antoine Fattal, *Le Statut Légal Des Non-Musulmans En Pays d'Islam* (Beyrouth: Impr. catholique, 1958).

objections raised in the legal opinions by the chief jurisconsult, are grounded on this premise. In his legal opinion about the Yeniköy case, the chief jurisconsult himself points out that Ibn al-Humām uses the quotation from al-Karkhī to discuss the fate of non-Muslim places of worship in lands acquired by Muslims through peaceful means. Even so, he does not declare the assumption of conquest through treaty to be irrelevant to the church of Yeniköy.

The legal taxonomy of lands relied on a productive interaction between law and historiography. This was true for Egypt, Damascus, and Sawad.[85] As I discuss in detail in Chapter 4, the historical narratives of the conquest of Constantinople, both the walled city and its surrounding towns and villages, were instrumental in legal discussions over the status of non-Muslim places of worship in greater Istanbul. The factual confusion over Yeniköy's status, as happened in this early seventeenth-century debate, almost two centuries after the conquest, paved the way again for conflicting evaluations of the past.

While theoretically no new church or synagogue could be built in towns, regardless of how those lands were conquered, the construction of new places of worship was legally allowed in non-Muslim villages conquered by peaceful contract.[86] However, this permission would be invalidated when the same village became a mixed settlement. As articulated by Ebū's-Suʿūd Efendi in a legal opinion, the post-classical agreement of the Ḥanafī jurists was that a village

[85] For a discussion of debates over the classification of lands after Muslim conquests and its direct relation with taxation, see Nimrod Hurvitz, "Law and Historiography: Legal Typology of Lands and the Arab Conquests," in *The Law Applied: Contextualizing the Islamic Shari'a: A Volume in Honor of Frank E. Vogel*, ed. Frank E. Vogel et al. (London; New York: I.B. Tauris, 2008), 360–73. For the case of Egypt more specifically, see Baber Johansen, "Can the Law Decide That Egypt Is Conquered by Force? A Thirteenth-Century Debate on History as an Object of Law," in *Studies in Islamic Law: A Festschrift for Colin Imber*, ed. Andreas Christmann and Robert Gleave (Oxford: Oxford University Press, 2007), 143–63.

[86] Thanks to this premise, large churches were built in the Balkan monastic countryside away from Muslim urban centers. Slobodan Curcic, "Byzantine Legacy in Ecclesiastical Architecture of the Balkans After 1453," in *The Byzantine Legacy in Eastern Europe*, 1988, 59–81, quoted Necipoğlu, *The Age of Sinan*, 526.

would be considered mixed when a masjid was constructed in it.[87] The existence of a masjid was also linked with whether Friday prayers would be permitted to be performed in that locality. One of the legal discussions in which classical and post-classical jurists developed terminology to denote the relationship between a town, its precincts, and the countryside is linked with the definition of where Friday prayers may be validly held, as discussed in detail by Baber Johansen.[88] Classical jurists, in their definitions of a town, considered a combination of certain conditions, such as the ability of specialized craftsmen to earn their livelihood solely by practicing their craft throughout the year, military strength to defend the settlement, the application of Islamic penal code (i.e., fixed penalties), or an elaborate system of markets. These detailed definitions eventually created a much more restrictive definition of a town. Post-classical Ḥanafī jurists, in response to population increase and the need to construct new mosques, first overcame the by-then fossilized idea of one Friday Mosque per town and then blurred the lines between town and countryside. In their discussions of a city (*misr*), its dependencies (*al-tawābiʿ*), the adjacent countryside (*al-aryāf al-muttaṣila*), and a suburb (*rabaḍ*), they moved away from the classical considerations of these various layers of the amorphous urban-rural stretch in terms of distances. Instead, they conceptualized a symbiotic

[87] Abū al-Saʿūd Muḥammad ibn Muḥammad, *Şeyhülislâm Ebussuud Efendi Fetvaları Işığında 16. Asır Türk Hayatı*, ed. M. Ertuğrul Düzdağ (Beyazıt, İstanbul: Enderun Kitabevi, 1972), 105. While it was permissible to build non-Muslim places of worship in the countryside where the non-Muslims were a demographic majority and there was no masjid, the Islamic public propriety would be dictated even when there were only two Muslim residents in a non-Muslim village, according to Ebū's-Suʿūd Efendi. If the two Muslims complained about the Christians playing wooden bells loudly, the judge would be authorized to ban the ringing of the bell on the condition that the two Muslims who were complainants were pious. Abū al-Saʿūd Muḥammad ibn Muḥammad, *Şeyhülislâm Ebussuud Efendi Fetvaları Işığında 16. Asır Türk Hayatı*, 95.

[88] Baber Johansen, "The All-Embracing Town and Its Mosques: Al-Misr al-Gâmi'," in *Contingency in a Sacred Law: Legal and Ethical Norms in the Muslim Fiqh* (Leiden; Boston: Brill, 1999), 77–106. The Ḥanafī jurists linked the permissibility of Friday prayers in any locality to the permission and authority of the sultan. Norman Calder, "Friday Prayer and the Juristic Theory of Government: Sarakhsī, Shīrāzī, Māwardī," *Bulletin of the School of Oriental and African Studies, University of London* 49, no. 1 (1986): 35–47.

relationship between the city and its hinterland, reflecting the historical realities of urbanization. Finally, most post-classical Ḥanafī jurists concluded that Friday prayers might be validly held within this larger urban precinct. In doing so, they ended up allowing the construction of a Friday Mosque in larger villages.[89] This juristic interpretation legitimized the mushrooming of suburban Friday mosques on the outskirts of many major Ottoman cities.[90]

Speaking from this broader background in mind but without going into a detailed discussion of it, Kemāleddīn Efendi states that the current Friday Mosque in Yeniköy had been recently constructed by the deceased Mollā Efendi (d. 1588),[91] who served as the chief justice of Rumelia between 1584-1585 during the reign of Murād III, and that the church of the village had been constructed before this mosque. For Kemāleddīn Efendi, the relatively recent construction of the Friday Mosque in Yeniköy revealed the later settlement of Muslims in the village and, hence, their recent need to hold Friday prayers there. That is to say, the church's construction must have predated the mosque and the demographic significance of Muslim residents. For these

[89] Johansen, "The All-Embracing Town and Its Mosques: Al-Misr al-Gâmi',"89-100. Once the conceptual obstacle both in the legal perspective and in patronage circles was overcome in the way of the construction of multiple Friday mosques in one locality, it was no longer the demographic growth that spurred more mosques to be built. For the case of late fifteenth century Skopje, where there seemed to be one Friday mosque serving the entire city for about hundred years following its Ottoman conquest and where only within a span of few years around 1500, multiple Friday mosques were built at once although there was population decrease, see Maximilian Hartmuth, "A Late-Fifteenth-Century Change in the Rapport of Friday Mosque and Ottoman City: A Case Study of Macedonia," in *Beiträge Zur Islamischen Kunst Und Archäologie*, vol. 7, 2021, 73–88.

[90] For the empire-wide policies to build mosques and masjids, Necipoğlu, *The Age of Sinan*, 56-57.

[91] Namely, Ṣāliḥ Mollā Efendi. For his biography, see Nev'îzâde Atâyî, *Hadâ'iku'l-Hakâ'ik Fî Tekmileti'ş-Şakâ'ik* (Türkiye Yazma Eserler Kurumu Başkanlığı, 2017), vol. 1, 892-895. Nevʿīzāde notes that, in addition to a mosque, Ṣāliḥ Mollā Efendi had a primary school (*muʿallim-ḫāne*) and a bathhouse built as part of his endowment in Yeniköy. It is clear that Ayvansarayi misidentifies the builder of the Mollā Efendi Mosque in Yeniköy as Fāżıl Efendi son of the chief jurisconsult ʿAlī Efendi. Hafız Hüseyin Ayvansarayî, *The Garden of the Mosques: Hafiz Hüseyin al-Ayvansarayī's Guide to the Muslim Monuments of Ottoman Istanbul*, trans. Howard Crane (Leiden; Boston: Brill, 2000), 451. Nevʿīzāde also notes elsewhere that Güzelce ʿAlī Paşa (d. 1621), who served as grand vizier from 1619 until his death during the reign of Osman II, had a mosque built in Yeniköy. Nev'îzâde Atâyî, *Hadâ'iku'l-Hakâ'ik Fî Tekmileti'ş-Şakâ'ik*, vol. 1, 1642. Later, in the 1630s, a certain sea captain named Osman Reis ibn Abdülkerim also built a mosque in the village. For the endowment deed of this mosque, see VGMA, Defter no. 1566.

reasons, the church should have been spared from demolition. Proving the chronological precedence of the church over the mosque in Yeniköy was crucial to the legality of constructing new non-Muslim places of worship in the countryside before that place turned into a mixed settlement.

Up until this point, the two manuscripts follow the same text except for minor differences in word choices; however, a slightly different concluding paragraph ends the Süleymaniye copy, which is interpolated with another lengthy quotation from a late fourteenth-century compilation of legal opinions titled *Fatāwā Tātārkhāniyya* in which the issue of a non-Muslim village turning into a city neighborhood due to urban expansion is explained.[92] The sound opinion given in *Fatāwā Tātārkhāniyya* is that the already existing churches in such a village-turned-neighborhood cannot be demolished once the village has become a stretch of the city. But Kemāleddīn Efendi responds to a further possible objection: if Yeniköy was said not to be a village adjacent (*muttaṣıl*) to a city, then, he states, there remained no grounds to demolish its church. That is to say, if the village was accepted to be conquered by peaceful surrender, if its church likely preceded the settlement of Muslims in the village, and if the village was not adjacent to a city, alluding to the permissibility of the construction of new churches prior to the settlement of Muslims in the countryside conquered by contract, then on what grounds did the chief jurisconsult issue his legal opinion leading to the demolition of such a village church? The addition of this particular quotation about the transformation of a village to a suburban village/neighborhood complements our discussion in the first chapter on the changing character of the Bosphorus villages, including Yeniköy, from an allegedly remote and rustic landscape to a

[92] "*idhā kānat lahum kanīsa bi-qurb maṣr fa-banaw ḥavlahā abniyatan ḥattā ittaṣalat dhalik bil-maṣr fa-ṣāra ka-maḥalla"* Süleymaniye MS 327a and 327b.

virtual extension of wider urban space. This version of the end of the debate is profoundly and explicitly responsive to the expansion of urban space in the vicinity of Istanbul. It conveys a fairly acute sense of reality.

More subtly, Kemāleddīn Efendi gives a somewhat different twist to the discussion. After being accused of issuing a legal document with an allegedly wrong and unacceptable phrase, he blames the chief jurisconsult for not identifying the relevant factual evidence about the case of the Yeniköy church. Specifically, Kemāleddīn Efendi does not implicitly or explicitly suggest that the chief jurisconsult rules with excessive severity in his reasoning. Instead, Kemāleddīn Efendi bases his arguments on the idea that the chief jurisconsult is in error while evaluating the case. He exposes the chief jurisconsult's hasty decision, which was concluded with dubious evidence in justifying the demolition of the Yeniköy church. As a judge, Kemāleddīn Efendi is more concerned about proof requirements in the judicial procedure.[93] Unlike his defensive interplay between the customary use of legal terminology (as in the meaning of *rukhṣa*) and the translation-based complexity of source material of the Ḥanafī tradition, his mounting criticism over the demolition of the church is adamant in demonstrating the mishandling of the case by the

[93] For another similar episode of controversial trials where the rules of procedural law are questionably applied, see the claim that proofs were insufficient in the execution of capital punishment in Molla Lutfi's trial in 1495, in Şükrü Özen, "Molla Lutfî'nin İdamına Karşı Çıkan Efdalzâde Hamîdüddin Efendi'nin Ahkâmü'z-zındîk Risalesi," *İslam Araştırmaları Dergisi* 4 (2000): 7–16. To be precise, as shown by Şükrü Özen, in his epistle Efdalzade Hamidüddin Efendi may appear to have argued for the inadequacy of evidence to accuse Molla Lutfi of apostasy; however, Efdalzade Hamidüddin Efendi is of the opinion that apostasy is not to be considered within the categories of hadd (fixed) punishments, but rather part of discretionary punishment within the realm of ruler's judicial authority. Hence, technically, punishment for an apostate could and should be put off so that it would be handled and reckoned with in God's court in the afterlife. Repp argues that Taşköprüzade Ahmed glosses over the involvement of Molla Arab as the chief jurisconsult in the heresy trial of Molla Lutfi because Taşköprüzade considered Molla Lutfi's execution unjust. Richard Cooper Repp, *The Müfti of Istanbul: A Study in the Development of the Ottoman Learned Hierarchy* (London; Atlantic Highlands, N.J, 1986), 184. Another controversial case concluded on dubious evidence is from the late seventeenth century when a married Muslim woman was stoned to death in 1680 for alleged adultery, and her sexual partner, a Jewish man, was beheaded; see Marc Baer, "Death in the Hippodrome: Sexual Politics and Legal Culture in the Reign of Mehmet IV," *Past & Present* 210, no. 1 (2011): 61–91.

chief jurisconsult. Having his credentials as a judge questioned by the chief jurisconsult in a legal ruling that was issued in the aftermath of the Yeniköy procession, Kemāleddīn Efendi casts an equally ponderous suspicion on the chief jurisconsult's competence due to the latter's rush to demolish the Yeniköy church without allowing other circumstantial evidence to be evaluated.

Conclusion

As shown in the previous chapter, there was already a deputy judge serving in Yeniköy, at least from the mid-sixteenth century onwards. A Friday Mosque had already been built in the village several decades before the debate. However, this debate marked the definitive moment of upgrading Yeniköy, the village, into a suburb in the administrative parlance.

The standardization of document formulation and the coming to fruition of Ottoman Turkish as a legal and administrative language shaped the debate over the non-Muslim religious procession around the Yeniköy church. Moreover, as in the gradual demarcation of *ibn* for identifying Muslims and *veled* for non-Muslims in the sixteenth century, as explained in the introduction, Ottoman administrative and judicial language opted for the use of a restrictive and prohibitive tone when dealing with the affairs of non-Muslims more broadly.

A professional rivalry under the shadow of the politics of scholarly reputation seems to have cost the Christian community of Yeniköy their church. In addition to this professional enmity, the dynamics of competition over urban space determined the church's fate. The demolition of the Yeniköy church shows how urbanization destabilized the status of non-Muslim communal urban structures in the subsequent centuries after the conquest. Even in this context, new levels of accommodations and resolutions were inevitable, as I will discuss through the case of the Yeniköy cemetery in Chapter 4.

In the following chapter, however, I will first give the detailed biographical accounts of the two members of the Ottoman learned hierarchy who were on opposing sides in the Yeniköy debate. Then, I will analyze the significance of a procedural convention that necessitated the judge of Galata to send the legal document for the Yeniköy case to the chief jurisconsult for approval.

*** Excursus on the Manuscript Copies**

I read this debate based on two manuscript copies, which are primarily identical except for their concluding sections and a few minor differences in word choices. One copy is kept in the Berlin State Library[94] and the other in the Süleymaniye Library.[95] Neither of them is an autographed copy, which prompts basic questions about the dating of the manuscripts, their circulation history, and the dating of the events that led to this debate in the first place. I will first

[94] The Berlin State Library, Ms.or.oct.985, 2b-10b. For its material descriptions, see Manfred Götz, ed., *Türkische Handschriften*, vol. 4 (Wiesbaden: Franz Steiner Verlag, 1979), 95-97. I thank Professors Helga Anetshofer and Ingeborg Baldauf for their help in acquiring a digital copy of this manuscript. I'm also grateful to Marlis Saleh, bibliographer for Middle East Studies at the University of Chicago Library, for facilitating the acquisition of the manuscript for the library. In the Berlin MS, there are different texts bound together with excerpts from several prominent historical texts of the sixteenth century as well as legal opinions of Ebū's-Suʿūd, Ḫoca Saʿdeddīn, and Aḫīzāde ʿAbdü'l-ḥalīm Efendi (d. 1604). Other works included in the same manuscript are *Matlab-ı asq-ı asıq ve masuq*; Luṭfī Paşa's *Āṣaf-nāme*; a legal opinion by Ḫoca Saʿdeddīn on the prophets before Muḥammed; a history of the prophets from Adam to Muḥammed; Muṣṭafā Āli's *Mirʾātü'l-ʿavālim*; an anonymous work titled *Faṣl el- ḥiṭāb*; Muṣṭafā Āli's *Fuṣūl-i hall ü ʿaḳd*; Nişancı Meḥmed's *Menāḳıb-i selāṭīn-i āl-i ʿOṩmān*, Ḫoca Saʿdeddīn's legal opinion about the suckling of a child, together with references to the relevant legal opinions from *Fatāwā Qāḍīkhān* and *Fatāwā Tātārkhāniyya*; another legal opinion on the problems related to the suckling of a child; Ḫoca Saʿdeddīn's legal opinion on the discussion of problems related the suckling of a child; three legal opinions of Ebu's-suūd Efendi on various forms of land taxation.

[95] Süleymaniye Manuscript Library, Aşir Efendi 417, 321a-327a. The debate in this copy is surrounded by works such as exegetical works on certain Qurʾānic verses, moral stories, legal opinions, and multiple endorsement notes written by prominent members of dignitary scholars for certain books. Contrary to the content list provided in the first folio, there are some missing ones in the body of the manuscript.

briefly deal with the dating of both manuscripts and follow up with the second problem, the actual occurrence of the debate.

In the Süleymaniye copy, the debate is titled "The greatest discussion and most significant dispute that allegedly took place between Saʿdeddīnzāde, who became the chief jurisconsult in the year 1046, and the judge of Galaṭa."[96] The year given in this title cannot be taken at face value because none of the members of the Ḫocazāde family occupied the office of chief jurisconsult in the year 1046 (1636/7), as this date corresponds to the third, last, and longest tenure of Zekeriyazāde Yahyā Efendi as chief jurisconsult (in office 1634-1644). Furthermore, the Süleymaniye copy does not end with a colophon to indicate the copyist and the date of the completion of the writing. The dating of the debate, at least in the title of the debate in this copy, leaves us with a puzzle to solve.

In the Berlin copy, the title of the first section of the debate is given, probably by the copyist, as "It is the epistle of his exalted personage, Kemāleddin Efendī, retired from the office of the Anatolian chief justice."[97] The second section, which consists of legal opinions, is titled "Chief jurisconsult Muḥammad Efendī's Response to what Kamāladdīn Efendī said."[98] Manfred Götz, in his description of the Berlin copy, refers to the parties of the debate as Taşköprüzāde Kemāleddīn Meḥmed bin Aḥmed (1553-1621), whom he identifies as "judge of Galata, among other things," and the chief jurisconsult Ḫocazāde Meḥmed (1568-1615).[99] Götz concludes that it cannot be clarified whether the date 1026 (1617) mentioned in the colophons refers to the

[96] "Mübāḥaṣa-i kübrā ve mücādele-i ʿuẓmādur ki bin ḳırḳ altı senesinde Şeyḫü'l-İslām olan Saʿde'd-dīn-zāde ile Ġalaṭa ḳāḍīsı beyninde vāḳiʿ olmuş." The Berlin MS, 321a.
[97] "Anaṭolı ḳāḍī-ʿaskerliginden müteḳāʿid Kemāleddīn Efendi ḥażretleriniŋ maḳālesidür." The Süleymaniye MS, 2b.
[98] "Jawāb ma-qāla Kamāladdīn Efendī li-Khwājazāda Muḥammad Efendī Shaykh al-Islām," 4b. In the Süleymaniye MS, this section is titled: "Ṣūrat fatwā lahu ṣadara minhu baʿd al-risāla al-marqūma." 322a.
[99] Götz, ed., *Türkische Handschriften*, vol. 4, 96.

composition of the original work or the copyist's work. As I will show shortly, the date must indicate the copyist's completion of the work. Since the interlocutor of the debate, Ḫocazāde Meḥmed, died in 1024/1615, long before the colophon date 1026 (1617), it can be safely assumed that at least the events leading to the first two sections, the second of which is composed of legal opinions issued by Meḥmed himself, must have happened before 1615. The last section by Kemāleddīn Efendi may have been completed after this date. Additionally, given that the other works included in the Berlin copy were written in different months of 1026 (1617), the colophons in this debate might bear witness to the fact that the dates in this manuscript show the copy's, not the debate's occurrence.

At first glance through Ottoman biographical works and modern renderings of biographies of Taşköprüzāde Kemāleddīn Meḥmed and Ḫocazāde Meḥmed, it can be established that the latter held the office of chief jurisconsult twice, his first tenure being between 1601 and 1603 and his second between 1608 and 1615. The Yeniköy debate presumably must have occurred in one of these time spans. According to the biographical accounts, Taşköprüzāde Kemāleddīn's judgeship in Galata covers one year period from Şaʿbān 1007 (February/March 1599) to Şaʿbān 1008 (February/March 1600),[100] during which two other individuals held the office of chief jurisconsult successively. After the chief jurisconsult Ḫoca Saʿdeddīn Efendi, Ḫocazāde Meḥmed's father, died on 12 Rebīʿü'l-evvel 1008 (2 October 1599), Sunʿullāh Efendi

[100] Nev'îzâde Atâyî, *Hadâ'iku'l-Hakâ'ik Fî Tekmileti'ş-Şakâ'ik*, vol. 2, 1606-1609. According to Nevʿīzāde's biographical entry, after his dismissal from Galata, Kemāleddīn Efendi held the judgeship of Thessaloniki for about six months and, immediately after that, the judgeship of Yenişehir for about eight months through May/June of 1601. In April/May 1603, he was appointed as judge of Istanbul. In October/November of the same year, he was appointed as chief justice of Anatolia.

served as chief jurisconsult until 2 Ṣafer 1010 (2 August 1601).[101] That is to say, Taşköprüzāde Kemāleddīn's tenure in the judgeship of Galata seemingly never corresponded to the tenure of Ḫocazāde Meḥmed in the office of chief jurisconsult. The biographical sources narrating Kemāleddīn Efendi's career do not explicitly mention that he served as judge of Galata a second time.[102]

Götz probably refers to Kemāleddīn Efendi, who is identified as "retired from the office of Anatolian chief justice" in the title of the work in the Berlin manuscript, as judge of Galata based on the internal evidence in the debate, as Kemāleddīn Efendi himself recognizes in the first section of the debate in the manuscript that he was serving in Galata when this Yeniköy debate occurred: "I was thrown as a judge (*ḳażāʾen*) into Galata." Probably aware of the information mismatch between the manuscript and available biographical accounts, Götz names Kemāleddīn Efendi "the judge of Galata, among others things." While working on the court registers of Galata that correspond to the tenure of Ḫocazāde Meḥmed as chief jurisconsult, I had not ruled out the possibility of locating the signature and seal of Kemāleddīn Efendi as judge of Galata. My primary motivation in resorting to the court registers was to date the actual happening of the debate and confirm that Kemāleddīn Efendi was the judge of Galata at the time. I was also interested in potentially finding the original court document of the Yeniköy case as recorded in the law court of Galata. My initial attempt did not lead me to any conclusive result. There were

[101] For the biography of Hoca Sadeddin, Nev'îzâde Atâyî, *Hadâ'iku'l-Hakâ'ik Fî Tekmileti'ş-Şakâ'ik*, vol. 2, 1163-1168. For the biography of Sunʿullāh Efendi, Nev'îzâde Atâyî, *Hadâ'iku'l-Hakâ'ik Fî Tekmileti'ş-Şakâ'ik*, vol. 2, 1425-1435.

[102] As I mention later in the chapter, Kemaleddin Efendi indeed held the judgeship of Galata as an interim office, which was a magistrature lower than his rank at the time, while waiting for his next appointment commensurate with his already earned rank, the rank of the chief justice of Anatolia. I have found a reference to such service of his in another scholar's biographical sketch in Nevʿīzāde: Kemāleddīn Efendi was given the judgeship of Galata as *arpalık* in January/February of 1609. Nev'îzâde Atâyî, *Hadâ'iku'l-Hakâ'ik Fî Tekmileti'ş-Şakâ'ik*, vol. 2, 1377.

gaps in the extant court registers of Galata, for instance, from the years 1018 and 1019. I also expanded my inquiry through the court registers of Yeniköy in the hope of finding some contextual evidence. Indeed, in an entry from 1020 (1611) of the Yeniköy court registers, an order that was sent initially to the judge of Galata and subsequently communicated to the deputy judge in Yeniköy concerns a complaint of Christian villagers regarding the unlawful seizure of their cemetery next to a church that was recently expropriated — a complaint I discuss in Chapter 4. The date of this order, 1611, then provides a *terminus ante quem* for the occurrence of the debate.

A few imperial orders sent to the judge of Galata from the year 1018 address Kemāleddīn Efendi as former chief justice of Anatolia, a title that shows his rank, and as the current holder of usufruct (*mutaṣarrıf*) of judgeship of Galata.[103] These imperial orders all date from 1018 *Hijrī*, the year for which the court registers of Galata are unfortunately not extant, as mentioned earlier, but which conveniently happens to be within the second tenure of Ḫocazāde Meḥmed in the office of chief jurisconsult. Then, when Kemāleddīn Efendi refers to himself at the beginning of the epistle by saying: "I was thrown as judge (*ḳażāʾen*) into Galata," he perhaps alludes to the double meaning of *ḳażāʾen*: in a judicial capacity and by chance.[104] Kemāleddīn Efendi, after

[103] BOA, A.{DVNSMHM.d 78: 458.

[104] kaza in Arabic can also mean divine decree, destiny, and fate. In Turkish too it can mean happenstance or, more negatively, misfortune. For Celālzāde Muṣṭafā's (d. 1567) definition of judgeship as "unmitigated misfortune" by resorting to the same wordplay, see Repp, *The Müfti of Istanbul*, 61. Kemāleddīn Efendi's interpretation of an appointment to the judgeship of Galata as misfortune might be attributed to his discontent with not being appointed to his next rank, i.e., the judgeship of Rumelia. More on his career will be discussed in Chapter 3. Considering an appointment to the judgeship of Galata a misfortune can also be linked to Galata's notoriety as a place of immorality and indecency. In enumerating taverns in greater Istanbul, Evliya Çelebi states: "Galata [itself] means tavern." Evliya Çelebi, *Evliya Çelebi Seyahatnâmesi*, vol. 1, 336. Similarly, in Laṭīfī's *Evṣāf-ı İstānbūl*, Galata is said to be an allegory for carousing and drinking. Latifî, *Evsâf-ı İstanbul*, ed. Nermin Suner (İstanbul: Baha Matbaası, 1977), 57. The same imagery also appears in poetry. See Walter Andrews and Mehmet Kalpaklı, *The Age of Beloveds: Love and the Beloved in Early-Modern Ottoman and European Culture and Society* (Durham: Duke University Press, 2005), 63-66. For the "exoticization" of Galata and Pera by the Ottomans themselves, see Edhem Eldem,

having served as chief justice of Anatolia earlier and earning the rank (*pāye*) of that position, happened to have been entrusted afterward with the judgeship of Galata as his *arpalık*, the privilege given to a dignitary judge to assume judgeship for a lesser magistrature (*ḳażā'*) during his waiting period in between actual appointments commensurate with his rank and career prospects.[105] Therefore, the Yeniköy incident must have happened after Kemāleddīn Efendi had already served as chief justice of Anatolia at least once. His first appointment to the office of chief justice of Anatolia ended in late 1604, after which he kept being referred to with that position's rank (*pāye*). The earliest overlap of a period after Kemāleddīn Efendi's removal from the office of the Anatolian chief justice with the tenure of Meḥmed Efendi as the chief jurisconsult occurred when the latter was appointed to that position in June 1608, which provides us with a *terminus post quem*. Hence, the Yeniköy debate must have happened between 1608-1611.[106]

"Ottoman Galata and Pera between Myth and Reality," in *From "Milieu de Mémoire" to "Lieu de Mémoire": The Cultural Memory of Istanbul in the 20th Century*, ed. Ulrike Tischler (München: M. Meidenbauer, 2006), 19–36.

[105] Arpalık, literally barley-producing land, came to mean livelihood referring to revenues ascribed to certain officials, sometimes to provide extra revenue for incumbent officials, sometimes to pay those out of office who waited for reappointment. Zilfi describes the process of the emergence of arpalık-magistratures and how they became a norm by the beginning of the seventeenth century for the chief jurisconsults and chief justices when they were out of office. Certain major judgeships in the Balkans and Anatolia, whenever needed, were taken from subhierarchy judges and granted to arpalık-holders. As noted by Zilfi, such towns alternated between arpalıks and actual posts. Madeline C. Zilfi, *The Politics of Piety: The Ottoman Ulema in the Postclassical Age (1600-1800)*, Studies in Middle Eastern History, no. 8 (Minneapolis, MN, U.S.A: Bibliotheca Islamica, 1988), 66-68 and 78. What is fascinating in Kemāleddīn Efendi's case is that the judgeship of Galata, not any random city, was considered appropriate as arpalık for a former chief justice of Anatolia. While Zilfi states that the judgeships of Eyüp, Üsküdar, and Galata were occasionally granted as arpalık for a dignitary judge in the eighteenth century, it seems that this was already a recurring situation for former chief justices in the early seventeenth century when they were out of office. For the example of Ḫocazāde Esʿad Efendi holding the judgeship of Istanbul after having already served as the chief justice of Anatolia ("Formerly chief justice of Anatolia and currently judge of Istanbul"), see GCR 21: 109a. In another example, an imperial order recorded in a Yeniköy court register in 1616 addresses the judge in the following way: "Formerly chief justice of Anatolia and currently judge of Galata Mevlana Hüseyin." YK 30: 94.

[106] It is impossible to narrow down the timespan further without clear evidence from court registers, as it is known that Kemāleddīn Efendi served for a third time as chief justice of Anatolia between January 1610 and January 1611, during which he certainly did not serve as the judge of Galata. The imperial order for the Yeniköy cemetery was issued in August 1611. If Kemāleddīn Efendi again served as the judge of Galata after his last dismissal from chief

Although we have ignored the Süleymaniye copy while dating the Yeniköy incident since this copy was certainly produced later, it still provides significant clues to the role of epistles in expressing legal and professional concerns of the Ottoman learned hierarchy.[107] The miscellaneous manuscript in which the Süleymaniye copy of the debate appears is likely to have been bound together in the mid-seventeenth century. This is evident from the reference made to Sarı ʿAbdu'llāh Efendi, who died in 1660, as "the deceased" in a book endorsement (*taqrīẓ*) included in the manuscript; the handwriting in the endorsement seems to be the same as in the copied Yeniköy debate.[108] If we accept that the epistles of the Yeniköy debate in this miscellaneous compendium were indeed copied after 1660, their recirculation among the learned class and the wider reading public matches up with the aftermath of another incident that brought another generation of the Ḫocazādes and the Taşköprüzādes to the opposite camps. In 1652, the chief jurisconsult Ḫocazāde Ebū Saʿīd Meḥmed Efendi (d. 1662), son of Ḫocazāde Esʿad Efendi and nephew of Ḫocazāde Meḥmed Efendi, was involved in a physical confrontation when he hit a certain Esʿad Efendi, a former judge of Istanbul, upon the latter's request of promotion from the chief jurisconsult. This violent episode between an enraged chief jurisconsult and a dignitary

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justiceship of Anatolia, it is very likely that the Yeniköy incident may have happened between January 1611 and August 1611. In any case, it would be necessary to establish with certainty that Kemāleddīn Efendi was indeed again placed as judge of Galata in 1611 after his final incumbency as chief justice of Anatolia. However, the event can also be dated to a period from mid-1608 to the end of 1609, the years for which the court registers of Galata are not extant. As shown earlier, we know that Kemāleddīn Efendi was given the judgeship of Galata as arpalık in Ocak/Şubat 1609. Nev'îzâde Atâyî, *Hadâ'iku'l-Hakâ'ik Fî Tekmileti'ş-Şakâ'ik*, vol. 2, 1377.

[107] There is a growing interest in legal epistles produced in the Ottoman realm: See Nir Shafir, "The Road from Damascus: Circulation and the Redefinition of Islam in the Ottoman Empire, 1620-1720" (UCLA, 2016); Samy Ayoub, "Creativity in Continuity: Legal Treatises (*Al-Rasāʾil Al-Fiqhiyya*) in Islamic Law," *Journal of Islamic Studies* 34, no. 3 (2022): 305–39.

[108] For the *taqrīẓ* in question, Süleymaniye MS, 199b. For the use of literary endorsement, see Christine Woodhead, "Puff and Patronage, Ottoman Takriz-Writing and Literary Recommendation in the 17th Century," in *The Balance of Truth: Essays in Honour of Professor Geoffrey Lewis*, ed. Çiğdem Balım-Harding, Colin Imber, and Geoffrey Lewis (Istanbul: Isis Press, 2000), 395–406; Guy Burak, "Sansür, Kanonizasyon ve Osmanlı İmzâ-Takrîz Pratikleri Üzerine Düşünceler," in *Eski Metinlere Yeni Bağlamlar: Osmanlı Edebiyatı Çalışmalarında Yeni Yönelimler*, ed. Hatice Aynur (Fatih, İstanbul: Klasik, 2015), 96–117.

scholar-bureaucrat mobilized dignitary judges and teachers of the madrasas in Istanbul who demanded the dismissal of the head of their ranks, the chief jurisconsult.[109] Until their demand was fulfilled, the victim Esʿad Efendi happened to resort to, among others, İbrāhīm Efendi (d. 1657), who is simply known as Kemāl Efendizāde due to his father Kemāleddīn Efendi, who, as we have seen, was the judge of Galata at the time of the Yeniköy debate.[110]

Kemāl Efendizāde İbrāhīm Efendi followed his father's footsteps in career choices and would eventually ascend to the role of chief justice of Rumelia by the end of his career in the Ottoman judiciary.[111] In the shocking case of the beating of Esʿad Efendi by the chief jurisconsult Ḫocazāde Ebū Saʿīd Meḥmed Efendi, it seems that, yet another time, a Ḫocazāde offspring and a Taşköprüzāde scion fell on the opposite sides of a confrontation. If this reading is not too much of an overinterpretation, then the Süleymaniye copy, in its correct identification of the pedigrees of the individuals involved but not of the date of the event, serves the collective memory of scholars. It recycles what seems to be an eventful dispute: the Yeniköy incident featuring two leading legal authorities in Istanbul who would be remembered and named through the filters of this patrimonial and generational continuity.

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[109] Karaçelebizade Abdülaziz, *Ravzatü'l-ebrâr zeyli: tahlîl ve metin, 1732*, ed. Nevzat Kaya (Ankara: Türk Tarih Kurumu, 2003), 118-119; Naima Mustafa, *Târih-i Naʻîmâ: ravzatü'l-Hüseyn fî hulâsati ahbâri'l-hâfikayn* (Ankara: Türk Tarih Kurumu, 2007), vol. 3, 1414-1421. Zilfi briefly mentions this event, too. See her *The Politics of Piety*, 104-105. According to Karaçelebizade, what led to a unified reaction among the learned classes was that, after Esʿad Efendi was humiliated and left for his house, the chief jurisconsult did not overcome his rage and, in fact, escalated the case by planning to send Esʿad Efendi to exile. Karaçelebizade Abdülaziz, *Ravzatü'l-ebrâr zeyli*, 119 and 122.

[110] Arıcı and Arıkan also point out that because Kemāleddīn Efendi reached the level of chief justice of Rumelia, a much higher rank compared to his father Taşköprüzade Ahmed's career, his progeny happened to be known not so much via their ancestral epithet of Taşköprüzade, but rather via the name of Kemal Efendizade in Ottoman biographical literature. Arıcı and Arıkan, *Taşköprülüzâdeler*, 46. On Kemal Efendizade, see also Karaçelebizade Abdülaziz, *Ravzatü'l-ebrâr zeyli*, 207. Unsurprisingly, modern narratives highlight the fame and significance of the illustrious scholar Taşköprüzade Ahmed and subsume other family members under his name. For example, Mehmet İpşirli, "Taşköprizâdeler," TDV İslâm Ansiklopedisi, 2011.

[111] Uşşâkîzâde İbrahim Hasîb Efendi, *Zeyl-i Şakâ'ik* (İstanbul: Türkiye Yazma Eserler Kurumu Başkanlığı, 2017), 471-473; Ali Uğur, *The Ottoman 'ulemā in the Mid-17th Century: An Analysis of the Vaḳā'i 'ü'l-Fużalā of Meḥmed Şeyḫī Ef.* (Berlin: K. Schwarz, 1986), 195-196.

Chapter 3: Ottoman Administration of Public Law

The Yeniköy debate that has been covered in the previous chapter hints at personal hostilities between the chief jurisconsult Ḫocazāde Meḥmed Efendi and the judge of Galata Taşköprüzāde Kemāleddīn Efendi. With a view toward the genealogy of the hostility between these individuals, I will start this chapter by presenting their career trajectories and biographies. This will provide crucial insights into the role of dignitary scholar-bureaucrats in the Ottoman judicial and administrative structure.

Afterward, by bringing up four primary cases, I will discuss the function of the certification requirement (*imżāʾ*) via the chief jurisconsult's signature for certain legal documents, a hitherto neglected phenomenon in historiography concerning the Ottoman judicial system. I will show that this procedure emerged as a tool for monitoring issues of public law that, broadly speaking, fell under the supervision of the ruler. I interpret this procedure as an indication of a consistent judicial administration that combined the discretionary authority of the sultan with the legal authority of jurists and judges.

The Role of Patrimony among the Highest Echelons of the Ottoman Judiciary

In his legal opinions about the Yeniköy church incident, the chief jurisconsult Ḫocazāde Meḥmed Efendi repeatedly ridiculed the judge of Galata Kemāleddīn Efendi with allusions to the latter's name, “Kemāl”, which in Arabic means perfection, by suggesting that Kemāleddīn Efendi's judicial practice was far from perfection.[1] Both sides of the dispute fired disdainful, dismissive remarks at one another throughout the debate. In one of the most conspicuous of such statements, Kemāleddīn Efendi derided the chief jurisconsult as “Ḥasan *Cānī*,” a reference to the chief jurisconsult Ḫocazāde Meḥmed Efendi's grandfather Ḥasan

[1] For example, see Berlin MS, 5b; Süleymaniye MS, 323a and Berlin MS, 8a; Süleymaniye MS, 324b.

Cān (d. 1567).[2] A reader of modern Turkish would hardly overlook the figurative meaning of "ruthless" in *Cānī*.[3] In another sardonic remark, Kemāleddīn Efendi mocked the chief jurisconsult Ḫocazāde Meḥmed Efendi for confusing books of law with books of history like the work of Seyyid Lokmān (d. after 1601)[4] and those of Ḫocazāde Meḥmed's father, a reference to Ḫoca Saʿdeddīn's *Tācü't-tevārīḫ* and *Selīmnāme*.[5] These two sarcastic comments of Kemāleddīn Efendi implied that the chief jurisconsult Meḥmed Efendi owed his position and, more importantly, his quick rise to that position, to his pedigree. Kemāleddīn Efendi reproduced a general criticism targeting the privileged offspring of dignitary scholar-bureaucrats for their swift career rises without engaging with books of jurisprudence and other adjacent sciences that a student at a high-ranking madrasa in Istanbul would typically master during lengthy years of study. The same association of dignitary scholar's offspring with anything but books of legal sciences was also recycled by Muṣṭafā Āli, for instance, who claimed that these offspring, climbing the career ladder of the Ottoman learned hierarchy at a very young age, were not occupied with any book except perhaps books of historical stories, conquests, and poetry.[6]

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[2] Berlin MS, 7b; Süleymaniye MS, 324b.

[3] Later in the century, a Ḳādīzādeli preacher would gain a more widespread recognition with this very same word, as his name would rhyme with this adjective: the notorious Vanī Meḥmed Efendi would be called "Vanī-i Cānī" (Vanī the Ruthless). Marc David Baer, *Honored by the Glory of Islam: Conversion and Conquest in Ottoman Europe* (New York: Oxford University Press, 2008), 115. Baer refers to Abdülbaki Gölpınarlı's explanation for how Sufis, especially Mevlevis, avoided going to Vaniköy. This village was founded after the sultan gave a forest preserve on the Bosphorus to Vanī Meḥmed Efendi. It is unclear whether Vanī-i Cānī was used during his lifetime or whether it was a later designation.

[4] Seyyid Lokmān held the post of official chronicler (şehnameci) for more than twenty-five years in the late sixteenth century. For the creation of this official position and Seyyid Lokman's career, see Christine Woodhead, "An Experiment in Official Historiography: The Post of Şehnameci in the Ottoman Empire, c. 1555-1605," *Wiener Zeitschrift Für Die Kunde Des Morgenlandes* 75 (1983): 157–82; Christine Woodhead, "Reading Ottoman 'Şehnames': Official Historiography in the Late Sixteenth Century," *Studia Islamica*, no. 104/105 (2007): 67–80.

[5] Berlin MS, 9a; Süleymaniye MS, 325a. *Selīmnāme* has been recently published in English translation: Hoca Sadeddin, *Prognostic Dreams, Otherworldly Saints, and Caliphal Ghosts: A Critical Edition of Sa'deddin Efendi's (d. 1599) Selimname*, trans. H. Erdem Çıpa (Leiden; Boston: Brill, 2022).

[6] Quoted in İsmail Hakkı Uzunçarşılı, *Osmanlı Devletinin İlmiye Teşkilâtı*, Türk Tarih Kurumu Yayınları, (Ankara: Türk Tarih Yurumu Basimevi, 1965), 70.

The phenomenon of scholarly dynasties became a cornerstone of the highest Ottoman judicial and teaching posts when the offices of the chief jurisconsult, the chief justice of Rumelian provinces, and the chief justice of Anatolian provinces were concentrated and monopolized by a select number of families over the seventeenth and eighteenth centuries.[7] This development was to a certain extent a by-product of Ottoman bureaucratization of professional paths of teaching and the judiciary, creating what Abdurrahman Atçıl calls "*scholar-bureaucrats,*" that is, scholars on the government payroll.[8] Among these scholar-bureaucrats, the highest offices from among the rank of dignitary (*mevleviyet*) in the hierarchy of professorships and judgeships of the major cities constituted the end goal and culmination of a career dedicated to a lifetime of state service. Ottoman scholar-bureaucrats who aspired to serve the most prestigious legal and educational posts followed a more or less predictable career path. By steadfastly serving in modest-paying madrasa posts upon graduation from a madrasa, they maintained a career to reach dignitary professorships later on in the major cities. This professional track enabled them to attain high-ranking judicial posts at the top of the learned hierarchy later in their career. High-ranking Ottoman professors and judges were distinguished with the title *mevlā* (also occurring *as mollā or monlā*; lord, master; pl. *mevālī)* due to this highly selective career trajectory.[9]

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[7] Madeline C. Zilfi, "Elite Circulation in the Ottoman Empire: Great Mollas of the Eighteenth Century," *Journal of the Economic and Social History of the Orient* 26, no. 3 (1983): 318–64; Baki Tezcan, "The Law School of Mehmed II in the Last Quarter of the Sixteenth Century: A Glass Ceiling for the Less Connected Ottoman Ulema," in *Ottoman War and Peace: Studies in Honor of Virginia H. Aksan*, ed. Frank Castiglione, Ethan Menchinger, and Veysel Şimşek (Brill, 2019), 237–82.

[8] Abdurrahman Atçil, *Scholars and Sultans in the Early Modern Ottoman Empire* (Cambridge, United Kingdom; New York: Cambridge University Press, 2017).

[9] Richard Cooper Repp, *The Müfti of Istanbul: A Study in the Development of the Ottoman Learned Hierarchy* (London; Atlantic Highlands, N.J, 1986), 44-45; Atçıl, *Scholars and Sultans in the Early Modern Ottoman Empire*. Gilles Veinstein earlier called these scholars "scholar-officials." Regardless, the emphasis is on the fact that these scholars were on a government payroll and appointed by a centralized system. See Gilles Veinstein, "Religious Institutions, Policies and Lives," in *The Cambridge History of Turkey: Volume 2: The Ottoman Empire as a World Power, 1453–1603*, ed. Kate Fleet and Suraiya N. Faroqhi, vol. 2 (Cambridge: Cambridge University Press, 2012), 320–55.

In the judicial hierarchy, dignitary judgeships (*mevleviyet kadılığı*) refer to the occupants of certain prominent judgeships and the titular holders of the same ranks, namely the two chief justiceships and the judgeships of important imperial cities.[10] By the end of the sixteenth century, these cities included Istanbul, Edirne, Bursa, Cairo, Damascus, Aleppo, Mecca, and Medina, all of which Atçıl further identifies as the upper career track of dignitary judges. By the end of the seventeenth century, dignitary status was granted to many other judgeships, such Galata, Eyüb, Üsküdar (these three got dignitary status after 1570), Jerusalem, Thessaloniki, İzmir, Baghdad, Plovdiv, Trikala, Amid, Sofia, and Belgrade, which are called the lower career track of dignitary judges by Atçıl due to their restricted privileges.[11] The holders of these judicial offices were appointed, starting from the mid-

[10] Of course, to this list should be added those "out of office" (*maʿzūl*) in between appointments who had previously acquired the great ʿulemā ranks. Repp, *The Müfti of Istanbul*, 183. For the rest of the discussion, I focus on dignitary judgeships. Yet, I have to note that the rank of *mevleviyet* was also granted in the professorship track to those professors that earned 50 or more *akçe* per diem, namely in those madrasas in the rank of *ḫāric* (lit. exterior) and above. Repp, *The Müfti of Istanbul*, 32; Abdülkadir Özcan, ed., *Kanunnâme-i Âl-i Osman: atam dedem kanunu* (İstanbul: Hazine Yayınları, 2012), 11. These dignitary professors sometimes were tasked to independently investigate certain judicial cases with the order of the sultan or the Imperial Council. An example of this will appear in the next chapter, where I discuss the judicial case of the Jewish cemetery of Kasımpaşa. The hierarchy of madrasas was accompanied by the hierarchy of mosques as regards their architecture. See Gülru Necipoglu, *The Age of Sinan: Architectural Culture in the Ottoman Empire* (Princeton: Princeton University Press, 2005), 119-21.

[11] Atçıl observes that the lower career track of dignitaries had the only privilege of initiating their students into the official hierarchy. Atçıl, *Scholars and Sultans in the Early Modern Ottoman Empire*, 194-200. For the expansion of the dignitary status for these additional judgeships, see Uzunçarşılı, *Osmanlı Devletinin İlmiye Teşkilâtı,* 97-98; Zilfi, *The Politics of Piety*, 24-25; Repp, *The Müfti of Istanbul*, 35. The sources do not always consistently name all judgeships with a dignitary rank at a given time. For example, Erzurum and Buda were included in a mid-seventeenth-century source and often are not mentioned in the secondary literature. See Repp, *The Müfti of Istanbul*, 35. Thus, the list I provide should also be taken cautiously as a representative, not an exhaustive list of dignitary judgeships at any point in the seventeenth century. Sometimes, the judgeship of a city that held the rank of town judgeship would be given to a judge with the dignitary rank. For instance, in 1592, a certain Monla Ruhi Fehim was appointed as judge of Cyprus with the dignitary rank attached to his office. After his dismissal, Cyprus was downgraded back to the rank of town judgeship. See Mustafa Âli, *Gelibolulu Mustafa Âlî ve Künhü'l-ahbâr'ında II. Selim, III. Murat ve III. Mehmet devirleri*, ed. Faris Çerçi (Kayseri: Erciyes Üniversitesi yayınları, 2000), vol 2, 74-75. The judgeship of Chios, too, was once ranked as a dignitary office because of the rank of its holder. See Nev'îzâde Atâyî, *Hadâ'iku'l-Hakâ'ik Fî Tekmileti'ş-Şakâ'ik* (Türkiye Yazma Eserler Kurumu Başkanlığı, 2017), vol. 2, 1703. Parallel to this, professorships of the major madrasas turned equally hierarchical over the sixteenth century. See Zilfi, *The Politics of Piety*, 25; Atçıl, *Scholars and Sultans in the Early Modern Ottoman Empire,* 194-197. Repp and Atçıl agree that the elevation of certain town judgeships to the dignitary rank over time resulted from the increased number of dignitaries by the end of the sixteenth century; that is, the new additions to dignitary positions aimed to absorb them. Repp, *The Müfti of Istanbul*, 49; Atçıl, *Scholars and Sultans in the Early Modern Ottoman Empire,* 197.

sixteenth century, by the chief jurisconsult, who, while a jurist and not in a judicial position, ranked above the two chief justices.[12] The supervision of the chief jurisconsult over these dignitary judgeships and high-ranking professorships completed the ongoing efforts of hierarchizing the Ottoman learned class.[13] Below the rank of this small number of dignitary judicial and teaching positions were low-level judgeships called town judgeships (*kasabat kadılıkları*) and professorships the holders of which were appointed by the two chief justices.[14]

Dignitary professors and judges accumulated invaluable prestige and legitimizing power through their legal-judicial and administrative roles. Starting in the early sixteenth century, one of the most consequential privileges they acquired was their gatekeeping roles in dispensing candidacy status (*mülāzemet*) to madrasa graduates. This status meant formal initiation and admission into the official hierarchy of scholar-bureaucrats.[15] Many of these dignitaries managed to advance the careers of their students and protégés, not to mention their offspring. As sanctioned in the extant copies of Meḥmed II's law book, which was amended to

[12] For the gradual absorption of the jurist of Istanbul as the chief jurisconsult of the empire into the learned hierarchy, see Repp, *The Müfti of Istanbul*.

[13] The appointments to these posts were approved by the sultan with the *arż* of the grand vizier, but the actual selection was by the chief jurisconsult. Or the selection was approved by the grand vizier on the sultan's behalf. Uzunçarşılı, *Osmanlı Devletinin İlmiye Teşkilâtı*, 87 and 103-104.

[14] Uzunçarşılı, *Osmanlı Devletinin İlmiye Teşkilâtı*, 92-93; Repp, *The Müfti of Istanbul*, 55; Atçıl, *Scholars and Sultans in the Early Modern Ottoman Empire*, 135-136. Town judgeships were graded among themselves; those in Rumelia and those in Anatolia were ranked separately.

[15] On mülāzemet as an Ottoman bureaucratic mechanism to restrict the ability to seek a post in the centralized hierarchy of the major colleges of law and that of the judiciary, Repp, *The Müfti of Istanbul*, 51-52; Mehmet İpşirli, "Osmanlı Teşkilatında Mülazemet Sisteminin Önemi ve Rumeli Kadıaskeri Mehmed Efendi Zamanına Ait Mülazemet Kayıtları," *Güneydoğu Avrupa Araştırmaları Dergisi*, no. 10–11 (1982): 221–31; Atçıl, *Scholars and Sultans in the Early Modern Ottoman Empire,* 72 and 102-106. What makes this particular mechanism so restrictive is the fact that the candidacy for an official post is granted not to all who completed their training across the imperial collegiate hierarchy but rather to a limited number of those graduates who were sponsored and supported by high-ranking professors and judges who were allowed to issue a certain number of licenses of candidacy, the number being commensurate with their rank, at regular intervals of seven years or on exceptional occasions. Repp, *The Müfti of Istanbul*, 52-53; Atçıl, Atçıl, *Scholars and Sultans in the Early Modern Ottoman Empire,* 181-182.

incorporate the later developments into the original text,[16] the offspring of dignitary scholar-bureaucrats in the upper career track obtained the candidacy without having to await the designated times for admission and often did not wait much for an initial appointment or in-between appointments, which in turn cut short their ascent to the top judicial positions.[17] This phenomenon led to the coinage of the term *mevālīzāde*, explicitly referring to the privileged offspring of dignitary scholar-bureaucrats.[18] Tezcan proposes the term "the lords of the law" for *mevālī* to underline the status of these individuals, which was akin to nobility, due to their privileges and ability to pass on their social status to their offspring.[19]

The relatively uniform set of privileges aside,[20] these high-ranking judicial and legal authorities had to compete over ranks and positions among themselves, as this level of authority and influence meant that the other loci of power such as the sultan, the court, and the janissaries tried to lend support to their own candidates for these dignitary positions in the Ottoman learned hierarchy.[21] This was especially the case for the highest positions (as in the chief jurisconsult and the chief justices). The more one ascended the hierarchy, the fewer positions there were available to the qualified candidates chasing them. Faced with this career

[16] For a defense against forgery claims based on certain anachronistic elements of Meḥmed II's law book, see Fleischer, *Bureaucrat and Intellectual in the Ottoman Empire*, 197-200; Atçıl, *Scholars and Sultans in the Early Modern Ottoman Empire,* 73.
[17] Özcan, *Kanunnâme-i Âl-i Osman*, 12; Uzunçarşılı, *Osmanlı Devletinin İlmiye Teşkilâtı*, 69-70. Atçıl, *Scholars and Sultans in the Early Modern Ottoman Empire*, 182-183 and 209.
[18] For other similar terms used, see Zilfi, *The Politics of Piety*, 53-54.
[19] Baki Tezcan, "The Ottoman 'Mevali' as 'Lords of the Law,'" *Journal of Islamic Studies* 20, no. 3 (2009): 383–407.
[20] Apart from the right to grant candidacy to their protégés, the other significant privilege of dignitary scholar-bureaucrats was their continuous income even when they were removed from office — a privilege that distinguished them from town judges who were left unpaid when out of office. This privilege was provided by the fact that dignitary scholars were not affected by a waiting period between tenures because they were given an unemployment benefit in some form. Zilfi, *The Politics of Piety*, 66-70; Tezcan, "The Ottoman 'Mevali' as 'Lords of the Law'," 394.
[21] For examples see Baki Tezcan, *The Second Ottoman Empire: Political and Social Transformation in the Early Modern World* (New York: Cambridge University Press, 2010).

bottleneck, dignitary scholars belonged to different patronage networks and followed and supported a wide range of political agendas, their state-sponsored training notwithstanding.[22]

Against this backdrop, the Ḫocazāde family was the first family whose members demonstrably climbed the career ladder in the Ottoman judiciary at lightning speed and successively monopolized the highest positions for a few generations. When Ḫocazāde Meḥmed was appointed as chief jurisconsult at the age of thirty-three, he was the youngest person to hold that office by then and, in fact, for the entirety of Ottoman history.[23] Upon Meḥmed Efendi's death, his brother Esʿad Efendi succeeded him as chief jurisconsult. Another sibling of theirs, ʿAbdü'l-ʿazīz Efendi, could have probably been honored with the same role had he lived long enough. When he was serving as chief justice of Rumelia, i.e., the highest possible judicial office, his eldest brother, Ḫocazāde Meḥmed, was seated in the office of chief jurisconsult.[24] That is to say, a glass ceiling of some sort in front of ʿAbdü'l-ʿazīz Efendi's career was his own kin.[25] These three brothers owed the dynastic name Ḫocazāde to their father, Ḫoca Saʿdeddīn, who initially spent twenty-odd years as a professor and then marked the second half of his career with his preceptorship to the sultan (hence the title Ḫoca) during the reigns of Murād III (r. 1574- 1579) and Meḥmed III (r. 1595-1603). The preceptorship provided him with prestige and power on par with that of the chief jurisconsult.[26] Although his one-time stint as chief jurisconsult lasted a relatively short one and half years until his death, during that time, Ḫoca Saʿdeddīn was honored with the title of

[22] Tezcan, *The Second Ottoman Empire*; Veinstein, "Religious Institutions, Policies and Lives," 334; Michael Nizri, *Ottoman High Politics and the Ulema Household* (New York, NY: Palgrave Macmillan, 2014).
[23] Zilfi, *The Politics of Piety*, 78.
[24] For the biography of ʿAbdü'l-ʿazīz Efendi, see Nev'îzâde Atâyî, *Hadâ'iku'l-Hakâ'ik Fî Tekmileti'ş-Şakâ'ik*, vol 2, 1582-1584.
[25] Later in the mid-century, his son Bahāī Meḥmed Efendi served as chief jurisconsult.
[26] Ḫoca Saʿdeddīn's preceptorship for Murād III started during the latter's service as crown prince in Manisa. Later, Ḫoca Saʿdeddīn became preceptor for Meḥmed III when Meḥmed III's own preceptor from his years in Manisa died days before his enthronement. See Tezcan, "The Ottoman 'Mevali' as 'Lords of the Law'," 398-402. Nev'îzâde Atâyî, *Hadâ'iku'l-Hakâ'ik Fî Tekmileti'ş-Şakâ'ik*, vol. 2, 1163-1168.

"the holder of the two chieftaincies" (*cāmiʿü'r- riyāseteyn*) recognizing his continuous preceptorship along with his chief juristic role.[27]

Ḫoca Saʿdeddīn's father, Ḥasan Cān, and his grandfather came to Istanbul from Iran after Selim I's campaign against the Safavids. Getting attached to the entourage of Selim I, Ḥasan Cān quickly became the sultan's close companion. That he found favor in the Ottoman court was emblematic of the fifteenth-sixteenth-century magnetic rise of the Ottomans as an emerging political power providing patronage for scholars and artists born and trained in the established scholarly centers in the Aqqoyunlu, Mamluk, and Qara Qoyunlu lands.[28] The Ottoman campaigns against the Safavids unsurprisingly added new immigrant scholars to Selim I's retinue. Thanks to the favors obtained from his father's newly acquired close connections, Ḫoca Saʿdeddīn received his candidacy (*mülāzemet*) for an official position in the learned class from the incumbent chief jurisconsult Ebū's-Suʿūd Efendi in 1555-6. Unlike his offspring, Ḫoca Saʿdeddīn Efendi followed a career path that did not differ much from the prominent figures of the sixteenth-century Ottoman learned establishment regarding scholarly competence and effective patronage.[29] Rather, his ability to garner favors, prestige, and authority to transfer to his offspring distinguished him even in the eyes of his contemporaries.

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[27] Tezcan, "The Ottoman 'Mevali' as 'Lords of the Law'".

[28] Zilfi, *The Politics of Piety*, 60-61; Ertuğrul İsmail Ökten, "Scholars and Mobility: A Preliminary Assessment from the Perspective of al-Shaqayiq al-Nu'maniyya" 41 (2013): 55–70; Abdurrahman Atçıl, "Mobility of Scholars and Formation of a Self-Sustaining Scholarly System in the Lands of Rūm during the Fifteenth Century," in *Islamic Literature and Intellectual Life in Fourteenth- and Fifteenth-Century Anatolia*, ed. A.C.S. Peacock and Sara Nur Yıldız (Würzburg: Ergon Verlag in Kommission, 2016), 315–32. For the initial exchanges between Turcophone Rumi scholars and Arabs, see Helen Pfeifer, "Encounter After the Conquest: Scholarly Gatherings In 16th-Century Ottoman Damascus," *International Journal of Middle East Studies* 47, no. 2 (2015): 219–39. For a specific example of scholarly mobility across political boundaries set within the same intellectual landscape, see Judith Pfeiffer, "Teaching the Learned: Jalāl al-Dīn al-Dawānī's Ijāza to Muʾayyadzāda ʿAbd al-Raḥmān Efendi and the Circulation of Knowledge between Fārs and the Ottoman Empire at the Turn of the Sixteenth Century," in *The Heritage of Arabo-Islamic Learning: Studies Presented to Wadad Kadi*, ed. Maurice A. Pomerantz and Aram Shahin (Brill, 2016), 284–332. Simultaneously, the sixteenth-century Ottoman imperial network of educational institutions served the purpose of the consolidation of the class of learned men across regions within the empire. See Ayelet Zoran-Rosen, "The Emergence of a Bosnian Learned Elite: A Case of Ottoman Imperial Integration," *Journal of Islamic Studies* 30, no. 2 (2019): 176–204.

[29] For how patronage played a role in the sixteenth century, Suraiya Faroqhi, "Social Mobility among the Ottoman ulemâ in the Late Sixteenth Century," *International Journal of Middle East Studies* 4 (1973): 204–18;

When referring to Ḫocazāde Meḥmed as *Ḥasan Cānī*, Taşköprüzāde Kemāleddīn Efendi was not alone or the only contemporaneous person in drawing Ḫocazāde offspring's lineage back to their progenitor Ḥasan Cān and in considering the family a dynasty. Another seventeenth-century figure, Karaçelebizāde ʿAbdü'l-ʿazīz (d. 1658), a historian and a legal scholar who would serve as chief jurisconsult for a couple of months only in 1651, referred to another Ḫocazāde scion, Ebū Saʿīd Efendi, grandson of Ḫoca Saʿdeddīn, with mention of "the dynasty of Ḥasan Cān" (*āl-i Ḥasan Cān* or *ḫānedān-ı Ḥasan Cān*).[30] In fact, one can read Karaçelebizāde ʿAbdü'l-ʿazīz's book of history as an outline of confrontations between him and what seems to be his nemesis Ḫocazāde Ebū Saʿīd Efendi. Karaçelebizāde ʿAbdü'l-ʿazīz Efendi, who was the son-in-law of Ḫocazāde Meḥmed Efendi, was surprisingly bitter about his in-laws, that is, the Ḫocazāde lineage. He was forced to remain in exile in Bursa by the incumbent chief jurisconsult Ebū Saʿīd Efendi, who saw a potentially powerful rival in his in-law Karaçelebizāde.[31] Karaçelebizāde hardly failed to attach certain derogatory sobriquets to the name of Ebū Saʿīd: Ebū Saʿīd the Thug (*Ebū Saʿīd-i Şaḳī*), the Obstinate (*Ebū Saʿīd-i ʿAnīd*), the one at fault (*Muḫṭi Ebū Saʿīd*), the embodied covetousness, the one hated by the

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Abdurrahman Atçıl, "The Route to the Top in the Ottoman Ilmiye Hierarchy of the Sixteenth Century," *Bulletin of the School of Oriental and African Studies* 72, no. 3 (2009): 489–512.

[30] Karaçelebizade Abdülaziz, *Ravzatü'l-ebrâr zeyli*, 85, 118, 194, 293. On the contrary, Nevʿīzāde Atayi keeps a neutral language and does not even mention Ḥasan Cān in Ḫocazāde Meḥmed's biography. Nev'îzâde Atâyî, *Hadâ'iku'l-Hakâ'ik Fî Tekmileti'ş-Şakâ'ik*, vol. 2, 1473-1476. In the biography of Esʿad Efendi, Nevʿīzāde underlines in a positive light that his brother Meḥmed Efendi and his son Ebū Saʿīd Efendi also had become chief jurisconsult. Nev'îzâde Atâyî, *Hadâ'iku'l-Hakâ'ik Fî Tekmileti'ş-Şakâ'ik*, vol. 2, 1709.

[31] Karaçelebizade Abdülaziz, *Ravzatü'l-ebrâr zeyli*, 113-114. Marriage ties between high-ranking dignitary scholar-bureaucrats were commonplace, but often, this did not mean that competition and rivalry ended. For example, as mentioned by Muṣṭafā Āli, two students of Ebū's-Suʿūd, namely, Ḫoca Saʿdeddīn and Bostānzāde Meḥmed Efendi, openly disliked each other. Muṣṭafā Āli adds that they married their daughter off with each other's son, but even family bonds did not help resolve their conflicts peacefully. Mustafa Âli, *Gelibolulu Mustafa Âlî ve Künhü'l-ahbâr'ında II. Selim, III. Murat ve III. Mehmet devirleri*, vol. 3, 635-636. In one episode of their animosity, as narrated by Peçevi, Bostānzāde Meḥmed, as the chief jurisconsult, leads the funeral prayer for Murād III. Ḫoca Saʿdeddīn, the sultan's tutor, asks for the prayer to be repeated as he has been tasked by the new sultan, Meḥmed III, to lead the prayer. The chief jurisconsult objects by saying that Meḥmed III seems to have tacitly approved his prayer leadership during the funeral by participating in the prayer. İbrahim Peçevî, *Peçevi tarihi*, ed. Bekir Sıtkı Baykal (Ankara: Kültür Bakanlığı, 1981), vol. 2, 163. In the long run, however, such marriages undoubtedly reinforced the integrity of the high-ranking scholar-bureaucrats. For intra-ʿulemā marriage ties and their functions in maintaining professional cohesiveness, see Zilfi, "Elite Circulation in the Ottoman Empire," 318–64.

humankind worldwide (*ṭamaʿ-ı mücessem, menfūr-ı ḫalḳ-ı ʿālem Ebu Saʿid*), and the jurist of sedition (*müftī-i fitne*).[32] When Ebū Saʿīd Efendi was dismissed after he had beaten up Esʿad Efendi (the incident which has been mentioned at the end of the previous chapter), Karaçelebizāde quoted a scatological chronogram composed to satirize the occasion: "Rūḥī has told this chronogram: Müftī Dede defecated!"[33] Exhibiting intense personal animosities, Karaçelebizāde's repeated defamation of Ebū Saʿīd can be contrasted with ʿAbdu'r-rahmān ʿAbdī Çelebi's chronicle of the seventeenth century, which sustained a neutral stance towards Ḫocazāde Ebū Saʿīd as a scholarly figure and chief jurisconsult.[34]

The choice of the epithet "the dynasty of Ḥasan Cān" was definitively a deliberate and conscious way of debasing the Ḫocazāde pedigree altogether, as we can tell from the context above. Both Kemāleddīn Efendi and Karaçelebizāde ʿAbdü'l-ʿazīz Efendi often tellingly skipped the legacy of the famous Ḫoca Saʿdeddīn Efendi and attributed the family's success and privileges to Ḥasan Cān, who was not of a remarkable, scholarly background. Karaçelebizāde also occasionally referred to Ḥasan Cān as "the Versifier" (*Çöğürcü*), implying that the poetry of the Ḫocazādes' ancestor was of poor quality.[35]

The overall emphasis on Ḥasan Cān in the critical biographical sketches of the Ḫocazādes did not wholly overshadow Ḫoca Saʿdeddīn Efendi's name. When Ḫoca Saʿdeddīn's offspring Ḫocazāde Meḥmed Efendi was appointed as the judge of Istanbul at the

[32] Karaçelebizade Abdülaziz, *Ravzatü'l-ebrâr zeyli*: "Ebū Saʿīd-i Şaḳī" 97; "Ebū Saʿīd-i ʿAnīd" 53, 180; "Muḫṭi Ebū Saʿīd" 194; "ṭamaʿ-ı mücessem, menfūr-ı ḫalḳ-ı 'ālem Ebu Sa'id" 83; "müftī -i fitne", 253. For the use of satire in Ottoman scholarly circles, see Edith Gülçin Ambros, "'O Asinine, Vile Cur of a Fool Called Zati!': An Attempt to Show That Unabashed Language Is Part and Parcel of an Ottoman Idiom Satire," *Journal of Turkish Studies* 27 (2003): 109–17; Ercan Akyol, "Cursing Through Someone Else's Mouth: Faizi's Lampoon of Veysi," *Osmanlı Araştırmaları* 60, no. 60 (2022): 1–26; Ghayde Ghraowi, "Losing the Plot in Seventeenth-Century Istanbul: Satire and Sociability in the Maqāma Rūmiyya," *Philological Encounters* 7, no. 3–4 (2022): 268–98.
[33] Karaçelebizade Abdülaziz, *Ravzatü'l-ebrâr zeyli*, 121: "Ruhi bu tarihi dedi yestehledi Müfti Dede"
[34] 'Abdurraḥman 'Abdī, *Vekayi'-Name: Osmanlı Tarihi 1648-1682: Tahlil ve Metin Tenkidi*, ed. Fahri Çetin Derin (İstanbul: Çamlıca, 2008).
[35] Karaçelebizade Abdülaziz, *Ravzatü'l-ebrâr zeyli*, 194 and 203.

age of twenty-eight[36] — in outright disregard for ranked experience, seniority, and predictable promotions that the Ottoman learned establishment had aspired to uphold —, a poem from that period contained these lines: "A twelve-or-thirteen-year-old *Çelebi* has become the judge of Istanbul/ Now the required service of the law of the Prophet has turned into child's play."[37] In the poem, Meḥmed Efendi was considered suitable for a position at best in Damascus or Aleppo but unfairly rewarded with a much higher rank in the judicial hierarchy. In the same poem, Ḫoca Saʿdeddīn Efendi was likened to Abū Lahab, an openly condemned individual in the Qurʾān.

Karaçelebizāde ʿAbdü'l-ʿazīz Efendi included an exchange of verses that occurred in the lifetime of Ḫoca Saʿdeddīn. In addition to his paternal side being scorned through Ḥasan Cān "the Versifier," Ḫoca Saʿdeddīn's maternal side was also brought up to discredit the family. Karaçelebizāde stated that Ḫoca Saʿdeddīn's maternal side was known to have come from a clergyman who converted to Islam only outwardly (*ẓāhiren*). To deny this lineage, Ḫoca Saʿdeddīn was said to have composed a verse by linking his family to Anas ibn Mālik (d. circa. 712), a companion of Prophet Muḥammad: "If you ask about this poor one's mother / His mother is from the family of Anas."[38] Contemporary poets rewrote the second line of the couplet, so argued Karaçelebizāde, to replace the reference to Anas: "Indeed [his mother comes] from a priest."[39] Popularly circulated verses, sometimes as chronograms, were a powerful tool in bending public sentiment.[40] Following this subverted version of the verse,

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[36] Nev'îzâde Atâyî, *Hadâ'iku'l-Hakâ'ik Fî Tekmileti'ş-Şakâ'ik*, vol. 2, 1473-1476.
[37] Mustafa Âli, *Gelibolulu Mustafa Âlî ve Künhü'l-ahbâr'ında II. Selim, III. Murat ve III. Mehmet devirleri*, Vol. 3, 637. "... Oldu kādî-i şehr-i İstanbul / On ikide on üçte bir çelebi / Şimdi oğlancık oyununa döndü / Hizmet-i muktezâ-i şer'-i nebî / Saldı oğluyla dehre bir âteş / Gör babası olan Ebû Leheb'i."
[38] Karaçelebizade Abdülaziz, *Ravzatü'l-ebrâr zeyli*, 203: " Sorar isen bu fakirin anası / Enesi'dir Enesi'dir anası"
[39] Karaçelebizade Abdülaziz, *Ravzatü'l-ebrâr zeyli*, 203: "Papasıdır papasıdır papası"
[40] Kafadar points to the popularity of such catchy verses touring pre-modern Istanbul's coffeehouses, at times as news, at others as political slogan. Cemal Kafadar, "How Dark Is the History of the Night, How Black the Story of Coffee, How Bitter the Tale of Love: The Changing Measure of Leisure and Pleasure in Early Modern Istanbul," in *Medieval and Early Modern Performance in the Eastern Mediterranean*, vol. 20, Late Medieval and Early Modern Studies 20 (Brepols Publishers, 2014), 253.

Karaçelebizāde linked this rumor about Ḫoca Saʿdeddīn's mother to his nemesis Ḫocazāde Ebū Saʿīd's avarice and opportunism. Allegedly, Ebū Saʿīd, recuperating the rumors of his lineage going back to a clergyman, made a legal claim to be the supervisor of an endowment named Papasoğlu (lit. Son of a Priest), which included at least one madrasa and one masjid in Istanbul.[41] It turns out that he successfully verified his claim and consequently replaced as a supervisor the relatives of the endower. Karaçelebizāde concluded that Ebū Saʿīd embezzled the Papasoğlu endowment and added its revenues to other sources of income that he usurped. Although I could not confirm this story from other biographical accounts of the time, it still points to the perceived connection between the careers of high-ranking scholar-bureaucrats and their (occasionally illicit) wealth accumulation. Regardless of its veracity, this snippet also demonstrates the tainted reputation that the Ḫocazādes came to possess.

Kemāleddīn Efendi, the judge of Galata during the Yeniköy incident, was not a no-name individual either. His father was the erudite scholar Taşköprüzāde Aḥmed (d. 1561), primarily known as the author of *al-Shaqāʾiq al-nuʿmāniyya fī ʿulamā al-dawla al-ʿUthmāniyya*, written in Arabic, the first biographical compendium of Ottoman scholars and Sufis. This work inspired abridged versions and translations into Turkish, as well as a flood of sequels both in Arabic and Turkish, which complemented biographical information on Ottoman scholars in the following centuries.[42] Another work of equal importance by

[41] A masjid named Papasoğlu appears in the foundational deed of a cash endowment of 1544 where the imam and muezzin of the Papasoğlu masjid were allocated one *akçe* each: Ömer Lûtfi Barkan and Ekrem Hakkı Ayverdi, eds., *İstanbul vakıfları tahrîr defteri: 953 (1546) târîhli* (İstanbul: Baha Matbaası, 1970), 192. In Nevʿīzāde's biographical dictionary, the Papasoğlu madrasa is featured with a professorship of 25 *akçe* per diem (Nevʿīzāde, vol. 1, 804) and 40 *akçe* (Nevʿīzāde, vol. 2, 1095). In the endowment survey of 1600 in Istanbul, the Papaoğlu endowment is referred to several times in the boundary descriptions of properties belonging to other endowments. Mehmet Canatar, ed., *İstanbul vakiflari tahrîr defteri: 1009 (1600) târîhli* (İstanbul: İstanbul Fetin Cemiyeti, 2004), 74, 128 and 200.

[42] This massive work builds upon the tradition of biographical dictionaries (*ṭabaqāt*). See Wadad al-Qadi, "Biographical Dictionaries: Inner Structure and Cultural Significance," in *The Book in the Islamic World: The Written Word and Communication in the Middle East*, ed. George N. Atiyeh (Albany: State University of New York Press; Library of Congress, 1995), 93–121. For translations and sequels of *al-Shaqāʾiq*, see Abdülkadir

Taşköprüzāde Aḥmed was concerned with the classification of scholarly disciplines, titled *Miftāḥ al-saʿāda wa miṣbāḥ al-siyāda fī mawḍūʿāt al-ʿulūm*, written in Arabic, a translation of which into Turkish was made by his son Kemāleddīn Efendi.[43]

The Taşköprüzādes' ancestors, too, ended up in the Anatolian city of Kastamonu after an unsettling event, the Mongol invasions.[44] Taşköprüzāde Aḥmed was initially trained by his learned family members, including his father Muṣliḥiddīn Muṣṭafā Efendi (d. 935/1529) and paternal and maternal uncles, as outlined in his autobiography at the end of *al-Shaqāʾiq*.[45] After studying with certain prominent teachers of his time, such as Fenārīzāde Muḥyīddīn Efendi (d. 1548) and Mīrim Çelebi (d. 1525), he started his teaching career in a madrasa in Dimetoka. Later, he served as a teacher in various madrasas in Skopje, Istanbul, and Edirne. Taşköprüzāde Aḥmed only briefly served as the judge in Bursa for two years in between his teaching appointments to eventually return to another teaching post in the juridical college complex of Meḥmed II (*ṣaḥn-ı semān*). His second judicial role, the highest promotion of his career, was in the judgeship of Istanbul from 1551 until 1554, when he had to retire due to a severe eye infection ending with vision loss.[46] During seven years of retirement before he died in 1561, he completed numerous works, including *al-Shaqāʾiq*, with the assistance of several

Özcan, ed., *Şakaik nuʻmaniye ve zeylleri* (İstanbul: Çağri Yayınları, 1989), vol. 1, xi-xiii; Ramazan Ekinci, *Zeyl-i Şakâʾik*, İstanbul: Türkiye Yazma Eserler Kurumu Başkanlığı, 2017), 59-81.

[43] For a brief treatment of the significance of this work, see Francesca Bellino, "The Classification of Sciences in an Ottoman Arabic Encyclopaedia: Ṭāšköprüzāda's Miftāḥ al-Saʿāda," *Quaderni Di Studi Arabi* 9 (2014): 161–80. Kemāleddīn Efendi's translation was later published in the nineteenth century: Taşköprīzāde Aḥmed ibn Muṣṭafā, *Mevżūʿātu'l-ʿulūm*, trans. Taşköprüzade Kemaleddin Mehmet (Dersaadet: Ahmet Cevdet, 1313).

[44] Taşköprīzāde Aḥmad ibn Muṣṭafā, *Al-Shaqāʾiq al-Nuʿmānīyya Fī ʿulamā al-Dawla al-ʿUthmāniyya*, ed. Ahmed Subhi Furat (İstanbul: Edebiyat Fakültesi Basımevi, 1985), 120.

[45] Taşköprīzāde Aḥmad ibn Muṣṭafā, *Al-Shaqāʾiq al-Nuʿmānīyya*, 552-559. This section is published in Turkish and English in Mehmet İpşirli, "Bir İstanbul Kadısının ve Âliminin Kendi Kaleminden Biyografisi: Taşköprülüzade İsameddin Ahmed Efendi," in *Antik Çağ'dan XXI. Yüzyıla Büyük İstanbul Tarihi*, vol. 9, 2015, 79–81. For a detailed treatment of Taşköprüzāde Aḥmed's lineage, see Arıcı and Arıkan, *Taşköprülüzâdeler*, 8-24 and 42.

[46] For the speculations of the possible cause of vision loss, see Arıcı and Arıkan, *Taşköprülüzâdeler*, 36.

of his pupils.[47] Upon his death, his son Kemāleddīn Efendi was left behind as an eight-year-old orphan, too young to benefit fully from his father's expertise and experiences.

Unlike his father's persistent reluctance to subscribe to the scholar-bureaucrat track and to move from teaching roles into a career in the higher judiciary,[48] Kemāleddīn Efendi's career choices seemed to follow the career ladder in government service willingly. His willingness notwithstanding, Kemāleddīn Efendi endured multiple obstacles throughout his career. Although he took his candidacy for official positions (*mülāzemet*) from Ebū's-Suʿūd Efendi in 1568-9, he had to wait about eight years to secure his first appointment.[49] Atçıl attributes this long delay to Kemāleddīn Efendi's disadvantaged position due to the decreasing power of Ebū's-Suʿūd Efendi as the chief jurisconsult after the death of Süleymān and the powerful grip of Selim II's tutor ʿAṭāʾullāh Efendi over any appointment among the learned class.[50] After starting a teaching career and getting appointed to Istanbul's madrasas, Kemāleddīn Efendi eventually moved to the high-ranking judiciary and served as a judge in Thessaloniki, Aleppo, Damascus, Bursa, Galata, and finally, Istanbul.[51]

The second half of Kemāleddīn Efendi's career also suggests its progression at a standstill. His experience in his senior years can be characterized as a loop of constant rotations between appointments as chief justice with interim positions (*arpalık*) of lower dignitary judgeships. He held the office of the chief justice of Anatolia and that of the chief justice of Rumelia three times each. This means that first, as he was hoping to progress to the rank of the chief justice of Rumelia from that of Anatolia, he was passed over by other

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[47] Arıcı and Arıkan, *Taşköprülüzâdeler*, 35-38. For a list of his students and the information on their biographies, see ibid., 48-52.
[48] In *al-Shaqāʾiq* Taşköprüzāde Aḥmed complains that the short years he served as a judge distracted him from his studies. Arıcı and Arıkan, *Taşköprülüzâdeler*, 31-34.
[49] Nev'îzâde Atâyî, *Hadâ'iku'l-Hakâ'ik Fî Tekmileti'ş-Şakâ'ik*, vol. 2, 1606-7.
[50] Abdurrahman Atçıl, "Osmanlı Dünyasında Değişen Şartlar Karşısında Taşköprülüzadeler (XV. ve XVI. Yüzyıllar)," in *Taşköprülüzâdeler ve İsâmüddin Ahmed Efendi*, by Mustakim Arıcı and Mehmet Arıkan (İLEM Yayınları, 2020), 183.
[51] He served twice in Thessaloniki and Aleppo.

individuals who were given preferential treatment. When the Yeniköy debate occurred, Kemāleddīn Efendi held the judgeship of Galata with the rank of the chief justice of Anatolia — the rank he had already acquired earlier by serving in that position. Already in the late sixteenth century, when the top dignitary positions in Istanbul were highly coveted, the principle of seniority among many highly qualified candidates was not very applicable. Kemāleddīn Efendi was even outdone by his twenty-three years junior Ḫocazāde ʿAbdü'l-ʿazīz Efendi (d. 1618), who was the fourth son of Ḫoca Saʿdeddīn[52] and who ascended to the chief justiceship of Rumelia by the end of 1608 at the age of thirty-three.[53] By the time of the Yeniköy debate, Ḫocazāde Meḥmed Efendi and Taşköprüzāde Kemāleddīn Efendi had drastically different career trajectories, as can be glanced from this cursory look into their professional lives.

After serving as chief justice of Anatolia three times, Kemāleddīn Efendi held his next position as the chief justice of Rumelia again three times. It is safe to assume that Kemāleddīn Efendi aspired to be rewarded with the office of the chief jurisconsult at the end of the judicial pecking order. A scholar's expected and failed ascent to that position was often found worthy of mention in biographical dictionaries. Earlier, Bāḳī Efendi (d. 1600), who also had served as chief justice of Rumelia three times, was disregarded for consideration for the office of the chief jurisconsult — an unattained prospect on his part that left its mark in his biographical accounts.[54] In another case, Muṣṭafā Āli, for instance, praises the scholarship of Ḳınalızāde ʿAlī Efendi (d. 1572), the author of the famous work of political philosophy *Aḫlāq-ı ʿalāl'ī*,[55]

[52] Kātib Çelebi, *Fezleke: Osmanlı Tarihi (1000-1065/1591-1655)*, ed. Zeynep Aycibin (İstanbul, 2016), vol. 1, 513. Karaçelebizāde refers to Ḫocazāde ʿAbdü'l-ʿazīz as 'the malignant semen of [the son] of Ḫasan Cān' (nuṭfe-i ḫabīṯe ibn Ḫasan Cān ʿAbdü'l-ʿazīz). Karaçelebizade Abdülaziz, *Ravzatü'l-ebrâr zeyli*, 171.
[53] Nev'îzâde Atâyî, *Hadâ'iku'l-Hakâ'ik Fî Tekmileti'ş-Şakâ'ik*, vol. 2, 1583.
[54] Mehmed Çavuşoğlu, "Baki," in *TDV İslam Ansiklopedisi*.
[55] For a detailed discussion of the importance of this treatise within Ottoman political writing, see Hüseyin Yılmaz, *Caliphate Redefined: The Mystical Turn in Ottoman Political Thought* (Princeton: Princeton University Press, 2018), 72-75; Marinos Sariyannis and Ekin Tuşalp Atiyas, *A History of Ottoman Political Thought up to the Early Nineteenth Century* (Leiden; Boston: Brill, 2019), 73-74.

with a counterfactual career progression. If Ḳınalızāde had lived long and if in his age there had not existed the best of scholars (*fuḥūl-ı ʿulemā*) such as Ebū's-Suʿūd Efendi and Bostānzāde Meḥmed Efendi (d. 1598), he would, no doubt, have become the chief jurisconsult.[56]

Those dignitary scholar-bureaucrats disenchanted with their career progressions continued to appeal to the principle of seniority when other names were being prioritized over themselves for a particular post. Karaçelebizāde bitterly expressed how his seniority was overlooked entirely while he was expecting to be rewarded with an appointment to the office of the chief jurisconsult. For example, upon the dismissal of ʿAbdü'r-raḥīm Efendi (d. 1656) as chief jurisconsult, Karaçelebizāde ʿAbdü'lʿazīz stated his disapproval and criticism in the face of Bahāʾī Efendi's (d. 1653) appointment for the position in 1649. In Karaçelebizāde's view, Bahāʾī Efendi was the eighth candidate in a row after him and should not have been considered for that juristic post yet. Karaçelebizāde framed this outrageous disregard for seniority as "a violation of the ancient law and dishonoring the probity of the holy law."[57]

Kemāleddīn Efendi's aspirations to serve as chief jurisconsult never materialized. Perhaps the best example of his ambitions is his willingness to issue a legal opinion in favor of Osman II in 1621 before a military campaign against the Commonwealth of Poland and Lithuania.[58] The sultan decided to accompany the army in battle and was unwilling to leave behind his oldest brother, Prince Meḥmed, as a potential contender for the throne. Osman II first asked the chief jurisconsult Ḫocazāde Esʿad for a legal opinion to justify the execution of his brother. His request being declined, the sultan had to resort to Kemāleddīn Efendi, who was serving as chief justice of Rumelia at the time. Kemāleddīn Efendi complied with the

[56] Mustafa Âli, *Gelibolulu Mustafa Âlî ve Künhü'l-ahbâr'ında II. Selim, III. Murat ve III. Mehmet devirleri*. Vol. 2, 129.
[57] Karaçelebizade Abdülaziz, *Ravzatü'l-ebrâr zeyli*, 31. "nakz-ı kanun-ı kadim, belki hetk-i namus-ı şer'-i kavim"
[58] See Tezcan, *The Second Ottoman Empire*, 136-137.

request by issuing a legal opinion legitimating the sultan's wish.[59] Kemāleddīn Efendi's willingness to grant the sultan this opinion was interpreted as having an ulterior motive to get rewarded with the office of the chief jurisconsult after the war.[60] However, ironically, Kemāleddīn Efendi did not live long enough to reap the benefits of his legal opinion in support of the sultan.[61] He fell sick during the military campaign and passed away on his way back to Istanbul in 1621.[62]

As suggested earlier, Kemāleddīn Efendi undoubtedly inherited prestige from his father.[63] Yet in his later years he was left without the kind of active support Ḫocazāde Meḥmed and his brothers enjoyed under their father's protective wing and through their successful patronage networks after their father's death. Certain prominent students of Kemāleddīn Efendi's father, such as Çivizāde Meḥmed Efendi (d. 1587), who served as chief jurisconsult in the years 1582-1587, and Bahāeddīnzāde ʿAbdu'llāh (d. 1588), who reached

[59] Hasan Beyzade Ahmet, *Hasan Beyzâde târîhi*, ed. Şevki Nezihi Aykut (Ankara: Türk Tarih Kurumu Basımevi, 2004), vol. 3, 927. An earlier example of the sultan seeking dignitary judges' approval and support for his actions is Selim I's question of legality of military campaigns against the Safavids and the Mamluks. See Atçıl, *Scholars and Sultans in the Early Modern Ottoman Empire*, 93-95. The legal opinion declaring the legality of Selim's campaign against the Mamluks was acquired when the military was already on the march. Repp adds that, in these types of policies that were already determined, the legal opinion of the scholars played a confirmatory role for the most part. Repp, *The Müfti of Istanbul*, 221.

[60] Mehmet İpşirli, "Taşköprülüzade Kazasker Kemaleddin Efendi'nin Aile Içerisindeki ve Limiye Meslegindeki Yeri ve Eserleri Üzerine Gözlemler," in *Taşköprü'den Lstanbul'a Osmanlı Bilim Tarihinde Taşköprülüzadeler* (Kastamonu, 2006), 109–15.

[61] The theme of a high-ranking judge aspiring to climb the ladder to the next level but dying too soon reoccurs in Ottoman historical writing and biographical literature. See for Ali's description of a certain Muhammed bin Hasan's passing away while "longing for the office of the chief justice," Mustafa Âli, *Gelibolulu Mustafa Âlî ve Künhü'l-ahbâr'ında II. Selim, III. Murat ve III. Mehmet devirleri*, vol. 2, 125. Both Kemāleddīn Efendi and Es'ad Efendi had accompanied the sultan on the battlefield. In the absence of Es'ad Efendi, el-Şeyḫ Aḥmed Efendi was left as the deputy jurisconsult in Istanbul. Nev'îzâde Atâyî, *Hadâ'iku'l-Hakâ'ik Fî Tekmileti'ş-Şakâ'ik*, vol. 2, 1856.

[62] Nev'îzâde Atâyî, *Hadâ'iku'l-Hakâ'ik Fî Tekmileti'ş-Şakâ'ik*, vol. 2, 1608; Topcular Katibi, vol. 2,755-756.

[63] Kemāleddīn Efendi himself calls his father "one of the most prominent scholars of Anatolia" in a note over a copy of one of his father's works. Arıcı and Arıkan, *Taşköprülüzâdeler*, 61. Yasemin Beyazıt, for instance, attributes the registration of a certain Şemseddin Aḥmed into the status of novice/candidacy for a position (*mülāzemet*) not only to his competence but also to his Taşköprüzāde lineage, with him being Taşköprüzāde Aḥmed's son. Arıcı and Arıkan correct Beyazıt's identification of Şemseddin Efendi by recognizing him as Taşköprüzāde Aḥmed's grandson. Yasemin Beyazıt, *Osmanlı ilmiyye mesleğinde istihdam (XVI. Yüzyıl)* (Ankara: Türk Tarih Kurumu, 2014), 70; Arıcı and Arıkan, *Taşköprülüzâdeler*, 45.

the rank of chief justice of Rumelia,[64] could perhaps have orchestrated career support for Kemāleddīn Efendi. Unfortunately for him, they all passed away during the early years of the career of their teacher's offspring.

Personal antagonisms and professional rivalry appeared in both Kemāleddīn Efendi's epistles and Meḥmed Efendi's legal opinions in the Yeniköy debate. The harsh and bitter tone of the legal opinions issued by the chief jurisconsult seemed to have further aggravated Kemāleddīn Efendi's temper. Both parties weaponized the convention of exchanging blessings in their writing. While praising God and sending blessings on the Prophet Muḥammed and his companions, as conventionally done in the invocation section of texts, Kemāleddīn Efendi blended his preamble in the first installment of the debate with the topic of the epistle:[65]

> Praise be to God, who made us from the servants of the prophetic law, gave us the aptitude of inference of factual evidence from reputable legal books, led us to the possession of fairness, and guarded us against the extremities of injustice, bigotry, and deviation. And blessings are upon His Prophet and Beloved one, Muḥammed, who summoned his community to good deeds from acts and forbade them from being blinded by *rank and enormous wealth*, and upon his family and Companions, the stars of the magnanimous law and the most radiant full moons of the Ḥanafī creed.[66]

Already in this invocation, Kemāleddīn Efendi set the tone for his defense of the legal document. He expressed gratitude to God for being given the ability to treat legal cases fairly, unlike his interlocutor Meḥmed Efendi, who, as the former argues in the rest of the epistle, acted unjustly and in an overweening manner due to his rank, status, and affluence. Kemāleddīn Efendi held that the chief jurisconsult had followed his selfish interest and, hence, was not suited to the office of the chieftaincy of the learned class. Similarly, the chief

[64] Arıcı and Arıkan, *Taşköprülüzâdeler*, 50.
[65] For the use of invocations in the opening of texts as a way of presenting the gist of the content, see Baki Tezcan, "The Multiple Faces of the One: The Invocation Section of Ottoman Literary Introductions as a Locus for the Central Argument of the Text," *Middle Eastern Literatures* 12, no. 1 (April 1, 2009): 27–41.
[66] Berlin MS, 2b; Süleymaniye MS, 321a. Emphasis added.

jurisconsult Meḥmed Efendi argued that Kemāleddīn Efendi proved his lack of qualifications as a judge by making mistakes in the legal document he issued. To this end, the chief jurisconsult ended several legal opinions in the debate with invocations asking God for protection against error, misguidance, and imperfect perception. Consequently, both sides of the debate denounced each other as incompetent.

In response to the chief jurisconsult's examples of vigilance in not explicitly accommodating non-Muslims' religious observance, Kemāleddīn Efendi blamed the chief jurisconsult for establishing misleading and unjustifiable analogies (*qiyās*) and, hence, for using independent reasoning (*ijtihād*) in analyzing the primary sources of law. Kemāleddīn Efendi explicitly used the phrase "the closure of the gate of *ijtihād*."[67] This must be read as another attack on the competence of the chief jurisconsult. By depicting the chief jurisconsult to have unwarrantedly practiced independent reasoning, Kemāleddīn Efendi implicitly presented himself as anchoring within the paradigm of legal uniformity and predictability that the Ottoman legal establishment came to strive for in its state-madhhab.[68]

Kemāleddīn Efendi's conviction was unwavering in that he considered himself to have dodged a plot set up by his adversaries. He quoted an Arabic maxim, "Whoever digs a well for his brother falls into it."[69] Conveniently, this proverb was befitting to qualify the kind of rivalries that plagued the Ottoman learned hierarchy and to criticize peers for opportunism and backstabbing. The same proverb was used in the history text of Karaçelebizāde ʿAbdü'l-

[67] "İctihād munḳaṭıʿ iken kendüler bu maḥallde ictihād etmiş olurlar." Berlin MS, 8a; Süleymaniye MS, 325a.
[68] For the significance of adherence to school doctrine, Mohammad Fadel, "The Social Logic of Taqlid and the Rise of the Mukhtasar," *Islamic Law and Society* 3, no. 2 (1996): 193–233.
[69] This proverb builds on the Qur'ānic verse in 35:43, "Evil plotting only backfires on those who plot," and seems highly popular in Turcophone and Arab circles. See for its use by the grand vizier Koca Sinan Paşa in one of his petitions to the sultan: Sinan Paşa, *Koca Sinan Paşa'nın telhisleri*, ed. Halil Sahillioğlu and Ekmeleddin İhsanoğlu (İstanbul: İslam Tarih, Sanat ve Kültür Araştırma Merkezi, IRCICA, 2004), 48. The calque of this proverb was adopted in Turkish but in a shortened version: "birinin kuyusunu kazmak."

ʿazīz Efendi to mark the fate of the chief jurisconsult Ḫocazāde Mesʿūd (not related to the lineage of Ḫoca Saʿdeddīn) after his removal from office.[70]

Kemāleddīn Efendi considered the Yeniköy incident a calculated provocation orchestrated by his detractors with a hidden agenda, who remain unnamed in the text. He was convinced that the legal document that he issued for the Yeniköy incident presented an opportunity for his political rivals or envious colleagues waiting to hatch a plot. Undoubtedly, he thought that the chief jurisconsult was part of the plot. Kemāleddīn Efendi's suspicions of being targeted were not unjustified, as it was possible to easily get dismissed based on a judicial error (*ḫaṭā*) overblown by one's detractors. Nevʿīzāde ʿAṭāʾī, an early seventeenth-century biographer, described along the same line how Miʿmār-āde Muṣṭafā Efendi (d. 1564) was dismissed from his tenure in Bursa when he was framed by "a group of discord-sowers" (*gürūh-ı mekrūh-ı erbāb-ı nifāḳ*). An error in a document issued by Miʿmārzāde was presented to the sultan by the chief justice of Rumelia ʿAbdu'r-raḥmān Efendi (d. 1575). Nevʿīzāde stood on the side of Miʿmārzāde by stating that those mischief makers "made a mountain of a molehill and turned a dot into a book" (*ḥabbeyi ḳubbe ve noḳtayı kitāb*), which underlines that the matter was trifling in nature from the biographer's perspective.[71] Even so, the professional damage was heavy. Nevʿīzāde adds that Miʿmārzāde was afterward disregarded for many possible appointments to such an extent that his peers insinuated that his rank of dignitary scholar-bureaucrat was revoked and that he was demoted to the status of an ordinary scholar. Miʿmārzāde was later able to retrieve his reputation by proving that he was slandered with the accusation of ignorance through the joint efforts of the chief justice and a vizier. Now, the chief justice of Rumelia was accused of slander and his reputation was at

[70] The proverb appears as "Man ḥafara biʾran li-akhihi waqaʿa fihi" in Karaçelebizade Abdülaziz, *Ravzatü'l-ebrâr zeyli*, 277.
[71] Nev'îzâde Atâyî, *Hadâ'iku'l-Hakâ'ik Fî Tekmileti'ş-Şakâ'ik*, vol. 1, 331.

stake. Due to the chief justice's stained reputation, the grand vizier ordered the documents issued by the chief justice to be investigated for flaws. The efforts proved fruitful: In an endowment document drawn up by the chief justice, a Qur'ānic verse was found to be quoted in an allusion to the name of the benefactor named ʿAbdu'llāh: "I am truly a servant of God [ʿabdu'llāh]. He has destined me to be given the Scripture" (Q.19:30). Presenting a legal opinion from Ebū's-Suʿūd Efendi on the matter that confirmed the risk of unbelief (*kufr*) in this type of use of the Qur'ānic text, the grand vizier received sultanic permission to dismiss the chief justice, who, as Nevʿīzāde puts it, had lost the trust of his peers because of his lack of discernment between unbelief and Islam.[72] The excuse for the chief justice's dismissal must have been the ornamental use of the Qur'ānic verse in a legal document to honor the endower. Otherwise, embedding Qur'ānic quotations in literary compositions was historically commonplace in Islamicate literary traditions, and the Ottomans themselves were no different.[73] Karaçelebizāde ʿAbdu'l-ʿazīz, for instance, frequently quoted a Qur'ānic verse (35:17; 14:20) (*Wa mā dhālika ʿala Allāh bi-ʿazīzin*), which features his name, to invoke divine blessings and presumably to fuel legitimacy for his often scathing criticisms.[74] Disputing one's legal judgment and requesting an investigation into its validity seems a frequently applied strategy among rival scholars to discredit each other. In *al-Shaqāʾiq*, Taşköprüzāde Aḥmed mentioned how the sons of Mollā Fenārī challenged a judgment passed

[72] Nev'îzâde Atâyî, *Hadâ'iku'l-Hakâ'ik Fî Tekmileti'ş-Şakâ'ik*, vol. 1, 332. "'ulemā du'ācıları bu maḳūle küfr ü İslām farḳ itmeyen ādemüñ ṣadru'l-'ulemā olduġına rāżī degüllerdür, diyü 'azli içün iḳdām"

[73] Stephan Dähne, "Qur'anic Wording in Political Speeches in Classical Arabic Literature," Journal of Qur'anic Studies 3, no. 2 (2001): 1–13; Nargis Virani, ""I am the Nightingale of the Merciful": Rumi's Use of the Qur'an and Hadith." *Comparative Studies of South Asia, Africa and the Middle East* 22, no. 1 (2002): 100-111. For the use of Qur'anic verses or expressions in an offensive and profane language in poems, invectives, and jokes, see Geert Jan Van Gelder, "Forbidden Firebrands: Frivolous 'Iqtibās' (Quotation from The Qur'ān) According To Medieval Arab Critics." *Quaderni Di Studi Arabi*, vol. 20/21, 2002, pp. 3–16. For the use of Qur'anic verses divested of their original meaning and replenished with new renderings in Ottoman architectural inscriptions, Murat Sülün, "Qur'anic Verses on Works of Architecture: The Ottoman Case," in *Calligraphy and Architecture in the Muslim World*, ed. Mohammad Gharipour and Irvin Cemil Schick (Edinburgh University Press, 2013), 159–77.

[74] Karaçelebizade Abdülaziz, *Ravzatü'l-ebrâr zeyli*, 114.

by Mollā Yegānī in Bursa due to the resentment they cultivated toward him. They asked for a reexamination of Mollā Yegānī's judgment in a gathering of scholars. Taşköprüzāde Aḥmed noted that a professor of law warned Mollā Fenārī's sons against taking action in this manner, asserting that Mollā Yegānī was a great scholar and would find a way to defend his decision. Indeed, in the gathering, Mollā Yegānī buttressed the view that the minority opinion held by the Ḥanafī jurist Zufar (d. 775) could be acted upon once reinforced by a judicial decision.[75] These instances illustrate why Kemāleddīn Efendi sensed being intentionally targeted through a pretext.

We do not know if the Yeniköy debate was organized to happen in an audience's attendance after the epistles' composition and exchange. Although the written texts elaborating on the stances of each side of the Yeniköy debate indeed reached a reading public, as seen in the two non-autograph copies of the debate that have come down to us, the immediate review and assessment of the arguments in the epistles must have passed through the glances of a few expert eyes at the very least. As can be gleaned from the details of another legal debate from Nevʿīzāde's biographical work, the composition of epistles sometimes was followed by an open public gathering in an imperial mosque in Istanbul, a gathering in which it was possible to circumvent the potentially biased reviews of rival legal experts and to win over the hearts and minds of an attentive audience. When Maʿlūl Emīr Efendi (d. 1555), as a former chief justice of Anatolia, issued a legal judgment during an investigation that the sultan instructed him to conduct over a disputed sale of some property, the concerned individuals against whom the case was concluded received an opinion from the chief jurisconsult Ebū's-Suʿūd Efendi in support of their position. The case was ordered to be heard publicly again in the presence of the judge of Istanbul and other dignitary scholars at

[75] Taşköprīzāde Aḥmad ibn Muṣṭafā, *Al-Shaqāʾiq al-Nuʿmānīyya*, 79-80.

the mosque of Meḥmed II. Nevʿīzāde notes that both sides of the argument prepared epistles and articles quoting books of repute, i.e., authoritative texts of the Ḥanafī school. According to Kefevī Maḥmūd Efendi (d. 1582), quoted by Nevʿīzāde, this type of public disputation would have been expected to end with Maʿlūl Emīr Efendi, the judge whose document was under inspection, revoking his judgment with his own hands, correcting it as required, and being humiliated and labeled as an ignoramus in front of witnesses of dignitary rank and interested members of the general public.[76] However, Maʿlūl Emīr Efendi was able to defend himself on the grounds that there were two positions in the Ḥanafī law school on the matter in question and that, even if two judges came to different judgments for a case while remaining faithful to the primary sources of law, neither of their judgments could be declared invalid.[77] Therefore, given that his decision remained within the scope of legitimate disagreement within the school, he concluded his defense by stating that repealing the initial judgment would be a waste of time. It turns out that Maʿlūl Emīr Efendi was adjudged to be exonerated in the eyes of the public and the learned establishment who were in attendance. Nevʿīzāde adds that Maʿlūl Emīr Efendi remarked in the aftermath of the debate that if he had not attended the dispute in person, his legal judgment would have easily been revoked unjustifiably and that if instead of a public dispute, only a written response had been required from both sides of the debate, he would have been again wronged by his adversaries who were in a higher rank and, hence, who would have been in a position to judge the written

[76] Quoted in Nev'îzâde Atâyî, *Hadâ'iku'l-Hakâ'ik Fî Tekmileti'ş-Şakâ'ik*, vol. 1, 787. "kendü eliyle ḫüccetini ibṭāl ü ḥükmini tebdīl ve 'alā rü'ūsi'l-eşhād mevlānāyı kemāl-i taḫcīl olmaġın"

[77] For the elaboration of the ability of every judge to attain the right judgment and how this cannot be considered legitimate ground for judicial review, see Ulrich Rebstock, "A Qadi's Errors," *Islamic Law and Society* 6, no. 1 (1999), 5-7. For a broader theoretical discussion on legitimate disagreement over differing opinions on a legal question, see Aron Zysow, *The Economy of Certainty: An Introduction to the Typology of Islamic Legal Theory* (Atlanta, Georgia: Lockwood Press, 2013), 262-272.

responses with bias and enmity. This remark by Maʿlūl Emīr Efendi hints that perhaps not every debate put into writing was followed by a public dispute.

Although Nevʿīzāde depicts the successful defense of Maʿlūl Emīr Efendi to foreground the latter's scholarly knowledge, it has been shown by historians that Maʿlūl Emīr Efendi could not make his judgment stick in the long run. This was yet another high-stake dispute over a case concerning the legality of the endowment of movable assets and the complications created by the sale of movable assets not registered as part of endowed, immovable property — a case that came to be known as "the legal case of the mill" (*daʿvā-yı āsiyāb*) and involved the vizier Ḥaydar Paşa (d. 1595) and the grand vizier Rüstem Paşa (d. 1561).[78] This protracted judicial debate led to a stalemate among many other high-ranking bureaucrats, such as the chief jurisconsult Ebū's-Suʿūd Efendi, the two chief justices, and the judge of Istanbul Saçlı Emīr Efendi (d. 1555-56). The latter was dismissed amid the ongoing

[78] Mehmet Gel, "Kanuni Devrinde Vüzera Gölgesinde 'Vakfa İlave Mülkün Satışı' Üzerine Bir Hukuki Tartışma: 'Da'va-yı Asiyab,'" *Belleten* 77, no. 280 (2013): 927–54. This prolonged legal case is also partially treated in Mehmet İpşirli, "Anadolu Kadıaskeri Sinan Efendi Hakkında Yapılan Tahkikat ve Bunun İlmiye Teşkilatı Bakımından Önemi," *İstanbul Üniversitesi Edebiyat Fakültesi İslâm Tetkikleri Enstitüsü Dergisi* 8 (1984): 205–18. The case concerned some property that Haydar Paşa bought, — the property whose endowment status had previously been revoked by a decision of the chief justice Çivizâde Muhyiddin (d. 1547) on the ground that the endowment included movable assets, contrary to the law. However, the chief jurisconsult Ebū's-Suʿūd Efendi found the endowment deed lawful and confirmed it. After Haydar Paşa purchased the property, the heirs of the endower challenged the sale, defending the legality of the endowment. It was the sultan Süleyman who ordered Maʿlūl Emīr Efendi to investigate the case. In rehearing the litigants and the defendant, Maʿlūl Emīr Efendi conferred with the then chief justice of Rumelia Bostān Efendi (d. 1570), who had drawn up the endowment deed for the property in question. The details of the case do not concern us here; what is significant is the procedures followed to settle the dispute. Maʿlūl Emīr Efendi's legal judgment confirming the purchase of certain assets, which were not endowed, was sent by the sultan to the chief justices and the judge of Istanbul. The grand vizier Rüstem Paşa, aiming to reverse Haydar Paşa's acquisition of the said property, insisted on a rehearing to establish the endowed status of all the property in the case. The biographical sources attributed to the grand vizier's machination that Ma'lūl Emīr Efendi and the judge of Istanbul were appointed together to hear the case again; their potential disagreement was expected to bring the case to the chief jurisconsult Ebū's-Suʿūd Efendi. It is at this stage that many epistles were written on the dispute. For references to the manuscripts of those epistles, see Gel, "'Da'va-yı Asiyab.'" Taşköprüzāde Aḥmed, appointed as judge of Istanbul amid the dispute, also wrote, upon a request from the sultan, an epistle. This epistle has recently been published in Arıcı and Arıkan, *Taşköprülüzâdeler*, 115-116. The grand vizier Rüstem Paşa's efforts to revoke the purchase by Haydar Paşa included the dismissal of the chief justice of Rumelia Bostān Efendi, that of Anatolia Sinan Efendi (d. 1578), and the judge of Istanbul Saçlı Emir Efendi, all three were also subjected to further investigations. For the motivations of Rüstem Paşa, see also M. Tayyib Gökbilgin, "Rüstem Paşa ve Hakkındaki İthamlar," *İstanbul Üniversitesi Edebiyat Fakültesi Tarih Dergisi* 8, no. 11–12 (1956): 11-50.

investigations and replaced by Taşköprüzāde Aḥmed Efendi, who wrote an epistle explicating his stance on the legal matter, adding to those epistles already written on the debate by Maʿlūl Emīr Efendi and Saçlı Emīr Efendi. At one point, the grand vizier Rüstem Paşa sent the legal document composed by Maʿlūl Emīr Efendi, who had confirmed the sale of property unregistered in the endowment deed, to dignitary judges and professors, requesting them each to declare it invalid. The legal document was circulated among eight dignitary scholar-bureaucrats who issued legal opinions to point to the mistakes in the document. In this case, one should note that a consensus among dignitary scholar-bureaucrats was sought to rescind a judicial decision.

Such public disputation over a judicial question was not wholly unusual. This practice can be historically traced back to scholarly debates held in the presence of a ruler. In the same spirit, Ottoman scholarly bureaucracy occasionally implemented public examination of candidates for a teaching or juridical post. The Ottoman case, however, is unique in that such examinations that intended to determine a suitable candidate for a post broke the typical student-teacher relationship and gained an impersonal, or rather institutional, nature.[79]

In light of this collective concurrence required and expected of dignitary scholar-bureaucrats in "the legal case of the mill," I will now broaden the discussion to cover the role of the chief jurisconsult and dignitary judges in ratifying certain court documents and the significance of their professional cooperation over *controversial* issues.

[79] Khaled El-Rouayheb, *Islamic Intellectual History in the Seventeenth Century: Scholarly Currents in the Ottoman Empire and the Maghreb* (New York, NY: Cambridge University Press, 2015), 127-128. One such examination from the mid-eighteenth century is described in the diary of a candidate who, together with other ninety-eight applicants, took the examination at the office of the chief jurisconsult: Madeline Zilfi, "The Diary of a Muderris: A New Source for Ottoman Biography," *Journal of Turkish Studies* 1 (1997): 157–73.

A Procedural Enigma in Ottoman Legal and Administrative Tradition?

The polemical nature of the Yeniköy debate aside, there is still one obscure step that initially brought the chief jurisconsult to the case in question. The legal document issued by Kemāleddīn Efendi as judge of Galata had to be presented to the chief jurisconsult for his signature. In the first epistle itself, Kemāleddīn Efendi mentioned the necessity of a signature only in passing as if it were an ordinary procedure in the judicial process: "when he [the imperial gatekeeper] gave the *ḥüccet* to the chief jurisconsult for signature (*ḥüccet-i mezbūreyi imżāʾ içün cenāb-ı ḥażret-i müftiyü'l-enāma verdikte*). The chief jurisconsult was also later qualified as "the one in the rank/position of signature" (*maḳām-ı imżāda olan*) in the second epistle composed of the legal opinions regarding the judge's legal document. Yet, why was this signature required in the first place? In trying to explain why this might be, I have tried to find the same practice in other court cases where we might draw parallels. I will present four relevant cases below.

Case 1:

In 1529, a judicial document that was issued by the chief justice of Rumelia Fenārīzāde Muḥyīddīn Efendi (d. 1548) was sent to be signed by the chief jurisconsult Kemālpaşazāde (d. 1536). Just like in the Yeniköy case, once the document was handed over to the chief jurisconsult, he declined to certify (*imżāʾ)* the document due to errors in its composition. This confrontation between two high-ranking legal authorities led to a debate for which both parties penned epistles.[80] In the original legal case, the legal agent of Pīr Meḥmed

[80] I rely on Mehmet Gel's study of this debate: M Mehmet Gel, "Kanuni Devrinde 'Müfti' Ile Rumeli Kazaskeri Arasında Bir 'Hüccet-i Şer'iyye' İhtilafı Yahut Kemalpaşazade-Fenarizade Hesaplaşması," *Osmanlı Araştırmaları* 42 (2013): 53–91.

Paşa (d. 1532) declared that he relinquished any claims against a certain Ayni Ḫātūn concerning a farm in a village on endowed lands in Tekfurdağı (modern-day Tekirdağ). The objections raised by the chief jurisconsult Kemālpaşazāde primarily centered on solecisms in the document, which was written in Arabic, and on mistakes in contravention to the conventions of document formulation. One glaring mistake Kemālpaşazāde noticed was the misidentification of the legal agent as the representative of Pīr Meḥmed Paşa, when in fact, the legal agent should have been named as the representative of Pīr Meḥmed Paşa's son, to whom it turned out that Pīr Meḥmed Paşa had earlier donated the farm. In the document, the fact that the viziers of the Imperial Council (*Dīvān-ı Hümāyūn*) were mentioned as witnesses was also a mistake, according to Kemālpaşazāde; they should have been referred to as procedural witnesses (*shuhūd al-ḥāl*). One final objection was to the disregard towards correctly ordering the names among the procedural witnesses, where the governor of Rumelia was put after the name of the chief justice of Anatolia, in an affront to the hierarchy of Ottoman bureaucratic ranks.[81]

In response to these objections, the chief justice Fenārīzāde argued in an epistle that the legal agent was correctly identified as representing Pīr Meḥmed Paşa's son, not Pīr Meḥmed Paşa himself. He also addressed most of the grammatical mistakes spotted by the chief jurisconsult and maintained that the alleged points were not grammatically wrong. As for the viziers being in attendance during the court hearing, the verb used in the document to refer to them was *shahida*, which, he accepted, is typically reserved for circumstantial witnesses. Fenārīzāde insisted that *shahida* was employed with the meaning of *ḥaḍara*, which would typically be used about procedural witnesses.

[81] According to a seventeenth-century compilation of laws, the governor of Rumelia was ranked ahead of the chief justices in the protocol of the Imperial Council. See ʻAbdurraḥman ʻAbdī, *Abdurrahmân Abdî Paşa kanunnâmesi*, ed. H. Ahmet Arslantürk (İstanbul: Okur Kitaplığı, 2012), 49.

What concerns us here is not a discussion of how the arguments in this debate unfolded but the conclusion of the debate. In support of the chief jurisconsult, the grand vizier İbrāhīm Paşa (d. 1536) sent Celālzāde Muṣṭafā Çelebi (d. 1567), a scribe of the Imperial Council at the time,[82] to get the chief justice to correct his own mistakes. The chief justice Fenārīzāde reluctantly corrected one minor grammatical mistake only. The document was sent back to the chief jurisconsult one more time, who, dissatisfied with the remaining errors, reported the issue to the grand vizier again. If we are to believe Kemālpaşazāde's epistle, Fenārīzāde eventually acquiesced to the revisions in the document, as requested, only because of the fear of dismissal from office. Mehmet Gel, who contextualizes this debate in an article, rightly situates the debate within interpersonal dynamics among the individuals involved: the long-standing tensions between the grand vizier İbrāhīm Paşa and Fenārīzāde,[83] between Pīr Meḥmed Paşa and Fenārīzāde,[84] and between Fenārīzāde and Kemālpaşazāde. Unsurprisingly, the debate over the legal document in this case seems to have been used to settle accounts on multiple fronts.

Like the Yeniköy debate, this discussion ended with the chief jurisconsult having the upper hand. The whole bureaucratic step of ratification in the form of a signature from the

[82] For Celalzade's bureaucratic career bringing him to the head of the imperial chancery and for his historical works, Christine Woodhead, "After Celalzade: The Ottoman Nişancı c.1560-1700," ed. A. Christmann and R. Gleave, *Islamic Law (Journal of Semitic Studies Supplement 23)*, 2007, 295–311; Kaya Şahin, *Empire and Power in the Reign of Süleyman: Narrating the Sixteenth-Century Ottoman World* (New York: Cambridge University Press, 2013).

[83] In a famous encounter between the two, Fenārīzāde refused to accept the testimony of İbrahim Paşa on a legal case in front of the Imperial Council, stating that Ibrahim Paşa was still an unmanumitted slave of the Sultan, with his servile status rendering his testimony unacceptable. Openly offended by the emphasis put on his servile status, Ibrahim Paşa got the sultan Süleyman to legally declare him free. Once again in the Imperial Council, Ibrahim Paşa confronted Fenārīzāde and required that his testimony as a free Muslim now be taken into consideration. Fenārīzāde, however, insisted to hear the sultan's confirmation concerning the grand vizier's manumission. After hearing the sultan's confirmation, Fenārīzāde issued a manumission document and gave it to Ibrahim Paşa in the Council, finally recognizing the paşa's free status and further insulting the grand vizier. See Repp, *The Müfti of Istanbul*, 269-270.

[84] In 1523, Fenārīzāde, when serving as chief justice of Anatolia, was appointed to investigate the then grand vizier Piri Meḥmed Paşa on some corruption charges. This investigation ended with the latter's dismissal. Repp, *The Müfti of Istanbul*, 269.

chief jurisconsult for a judicial document already issued in a legal case is reduced to a footnote by Mehmet Gel, who briefly points to this rather strange occurrence. Still, he adds that it is impossible to say anything conclusive about why this procedure was necessary.[85] Assuming a legal, bureaucratic necessity for an additional signature on a legal document, one can speculate on what makes this case — which was first adjudicated in the Imperial Council, given the presence of the viziers during the hearing — special. Was it special because this was a case concerning the property in a village of endowed lands? Was it because the party involved in the judicial case, Pīr Meḥmed Paşa, was a high-ranking official whose financial undertakings would be monitored more closely by the state? All of these reasons may have contributed, to some extent, to the handling of this case at the imperial center. I will discuss, further below, the rationale behind the imperial handling of such cases.

Case 2:

There is another instance of church demolition where the issue of signature and imperial ratification arose. The case occurred slightly before the Yeniköy incident and bore striking similarities. In 1597, Ṣafiye Ṣulṭān, mother of Meḥmed III, ordered the construction of a mosque, which would later be known as the Vālide Ṣulṭān Mosque in what is Eminönü today, a partially Jewish neighborhood at the time. The construction project started with expropriating and demolishing buildings in the area. As the Jews of Eminönü were forced to sell and evacuate their property, they began migrating to other parts of the city.[86] According to

[85] In the same footnote, Gel cites Uzunçarşılı for the distinction between *ilam* and *hüccet* and states that the signature is made to appear as a legal necessity in the legal debate he covers. However, he cautiously says that one should avoid a generalizing conclusion that a judicial document without a signature from the chief jurisconsult would be invalid. Gel, "Kanuni Devrinde 'Müfti' Ile Rumeli Kazaskeri Arasında Bir 'Hüccet-i Şer'iyye' İhtilafı," 59.

[86] The construction of this mosque was completed about fifty years later by another queen mother Turhan Ṣulṭān, mother of Meḥmed IV. This second construction activity in the middle of the seventeenth century is well documented and studied. See Lucienne Thys-Şenocak, *Ottoman Women Builders: The Architectural Patronage of Hadice Turhan Sultan* (Aldershot, England ; Burlington, VT: Ashgate, 2006); Baer, *Honored by the Glory of Islam*; Kenan Yıldız, *1660 İstanbul Yangını ve Etkileri: Vakıflar, Toplum ve Ekonomi* (Ankara: Türk Tarih Kurumu, 2017).

sixteenth-century chronicler Selānikī, the expropriation included not only the Islamic endowment properties but also a church and a synagogue, both old structures.[87] One imperial gatekeeper, Ḳara Meḥmed Aġa, was put in charge of administering the process, as the owners of the expropriated properties were assured of being compensated for their losses with the corresponding market values. However, due to Ḳara Meḥmed Aġa's neglect and laxity, Selānikī narrates, a series of complaints about his handling of the evacuation of the neighborhood was made. In fact, this event is placed by Selānikī in his narrative to explain Ḳara Meḥmed Aġa's corruption and subsequent dismissal from the supervision of the construction of Ṣafiye Ṣulṭān's mosque.[88]

Having the same concern about compensation as other residents and Islamic endowments in the neighborhood, both Christian and Jewish communities obtained a sultanic order allowing them to restore a dilapidated place of worship of theirs in another area as compensation for the demolished ones in Eminönü. However, Selānikī narrates, the Christian community received a legal document authorizing them to build a new church instead of restoring an old one, with the signature of "worthless and ignorant deputy judges" (*nüvvāb-ı bāṭıl ve cāhil imżāsıyle*) who issued the document in return for gifts and payments in the Maḥmūd Paşa court, one of the many courts serving under the purview of the judge of Istanbul. Selānikī adds that a new church was indeed built shortly after in a place that he leaves unspecified.

When the Jewish community received the same kind of document from a deputy judge in 1600, Ḳara Meḥmed Aġa requested that the legal document of the deputy judge be signed by a dignitary judge ("*Mevālī-yi ʿiẓām imżāsıyle olmayıcak istiḥkām bulmaz*"), and sent it to

[87] Selânikî Mustafa Efendi, *Tarih-i Selânikî*, ed. Mehmed Ipsirli (İstanbul, 1989), vol. 2, 849.
[88] This section of Selānikī's history has been recently translated into English by Erdem Çıpa in Hakan T. Karateke and Helga Anetshofer, eds., *The Ottoman World: A Cultural History Reader, 1450-1700* (Oakland, California: University of California Press, 2021), 343-346.

the dignitary judge of Istanbul, Ḫocazāde Esʿad Efendi. Considering the construction of a new place of worship for non-Muslims to be in contravention of the *sharīʿa*, Ḫocazāde Esʿad Efendi immediately removed the deputy judge who had issued the document from his post. Notified about the recently constructed church by the Christians earlier in a similar process, Ḫocazāde Esʿad Efendi arrived at the church and, together with the chief of police (*subaşı*) and the market supervisor (*muḥtesib*), tore it down.

Afterward, Ḫocazāde Esʿad Efendi visited the chief jurisconsult Sunʿullāh Efendi, who admitted that the gatekeeper had previously brought the document to him for signature and had communicated a message that openly threatened the chief jurisconsult: "If he does not sign, the jurisconsult who replaces him will sign it!" It is not clear whose message this was. Considering that Selānikī narrates this event in explicating the imperial gatekeeper Ḳara Meḥmed Aġa's corruption, we can assume that Ḳara Meḥmed Aġa might have fabricated a message as if sent from the sultan and the sultan's mother. Or else, such a message might have indeed come from the palace. Regardless, we gather that the chief jurisconsult Sunʿullāh Efendi had declined to sign the document of the deputy judge despite the message he received, which is the reason why the document ended up in the hands of the judge of Istanbul, Ḫocazāde Esʿad Efendi. In the end, the chief jurisconsult and the judge of Istanbul, probably with the initiative of the latter, sent a memorandum to the sultan and his mother suggesting that the gatekeeper meddled with illegal affairs and should be replaced by a pious and rule-abiding representative (*bir mütedeyyin ve müteşerriʿ vekīl*).

In this case, the request for a signature might be warranted because it was a deputy judge who issued the document. Selānikī emphasizes the signature of a dignitary judge for the judicial decision to come into effect ("*Mevālī-yi ʿiẓām imżāsıyle olmayıcak istiḥkām bulmaz*"). At this point, we do not know whether the Christians who managed to receive

permission to build a new church elsewhere in the city went through the same process and obtained additional authorization from a dignitary judge earlier.

Following Selānikī's comments, this case is relatively easy to explain through the different scopes of jurisdiction defined for dignitary and deputy judges. Ekrem Buğra Ekinci treats this case as an example of the inspection and certification of judicial decisions of deputy judges by their immediate superior (namely, in this case, the decision of the deputy judge of the Maḥmūd Paşa court to be certified by the judge of Istanbul).[89] However, he does not take into account why the document was first brought not to the judge of Istanbul but to the chief jurisconsult. Regardless, in Islamic legal theory, while delegating judges to dispense justice in his realm, the ruler is seen as able to prohibit them from hearing certain cases, a jurisdictional arrangement that can restrict a judge's purview to a geographic area and/or cases of specific subject matters.[90] In the Ottoman context, this principle of limited legal jurisdiction applied saliently to deputy judges. Through Selānikī's comment on the necessity of authorization from a dignitary judge, one could claim that something about the Eminönü case went beyond the deputy judge's limited legal authority and crossed into that of a dignitary judge. However, intriguingly, the deputy judge did not refrain from adjudicating the case at hand. Instead of referring it to a dignitary judge immediately, he heard the case, composed a legal document permitting a new place of worship to be built, and issued it. The execution of the legal decision *already passed* was pending authorization from a dignitary judge.[91] We also gather

[89] Ekrem Buğra Ekinci, "Osmanlı Hukukunda Mahkeme Kararlarının Kontrolü (Klasik Devir)," *Belleten* 65, no. 244 (December 1, 2001): 966.
[90] For a mid-sixteenth century requirement for cases about public treasury to be heard in Istanbul, see İpşirli, "Anadolu Kadıaskeri Sinan Efendi Hakkında Yapılan Tahkikat ve Bunun İlmiye Teşkilatı Bakımından Önemi," 215.
[91] In the composition of an endowment deed issued in 1620, we can observe similar processing: the document was composed by a deputy judge in the judgeship of Eyüb, and the deed was signed/authorized by the dignitary judge of the same district. Coşkun Yılmaz, ed., *İstanbul Kadı Sicilleri Galata Mahkemesi 65 Numaralı Sicil (H. 1051 - 1053 / M. 1641 - 1644)* (İstanbul: İslâm Araştırmaları Merkezi (İSAM), 2012), sayfa: 254 Hüküm no: 214 Orijinal metin no: [63b-1]. I have taken the expression "el-müvellâ hilâfeten bi Havâss-ı Kostantıniyye" to be a reference to the deputy judge. For the same expression being used for deputy judges, see Nicolas Vatin, "Les

from this case that the deputy judge's document was first brought to the chief jurisconsult, not necessarily to the judge of Istanbul under whose authority the deputy judge was serving. Even if the differing scopes of jurisdiction between a deputy judge and a dignitary judge could explain, to a great extent, the Eminönü incident, the rationale of which already being mentioned by Selānikī (*mevālī imżāsı*), it would not shed light on the Yeniköy decision (Chapter 2), which was already signed by a dignitary judge, i.e., the judge of Galata, and was nonetheless sent to the chief jurisconsult for another signature.

Case 3

In 1642, the dignitary judge of Bursa Ḫocazāde Mesʿūd Efendi (d. 1656, not related to the lineage of Ḫoca Saʿdeddīn)[92] ruled a church's illegality in Bursa after complaints were made about its being newly constructed. The historical sources are at a variance as to whether the judge demolished the church or simply sealed it.[93] Whereas Kātib Çelebi and Naʿīmā

Nâ'ib Du Ḳaẓâ de Cos Au XVIe-XVIIe Siècle à La Lumière Du Fonds Ottoman Des Archives Du Monastère de Saint-Jean à Patmos," *Turcica* 51 (2020): 319–48. Phokion Kotzageorgis also observes instances where documents concerning the landed property of the monasteries and issued by deputy judges were certified by the incumbent judge of the same jurisdiction or in a neighboring jurisdiction. Kotzageorgis, however, does not discuss such cases as part of judicial processing, but rather as a strategy of the monks to strengthen their rights on landed estates and to protect them from potential future litigation. He also provides examples of legal documents certified multiple times in different years due to renewed disputes. Phokion Kotzageorgis, "The Multiple Certifications in Ottoman Judicial Documents (Hüccets) from Monastic Archives," *Archivum Ottomanicum* 31 (2014): 117–27.

[92] Mesʻūd Efendi owed his Ḫocazāde epithet to his father Mustafa (d. 1607), the preceptor of Aḥmed I. He later became chief jurisconsult in his career and was murdered shortly after his dismissal from this post. Ḫocazāde Mesʻūd was one of the three murdered chief jurisconsults in Ottoman history, the others being Ahizade Hüseyin (d. 1634) and Feyzullah Efendi (d. 1703). See Zilfi, *The Politics of Piety*, 113-114. During his short tenure of about four and half months as chief jurisconsult, Ḫocazāde Mesʻūd meddled with appointments beyond the learned hierarchy. Rumors about his plotting to dethrone the sultan resulted in Mesʻūd Efendi's dismissal from office and exile to Amid. While in Bursa on his way to Amid, Mesʻūd Efendi's hesitance to leave the city in the midst of an ongoing rebellion in Anatolia at the time was interpreted by the judge of Bursa as disobedience and machination to rebel on his own accord, and communicated to Istanbul. The imperial order decreed his immediate execution. See Ziya Akkaya, "Vecihi Devri ve Eseri (1637-1661/1057-1071)" (Ph.D. Dissertation, Ankara Üniversitesi, 1957), 135, 139, and 141; Karaçelebizade Abdülaziz, *Ravzatü'l-ebrâr zeyli*, 242, 274-282.

[93] Apparently, cordoning off a building was often a measure taken by the authorities for arguably illegal constructions. In a late sixteenth-century case from Jerusalem, a synagogue contiguous to a mosque was sealed off by the judge upon the complaint of Muslims on the ground that the synagogue was not in existence at the time of conquest and the religious ceremonies of the Jews were disruptive for the neighboring Muslim religious services. Uriel Heyd, *Ottoman Documents on Palestine, 1552-1615: A Study of The Firman According to the Mühimme Defteri* (Oxford: Clarendon Press, 1960), 170-171.

mentioned that only one church was sealed — not demolished — by Mesʿūd Efendi, Karaçelebizāde stated that there were several such churches that Mesʿūd Efendi demolished.[94] Even according to Kātib Çelebi and Naʿīmā, who agreed that the church was sealed off, the judge acted in violation of the requirement of official communication (*ḫilāf-ı inhāʾ*) to be presented to the grand vizier. Consequently, Mesʿūd Efendi was compelled to forfeit the judgeship of Bursa because he did not wait for approval from the imperial center for his judicial decision about the church. In reaction to his abrupt removal from office, Bursa's remaining churches were vandalized by an angry mob. What is significant about this case for our purposes is that the judge was expected to delay executing his decision (regardless of whether to seal or demolish the church) until after the central administration approved his judicial decision. In this instance, the authority whose approval was required was the grand vizier, not the chief jurisconsult. As I will suggest later, we can presume the cooperation of the chief jurisconsult with the grand vizier in ratifying such a judicial decision.

Case 4

The multi-stage adjudication of a property dispute was summarized in an imperial order sent to the judge of Galata in 1604. The order confirmed the ownership of a garden in Büyükdere, a village on the western bank of the Bosphorus, by a Christian woman named Aleksandra who inherited it. The order was needed because Aleksandra was tormented by the nagging claims made by the overseer of the endowment of Şehzāde Ṣulṭān Meḥmed over the ownership and usufruct of the garden in question. The imperial order succinctly describes the judicial process that Aleksandra went through —She first appeared in the court of Galata, proved her case, and received a document. Later, the same case was heard in the Imperial

[94] Kātib Çelebi, *Fezleke*, vol. 2, 835; Karaçelebizade Abdülaziz, *Ravzatü'l-ebrâr zeyli*, 281. See also Zilfi, *The Politics of Piety,* 150.

Council by the chief justices, where the garden was confirmed to be hers again, and another document was issued accordingly. The imperial order explicitly states that both documents (the first given by the judge of Galata and the latter by the chief justices) were also signed by the chief jurisconsult. The endowment overseer, however, continued to drag on the case and trouble Aleksandra regarding the garden despite the conclusion of the case in her favor multiple times by the higher judicial and juristic authorities of the empire. Hence, this final imperial order addressed the judge of Galata to act upon the previously issued documents and added the oft-repeated condition: "If previously heard in accordance with the *sharīʿa*, the case should not be heard again."[95] What is striking here is the mention of the chief jurisconsult's signature in the two documents Aleksandra obtained, the first being acquired from Galata's court of law and the latter from the Imperial Council. It should be emphasized here that the chief jurisconsult was involved not by issuing a legal opinion in response to litigants or a ruling judge asking his opinion in the adjudication process. His signature was put on the legal documents after the respective courts had already issued those documents.

In all these four cases, the bureaucratic step of requiring a signature from the chief jurisconsult — except for in Case 2, where, instead, the signature of the dignitary judge would have been sufficient — shows that the practice of seeking authorization from the chief jurisconsult (or another dignitary judge) occurred after a court hearing was completed and the judge issued a judicial decision. In other words, the judges in the four cases were not soliciting the legal opinion of the chief jurisconsult on the legal matters at hand; they could have done so during the proceedings of a court case but not after *already* passing their judgment or issuing a document for a legal effect.

[95] GCR 25: 165: "Galata kadısı önünde şer'le görüldükte mezbureye hükm olunub ve Divan-ı Hümayunda kadıaskerler huzurunda dahi istima olundukta geri mezbureye hükm olunub hüccet verilib ve şeyhülislam hüccetlerin imza edüb birkaç defa şer'le fasl olunmagın"

This relatively unusual order of ratification procedure also differs from regular correspondences that judges maintained with the Imperial Council to seek advice and approval to act on a particular issue. The Ottoman administrative registers (*mühimme defterleri*) abound in this type of communication, which typically ended with the sultan ordering the judge to resolve the issue according to *sharīʿa*. As in the case of a judge soliciting the opinions of a jurist on a legal issue *before* issuing a document, the correspondence with the Imperial Council was also supposed to happen *before* a court hearing was completed with a legal document.[96] These four cases also differ from the initiative of commoners seeking a redress of grievances through their petitions or asking for a judicial review to annul a previous verdict.[97] As seen in the Yeniköy incident, it was the judges who passed legal documents on to the chief jurisconsult for the latter's approval.

Document Certification as a Procedure in Administering Public Law

By way of digression, it is necessary to highlight the litigation of criminal cases where we can observe undeniable procedural parallels to the four cases I have presented above. In the tripartite classification of crimes, namely prescribed penalties (*ḥudūd*), requital (*qiṣāṣ*), and discretionary measures (*tazʿīr/siyāsa,* mostly left to the judge's discretion based on the ruler's designation of a range of corporal and pecuniary punishments), the infliction of prescribed penalties requires the existence of political authority and its authorization according to the Sunni schools of legal thought.[98] Typically, the ruler's appointment of judges

[96] For examples of petitions sent by the local judge to consult with the Imperial Council, see Başak Tuğ, *Politics of Honor in Ottoman Anatolia: Sexual Violence and Socio-Legal Surveillance in the Eighteenth Century*, The Ottoman Empire and Its Heritage, volume 62 (Leiden; Boston: Brill, 2017), 102-103.
[97] Suraiya Faroqhi, "Political Activity among Ottoman Taxpayers and the Problem of Sultanic Legitimation (1570-1650)," *Journal of the Economic and Social History of the Orient* 35, no. 1 (1992): 1–39.
[98] Robert Gleave, "Public Violence, State Legitimacy: The Iqāmat al-Ḥudūd and the Sacred State," in *Public Violence in Islamic Societies: Power, Discipline, and the Construction of the Public Sphere, 7th-19th Centuries CE*, ed. Christian Lange and Maribel Fierro (Edinburgh University Press, 2009), 256–75. Also, similar to the application of fixed penalties in a locality, the performance of the Friday prayer was also linked in Hanafi legal theory to the presence of a judge to maintain the rule of law in towns and cities, hence to the existence of

as his delegates to dispense justice could be accepted as his general endorsement for implementing punishments. Yet historians have suggested that, especially in cases of death penalties and severe corporal punishments, the Ottoman judiciary relied on the prerequisite of endorsement (*taṣdīḳ*) for the execution of issued decisions.[99] How exactly that endorsement was processed is debated, however. It is relatively safe to assume that an investigation would be completed on the spot, a local court would pass the judgment, and a copy of the court record would be sent to the center. The ordering of steps is unclear. Would the judgment first be presented to the chief jurisconsult for approval and would he then present it to the Imperial Council for additional authorization from the chief justices and the grand vizier?[100] Both Işık Tamdoğan and Başak Tuğ show that in the eighteenth century, judges reported criminal cases concluded in their court to the grand vizier's council or the council of provincial governors.[101] They do not speculate about the role of the chief jurisconsult at this stage post-trial.

The assumed prerequisite of imperial ratification for inflicting punishment for heavy crimes is approached with suspicion by several historians. Ekrem Tak argues that Ottoman judges could pass judgments for the death penalty and execute it without needing an

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political authority. See Baber Johansen, "The All-Embracing Town and Its Mosques: Al-Misr al-Gâmi'," in *Contingency in a Sacred Law: Legal and Ethical Norms in the Muslim Fiqh* (Leiden; Boston: Brill, 1999), 77–106. Uzunçarşılı mentions that in the provinces, severe punishments were reported by dignitary judges to the provincial governor, who was the deputy of the ruler, hence the enforcer of the declared punishment: Uzunçarşılı, *Osmanli Devletinin Ilmiye Teşkilâtı*, 110. For the involvement of dignitary judges in the court of provincial governors, see Rossitsa Gradeva, "On Judicial Hierarchy in the Ottoman Empire: The Case of Sofia from the Seventeenth to the Beginning of the Eighteenth Century," in *Dispensing Justice in Islam: Qadis and Their Judgements*, ed. Muhammad Khalid Masud, Rudolph Peters, and David Powers (Brill, 2006), 271–98; Işık Tamdoğan, "Qadi, Governor and Grand Vizier, Sharing of Legal Authority in the 18th Century Ottoman Society," *Annals of Japan Association for Middle East Studies* 27, no. 1 (n.d.): 237–57; James E. Baldwin, *Islamic Law and Empire in Ottoman Cairo* (Edinburgh: Edinburgh University Press, 2017).

[99] Mübahat S. Kütükoğlu, *Osmanlı belgelerinin dili: diplomatik* (İstanbul: Kubbealtı Akademisi Kültür ve San'at Vakfı, 1994), 349; Şükrü Özen, "İnfaz," TDV İslam Ansiklopedisi, 2000; Ekinci, "Osmanlı Hukukunda Mahkeme Kararlarının Kontrolü (Klasik Devir)," 982-983.

[100] It is not clear, though, among those who claim the existence of the prerequisite of endorsement (*taṣdīḳ*) for the infliction of severe punishments, whether approval only from the chief jurisconsult or from the Imperial Council would be enough or both authorities were somewhat involved in which case it is still not clear in what order the progression of the approval process would unfold. For authorization to implement the death penalty in the eighteenth century, see Tuğ, *Politics of Honor in Ottoman Anatolia*, 206.

[101] Tamdoğan, "Qadi, Governor and Grand Vizier, Sharing of Legal Authority in the 18th Century Ottoman Society"; Tuğ, *Politics of Honor in Ottoman Anatolia*, 206.

endorsement (*taṣdīḳ*) from the center, be it from the chief jurisconsult or the Imperial Council.[102] However, among some of his own examples from court registers, it was stated that the cases were presented (*arż*) to the Imperial Council. Rossitsa Gradeva, while not discussing the issue of ratification, mentions two special registers of criminals from early seventeenth-century Sofia. After these individuals were tried and convicted in local courts, punishments issued for such crimes as homicide, banditry, theft, arson, wounding, counterfeiting, and wine-drinking were later communicated to Istanbul, as the registers were sent to the capital.[103] Should one assume that the death penalty and corporal punishments were perhaps not implemented immediately because ratification from the center was awaited? The delayed infliction of punishments until after the acquisition of approval from the center is rarely discussed as a necessary procedure in scholarly literature.[104]

In his recent study of civil and criminal aspects of homicide in Islamic legal tradition and its application in the Ottoman polity, Amir Toft forcefully shows how the executive political authority was instrumental to judges' enforcement of public policies in criminal cases damaging to society.[105] Although he does not address the question of the necessity of case-

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[102] Ekrem Tak, "XVI-XVII. Yüzyıl Osmanlı Katl Davalarında Bürokratik Prosedür: Mahkeme ve Dîvân Kayıtları Üzerine Bir İnceleme," *Çanakkale Araştırmaları Türk Yıllığı* 17, no. 27 (2019): 127–41.

[103] Gradeva, "On Judicial Hierarchy in the Ottoman Empire," 279-280. Gradeva adds that it is not clear if the criminals themselves were also sent to the capital for punishments to be implemented there. Also note the similarities in the crimes listed by Gradeva to the kind of crimes on which pre-modern Hanafi legal authorities recognized the ruler's authority to make decisions for the public order: "highway robbery, theft, bodily injury, usury, taxation, land tenure, and all disturbances of order and peace." Samy Ayoub, "'The Sulṭān Says': State Authority in the Late Ḥanafī Tradition," *Islamic Law and Society* 23 (2016), 244. Ayoub also notes references in pre-modern Hanafi legal commentaries to the ruler's authority in matters concerning "coercion (ikrāh), prescribed punishments (ḥudūd), and religious endowments (awqāf)." According to İnalcık, the principle that the land belonged to the sultan in the Ottoman Empire also justified the right of the sultan to interfere with religious endowments, a justification that İnalcık considers to be an expression of Ottoman absolutism. See Halil İnalcık, "Suleiman the Lawgiver and Ottoman Law," *Archivum Ottomanicum* 1 (1969), 129.

[104] For such a delay caused by waiting for an imperial order to approve the decision, see Tuğ, *Politics of Honor in Ottoman Anatolia*, 212 and 240-241.

[105] Amir Armon Toft, "Revaluing the Price of Blood: Homicide in Islamic Jurisprudence and Ottoman Law" (The University of Chicago, 2020). The importance of Toft's work relies on his rendering of the simultaneous application of private and public claims dictated by Islamic jurisprudence and Ottoman administrative regulations, respectively, in criminal cases. Previously, this exact duality has been interpreted as the minimal role of Islamic jurisprudence in criminal law, which was considered subordinated to the ruler's legal discretion. See

based ratification from the political authority in the punishment of serious crimes, Toft explains the puzzle of the near absence of recorded final verdicts in severe criminal cases in Ottoman court registers, the dearth of final verdicts being an oft-cited observation in Ottoman historiography.[106] Toft maintains that "the absence of any final judgment and sentence in the court registers themselves suggests that a higher executive authority concluded the case."[107] While, on the one hand, the private and by extension the civil character of Islamic homicide law enabled settlement among private persons, judges, on the other hand, were tasked to process the public aspects of criminal sanctions. Toft argues that the simultaneous overlap and distinction between the private and public domains of criminal cases obstruct historians from comprehending the functioning of criminal law in tandem with Ottoman public law. He partly attributes this problem to the absence of an indigenous term to designate "public law." He shows that, for all intents and purposes, despite the absence of a specific term, jurists were occupied with defining the role of political authority and a sphere of public interests, covering a legal sphere that can be called today public law.[108] It is no wonder that Tuğ finds the explicit statements of punishment not in documents issued by the courts of Ankara and Bursa for criminal cases but in the imperial orders sent to those courts.[109]

Going back to the four main cases discussed in this chapter and the Yeniköy case in the previous chapter, I suggest that the requirement of explicit case-based ratification from the chief jurisconsult was an instrument in the operation of Ottoman public policies. The common

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Colin Imber, *Ebu's-Su'ud: The Islamic Legal Tradition*, Jurists-- Profiles in Legal Theory (Stanford, Calif: Stanford University Press, 1997), 246.

[106] Eyal Ginio, "The Administration of Criminal Justice in Ottoman Selânik (Salonica) during the Eighteenth Century," *Turcica* 30 (1998), 195; Suraiya Faroqhi, *Approaching Ottoman History: An Introduction to the Sources* (Cambridge; New York: Cambridge University Press, 1999), 56; Tuğ, *Politics of Honor in Ottoman Anatolia*, 185-186.

[107] Toft, "Revaluing the Price of Blood," 365.

[108] Toft, "Revaluing the Price of Blood," 38. For Muslim jurists' theory of the state and constitutional law, see Ann K. S. Lambton, *State and Government in Medieval Islam: An Introduction to the Study of Islamic Political Theory: The Jurists*, (Oxford; New York: Oxford University Press, 1981).

[109] Tuğ, *Politics of Honor in Ottoman Anatolia*, 210.

denominator in these cases is their relevance to public concerns. Two of these cases (the one concerning Eminönü and the one about the church in Bursa) concern non-Muslim houses of worship and their communities, as does the Yeniköy debate. In Case 1, a high-ranking bureaucrat is on one side of the legal dispute, and the case itself is a property dispute concerning imperially endowed lands. These particularities in Case 1 (both the involvement of a high-ranking bureaucrat and the centralized supervision needed for imperial endowments[110]) place the case under a public policy consideration. These issues (non-Muslim communal spaces in urban areas in three cases and the involvement of a high-ranking individual in a judicial case as well as the question of endowed property in Cases 1 and 4) altogether may have warranted the ratification of the chief jurisconsult or another high-ranking judge for the judicial decision to come into force.[111] Although these cases do not yield a consistent pattern, they corroborate the impression that at least certain public issues had to be processed through a kind of supervisory measure of an institutional nature. Just like in the fundamentally political nature of criminal law, other matters of political or otherwise public concern may have alerted a response from the central authorities in the cases I have discussed.[112]

[110] For imperial endowments that were founded with property from the public treasury (*bayt al-māl*) and for Ibn Nujaym's recognition of the sultanic authority to set up such endowments, see Samy Ayoub, *Law, Empire, and the Sultan: Ottoman Imperial Authority and Late Ḥanafī Jurisprudence*, Oxford Islamic Legal Studies (New York, NY: Oxford University Press, 2020), 56-58.

[111] Gradeva's work provides invaluable insights into the judicial and administrative stages in the procedure of the restoration of non-Muslim places of worship. In general, such requests started with an application filed either at the local court or directly with a petition to the sultan; then the imperial order requested the local judge to inspect the building in situ; the local judge, in turn, reported about the necessity of the restoration, and finally, sultanic authorization issued an explicit permit for the restoration. Gradeva also adds variations in these procedures such as the involvement of provincial governors. She, however, does not observe any ratification by the signature of the chief jurisconsult. In some cases, she locates the legal opinion in support of the restoration being attached to the petitions sent to the imperial center. Gradeva, "From the Bottom Up and Back Again until Who Knows When: Church Restoration Procedures in the Ottoman Empire, Seventeenth-Eighteenth Centuries (Preliminary Notes)."

[112] Engin Akarlı notes that the Imperial Council was tasked to oversee legal issues that required the ruler's ratification for their implementation. Yet, he does not discuss the procedural dimensions of this ratification. Engin Deniz Akarlı, "The Ruler and Law Making in the Ottoman Empire," in *Law and Empire: Ideas, Practices, Actors*, ed. Jeroen Duindam et al. (Brill, 2013), 87–109.

If what is at stake is indeed the nature of these disputes (i.e., concerning public interest and political sensitivities) that would require a sultanic authorization, why address them to the chief jurisconsult but not to the Imperial Council, which was primarily the highest decision-making organ acting on the sultan's behalf and in which the judicial functions were overseen by the two chief justices while the chief jurisconsult was *not* a member?[113] This question can partially be answered by emphasizing the increasing power of the office of the chief jurisconsult in the Ottoman legal establishment. Given that the prerogative to administer nominations to the top positions of the official, learned hierarchy was taken from the chief justices and given to the chief jurisconsult in the mid-sixteenth century, it would not be surprising that the sultanic discretion may have been imagined to be mediated partly through the chief jurisconsult's increased legal and administrative authority. The fact that the supervision of the chief jurisconsult was sought after in the form of ratification of judicial decisions for certain cases indicates that the chief jurisconsult was authorized to inspect those judicial decisions and, if necessary, to rescind what could be considered an unlawful decision, therefore blocking its execution.[114] However, I also argue that this bureaucratic requirement of ratification and the executive power of the chief jurisconsult should also be analyzed with

[113] Repp, *The Müfti of Istanbul*, 28. Ahmet Mumcu, *Hukuksal ve siyasal karar organı olarak Divan-ı Hümayun*, Ankara Üniversitesi Hukuk Fakültesi yayınlarından, no. 394 (Ankara: Sevinç Matbaası, 1976).

[114] See how the chief judge's power to confirm a local judge's decision implies that he may have been able to overturn such a decision. David S. Powers, "On Judicial Review in Islamic Law," *Law & Society Review* 26, no. 2 (1992), 331-332. In David Powers' observations from fourteenth-century Morocco, the authorities that could overturn a judicial decision were the issuing judge himself, his successor in the same office, the chief judge of the capital city, or the ruler's court. Powers responds to the assumption in western scholarship that historically, Islamic legal culture lacked judicial review because there was no hierarchical judicial structure whereby higher courts reviewed decisions of lower courts. He emphasizes that judicial review could occur in non-hierarchical judicial systems, hence his elaboration on judicial review by the successor of a judge in office. See also Rebstock, "A Qadi's Errors"; Baber Johansen, "Le Jugement Comme Preuve: Preuve Juridique et Vérité Religieuse Dans Le Droit Islamique Hanéfite," *Studia Islamica*, no. 72 (1990): 5–17. For a detailed examination of the review of a successor judge, see David S. Powers, "Fatwas as Sources for Legal and Social History: A Dispute over Endowment Revenues from Fourteenth-Century Fez," *Al-Qantara* 11, no. 2 (1990): 295–342.

respect to decision-making deliberations that were already in the making before the rising power of the chief jurisconsult in the mid-sixteenth century.

The chief jurisconsult's expanding role in public policy decisions was parallel to the sultan's diminishing presence, starting at the time of Meḥmed II (r. 1451–81), in the quotidian administration of imperial affairs.[115] Imperial seclusion of the sultan was meant to strengthen his imperial authority. The establishment of the office of the chief jurisconsult gradually occurred in this context, as the grand vizier and his governmental office assumed the judicial and administrative roles of the sultan in the Imperial Council.[116] In the late seventeenth century, Hezārfen Ḥüseyin, in his compilation of laws concerning state institutions, remarks that since the grand vizier was the sultan's absolute deputy, the chief jurisconsult must have recourse to him in most matters.[117] One should note the direction of consultation in Hezārfen's account, where the chief jurisconsult was said to consult with the grand vizier. The burden of administrative questions fell on the shoulders of the grand vizier and his government rather than the sultan himself. As the arbiter of public and private morality, the chief jurisconsult accompanied the grand vizier. In the seventeenth century, the grand vizier and the chief jurisconsult together came to constitute the core of any consultative gathering for administrative issues. Selānikī narrates that in 1591, the sultan ordered a consultative gathering to be convened in the grand vizier's mansion to discuss relations with the Safavids. Apart from the grand vizier, the viziers, the imperial chancellor, the imperial treasurer, and

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[115] For the emergence of sultanic seclusion in early Ottoman imperial protocol and ideology, see Gülru Necipoğlu, *Architecture, Ceremonial, and Power: The Topkapi Palace in the Fifteenth and Sixteenth Centuries* (New York, N.Y. : Cambridge, Mass: Architectural History Foundation ; MIT Press, 1991), 15-21.
[116] For the emergence of the bureaucratized relationship between the sultan and the grand vizier as a consequence of the sultan's isolation, Pál Fodor, "Sultan, Imperial Council, Grand Vizier: Changes in the Ottoman Rulling Elite and the Formation of the Grand Vizieral 'Telhis,'" *Acta Orientalia Academia Scientiarum Hungaricae* 47 (1994): 67–85; Pál Fodor, "The Grand Vizieral Telhis. A Study in the Ottoman Central Administration 1566-1656," *Archivum Ottomanicum* 15 (1997): 137–88. See also Marinos Sariyannis, "Ruler and State, State and Society in Ottoman Political Thought," *Turkish Historical Review* 4, no. 1 (2013): 83–117.
[117] Hezarfen Hüseyin Efendi, *Telhîsü'l-beyân fî kavânîn-i Âl-i Osmân*, ed. Sevim İllgürel (Ankara: Türk Tarih Kurumu Basımevi, 1998), 197.

the tutor of the sultan in the meeting, there were three high-ranking dignitary scholar-bureaucrats: the chief jurisconsult and the chief justices.[118] The term used is consultation (*meşveret*), referring to such ad hoc gatherings of high-ranking bureaucrats of the different branches of the administration to deliberate over political decisions.[119]

As suggested by Roy Mottahedeh in a study of particular instances of consultation (*mashwara*) from the ninth-tenth centuries, the ruler's consultation with scholars and bureaucrats, in particular, occurred due to the need for a public display of (sometimes forced) unanimity to avoid public disagreement over a policy matter.[120] The Ottoman practice offered more explicit brokerage for the parties involved, as seen in many political decisions made in the sixteenth and seventeenth centuries. Consultation (*meşveret*), in Ottoman parlance, gradually gained more solid significance over the sixteenth century. In the process, it presented a legitimate ground for scholar-bureaucrats to inscribe themselves into the political scene and decision-making at an imperial scale. Consultation (*meşveret*) neatly contributed to constitutionalist tendencies that were increasingly integral to Ottoman political culture from the mid-to-late sixteenth century onward to limit the exercise of absolute sultanic authority.[121]

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[118] Selânikî Mustafa Efendi, *Tarih-i Selânikî*, vol. 1, 256.

[119] For Süleyman's ad hoc gathering for consultation with high-ranking officials, see Halil İnalcık, "State, Sovereignty and Law During the Reign of Suleyman," in *Süleymân The Second [i.e. the First] and His Time*, ed. Cemal Kafadar and Halil İnalcık (Beylerbeyi, İstanbul: Isis Press, 1993), 75. For the broader application of consultation (*meşveret*) across different social groups, see Hüseyin Yilmaz, "Containing Sultanic Authority: Constitutionalism in the Ottoman Empire before Modernity," *Osmanlı Araştırmaları* 45, no. 45 (2015): 231–64. For different social groups' definition of their merit to be consulted, see Derin Terzioglu, "Sunna-Minded Sufi Preachers in Service of the Ottoman State: The Nasihatname of Dervish Hasan Addressed to Murad IV," *Archivum Ottomanicum* 27 (2010), 268-269; Marinos Sariyannis, "Ottoman Ideas on Monarchy before the Tanzimat Reforms: Toward a Conceptual History of Ottoman Political Notions," *Turcica* 47 (2016), 56-57.

[120] Roy Mottahedeh, "Consultation and the Political Process in the Islamic Middle East of the 9th, 10th, and 11th Centuries," in *Islam and Public Law: Classical and Contemporary Studies*, ed. Chibli Mallat (London; Boston: Graham & Trotman, 1993).

[121] For the Janissaries' involvement in political mobilizations and their use of kanun as their contract, Cemal Kafadar, "Janissaries and Other Riffraff of Ottoman İstanbul: Rebels without a Cause," *International Journal of Turkish Studies* 13 (2007): 113–34. See also Tezcan, *The Second Ottoman Empire;* Yılmaz, "Containing Sultanic Authority." Başak Tuğ's interventions show that neither absolutist nor constitutionalist labels were fixed to any segment of the ruling bloc (vizierial households, the Janissaries, or the learned class): Tuğ, *Politics of Honor in Ottoman Anatolia*, 60-61. Tezcan dates the expansion of what he calls "political nation" to the seventeenth century. According to Rifat Abou l-haj, the distinction between the ruler and the state apparatus was instead a late seventeenth-century phenomenon. See Rifaat Ali Abou-El-Haj, "The Ottoman Vezir and Paşa Households

The chief jurisconsult's attitude in an inspection tour of the newly chosen site of Aḥmed I's imperial mosque complex is quite telling as to the chief jurisconsult's assumption of his role as consultative on public issues, not only as a legal scholar, on par with the grand vizier. After choosing the site of a medieval Byzantine palace next to the Hippodrome as the location for his imperial mosque complex, Aḥmed I asked the supervisor of the construction project to receive opinions from the chief jurisconsult and the grand vizier. Inspecting the project site, the chief jurisconsult stated that while there was no legal impediment to the construction, the mosque to be constructed would suffer from the lack of a sustainable congregation because there were no residential neighborhoods nearby but only palaces and a public square.[122] Seemingly tasked with acquiring a favorable opinion for the construction project in this inspection tour, the supervisor brushed off the raised concern regarding the size of the potential congregation, a problem that he considered easily solvable with the construction of residential buildings around the mosque. Since the chief jurisconsult had first confirmed the legality of constructing a mosque in the designated spot, the supervisor reversed the conversation back to that point and insisted on hearing the chief jurisconsult's opinion *solely* on the legality of mosque construction in the desired location. The jurisconsult repeated his earlier statement about the lack of legal impediments to the construction. It is striking that the tension was evident when the chief jurisconsult expressed discontent despite confirming the legality of the mosque project; his further comments on large-scale urban planning were deemed going beyond his sphere of authority simply because his comments

1683-1703: A Preliminary Report," *Journal of the American Oriental Society* 94, no. 4 (1974), 52-55. For a general discussion over the state's detachment from the sultan's persona, see Sariyannis, "Ruler and State, State and Society in Ottoman Political Thought." One should perhaps also add here that what is implied by constitutionalist tendencies in the pre-modern Ottoman context is not a full-fledged constitutional balance that we would typically expect of the institutions of a modern state.

[122] Mustafa Safî Efendi, *Mustafa Sâfî'nin Zübdetü't-tevârîh'i*, ed. İbrahim Hakkı Çuhadar (Ankara: Türk Tarih Kurumu, 2003), vol. 1, 50-51.

were contrary to the sultan's preference for his imperial mosque's location. The fact that the supervisor had to gloss over the chief jurisconsult's reservations on a broader public and urban issue nonetheless shows the latter's greater authority to make such interventions. The collections of legal opinions of the Ottoman chief jurisconsults are filled with opinions about managing mosque congregations and neighborhood settlement patterns. It is no wonder that the chief jurisconsult found himself authorized to make those comments. In this conversation narrated in Muṣṭafā Ṣāfi's (d. 1616) *Zübdetü't- tevārīḫ,* a historical chronicle covering the reign of Aḥmed I, the supervisor addressed the chief jurisconsult and the grand vizier in a manner indicative of their roles: the former as "the one solving private and public problems" and the latter as "the one solving those problems concerning sovereignty and kingship."[123]

On a broader level, subjecting a judicial decision passed in court to new scrutiny seems to have functioned as a tool to increase or question the legitimacy of policies for "complicated" issues. I highlight the expression of "complicated" here, as many scholars seem to use the same tentative language, as in "difficult/complicated matters," while referring to what I will call matters of public law. Take the example of Atçıl's rendering of two instances as "complicated cases": one issue was a heresy case, the other clandestine activities. Both are intrinsically political.[124] Ahmet Mumcu also coins the term "difficult to resolve" for

[123] "sizler ki, biriñüz şeyhu'l-İslâm ve hallâl-i müşkilat-i hâss u âmm olub, […] [v]e biriñüz dahî vekîl-i devlet ve müşkil-küşâ-yı mülk ü saltanat olub" Mustafa Safî Efendi, *Mustafa Sâfî'nin Zübdetü't-tevârîh'i*, vol. 1, 51. The same expression "the one solving problems" (ḥallāl-ı muşkilāt) about the chief jurisconsult is also used in Telhisül-beyan, a late seventeenth-century compilation of regulations of state institutions, written by Hezarfen Hüseyin Efendi (d. 1691). Hezarfen Hüseyin Efendi, *Telhîsü'l-beyân,* 197. The full expression here is "the one solving problems of people" (ḥallāl-ı muşkilāt-ı enām). The same expression also appears in Kātib Çelebi, *Fezleke*, vol. 2, 622.

[124] Atçıl, *Scholars and Sultans in the Early Modern Ottoman Empire*, 175. In general, the infliction of punishment for heresy is deemed contingent on the will of the political power. For the genealogy of heresy as a concept and for discussions on its definition as a punishable crime in this world, see Şükrü Özen, "İslâm Hukukuna Göre Zındıklık Suçu ve Molla Lutfî'nin İdamının Fıkhîliği," *İslam Araştırmaları Dergisi*, no. 6 (2001): 17–62. As also briefly discussed by Şükrü Özen, in 1602-3, a madrasa professor in Istanbul was accused of heresy. The trial was held in the presence of the two chief justices. The professor was asked to elucidate several Qur'anic verses, and he interpreted all by denying the resurrection, the afterlife, hell, and heaven. The chief justices ruled for his heresy and executed him while the grand vizier was on a campaign in Hungary, leading the army during the Long War. As we learn from Kātib Çelebi, the grand vizier, upon returning to

specific legal issues, the punishment of which was the death penalty (*qatl siyāsatan*) in accordance with the discretionary authority of the ruler.[125] Defining the Imperial Council's primary role as the adjudication of cases that bore on political sensitivities, Gilles Veinstein gives, as examples for such politically sensitive issues, "disputes involving the ambassadors of foreign rulers and also accusations of ritual murder against local Jews."[126] To observe Veinstein's first example in practice, a court entry involving the Venetian *bailo* in the Galata court registers in 1605 appears to have three signatures on top of it — that of chief justice Zekeriyazāde Yahyā Efendi, that of the then judge of Galata, and another judge who was assigned to hear this specific case.[127] That is to say, the Ottoman administration deemed the legal case with the Venetian *bailo* worthy of the inspection and supervision of three dignitary judges.[128] In describing judges appointed to handle a specific dispute, Gradeva calls those disputes "difficult cases."[129] She gives numerous examples of the transfer of cases from the courts of town judges to the court of the dignitary judge in Sofia with the order of the imperial center during the seventeenth century. If the transfer of the case was not required in these imperial orders, the dignitary judge of Sofia was still addressed alongside the concerned town

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Istanbul, demanded an explanation for this heresy case trialed and punished in his absence. In the written explanation quoted by Kātib Çelebi, the chief justice of Rumelia Ḫocazāde Esʿad Efendi described the heretical ideas of the executed professor and reassured the grand vizier that if he had been present during the trial, he too would have executed the accused. Kātib Çelebi, *Fezleke*, vol. 1, 244-245.

[125] Ahmet Mumcu, *Osmanlı Devletinde Siyaseten Katl*, Ankara Üniversitesi, Hukuk Fakültesi Yayınlarından, no. 180 (Ankara: Ajans Türk Matbaası, 1963), 108.

[126] Veinstein, "Religious Institutions, Policies and Lives," 329.

[127] GCR 27: 83a. One might assume that the certification by three dignitary judges was a way of not only the state monitoring important cases but also reinforcing the content of the document. In another example, a court document sent from Izmir for the restoration of a church was certified by the dignitary judge of Galata, apart from the judge of Izmir. See Gradeva, "From the Bottom Up and Back Again until Who Knows When: Church Restoration Procedures in the Ottoman Empire, Seventeenth-Eighteenth Centuries (Preliminary Notes)," 144. Gradeva does not provide the date of the document, but her article covers the period of the seventeenth and the first half of the eighteenth century. She recognizes that the double certification is an obscure situation but aptly speculates that it might be part of "some sort of formal control."

[128] For otherwise commonly known investigations into judges' or provincial administrators' corruption, and the ad-hoc appointment of several judges and professors together to investigate such specific issues, see Ömer Nasûhi Bilmen, *"Hukukı Islâmiyye ve Istılahatı Fıkhiyye" Kamusu* (İstanbul: Bilmen Yayınevi, 1967), 223-225.

[129] Gradeva, "On Judicial Hierarchy in the Ottoman Empire," 288.

judges with instructions sent from the center. The dignitary rank gave its holders judicial capacity to handle "complicated" cases. A closer look into cases that required the involvement or supervision of the dignitary judge of Sofia reveals that they all had an edge of political or otherwise public interest. Some cases involved high administrative officials, such as district governors, as litigants or defendants. Others dealt with matters of public concern, namely taxation problems, public order and security, and inter-communal conflict. The imperial center entrusted these issues to the enhanced authority of the dignitary judge of Sofia, who outranked regular town judges and who, therefore, was qualified to administer public affairs.[130] Dignitary judges collectively performed the ruler's imprimatur while Ottoman institutional mechanisms were put into the service of the imperial handling of public law. In the process, the structure of the Ottoman learned hierarchy was translated into institutional supervision.

The loosely defined realm of public law in Islamic legal theory can also explain this tentative rendering by historians of certain legal issues that are clearly of a public nature, as demonstrated above. Richard Repp has presented the most comprehensive study of certain legal issues under the term of public policies in his analysis of the rising pre-eminence of the chief jurisconsult in the Ottoman learned establishment, unlike other historians who, as mentioned earlier, have mostly opted for "controversial/complicated/difficult issues" as a term to qualify these matters in a somewhat tentative language. Instead, Repp frames these legal

[130] For similar observations for eighteenth century Ankara and Bursa, Tuğ, *Politics of Honor in Ottoman Anatolia*, 209. I would suggest that in Eyal Ginio's discussion of a mid-eighteenth-century case where local military officials in Kavala wronged a group of commoners, and the judge of Kavala transferred the case to the dignitary judge of Thessaloniki, we observe a similar attitude of handing over a case of public matter, not a case for retrial, to the dignitary judge: Eyal Ginio, "Coping with the State's Agents 'from Below': Petitions, Legal Appeal and the Sultan's Justice in Ottoman Legal Practice," in *Popular Protest and Political Participation in the Ottoman Empire: Studies in Honor of Suraiya Faroqhi*, ed. Eleni Gara, M. Erdem Kabadayi, and Christoph K. Neumann (Istanbul, 2011).

debates as "important matters of public policy."[131] In discussing the scope of authority of the Imperial Council, Engin Akarlı also describes legal cases that occupied the Council as within the realm of "public good" (*maṣlaḥa*), but he does not pay much attention to procedural dimensions.[132] As for the late eighteenth century, Başaran observes that judges sent matters of public order to the Imperial Council for approval. However, she states that judges only established the facts pertaining to cases they oversaw, and usually left the decision to imperial orders to be issued.[133] The requirement of approval from the center in certain legal matters is analyzed by Tuğ and Başaran within the context of the eighteenth century, often with respect to the efforts of the central authorities to keep their grip over a decentralized administrative and fiscal structure.[134] But, as shown in this chapter, the scope of what constituted "difficult/complicated/controversial issues" was primarily dictated, already in the seventeenth century, by public and political concerns and the state's desire to monitor its officials in action.

Repp's interventions are imperative to discussing the emergence of institutional norms and the question of the procedural structure for processing legal cases of public matters in the fifteenth and sixteenth centuries. The famous heresy case of Mollā Luṭfī, a scholar executed in 1495 after a lengthy investigation and trial, is one such instance where Repp raises specific

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[131] Repp, *The Müfti of Istanbul*, 211-221 and 278-283. As hinted, what constitutes a public legal case is not easily identified. In discussing why people came to the courts of Çankırı and Kastamonu from relatively long distances, Ergene states: "The relatively few non-criminal cases brought from distant locations involve disagreements on taxation between the inhabitants of a particular locality and their military-administrative officials as well as communal disputes in relation to public matters (such as contentions over the boundaries between neighboring villages, disputes over water rights, etc.)." I would consider all the listed issues a public matter to be resolved by the judge. One would expect the dispute over taxation, depending on its content, to warrant attention from the center. As for other issues, being more of a local nature, they cannot be classified as an issue to be concerned with directly at an imperial level. Boğaç A. Ergene, *Local Court, Provincial Society and Justice in the Ottoman Empire: Legal Practice and Dispute Resolution in Çankırı and Kastamonu (1652-1744)*, Studies in Islamic Law and Society, v. 17 (Leiden; Boston: Brill, 2003), 214.
[132] Akarlı, "The Ruler and Law Making in the Ottoman Empire," 94.
[133] Betül Başaran, *Selim III, Social Control and Policing in Istanbul at the End of the Eighteenth Century: Between Crisis and Order* (Leiden; Boston: Brill, 2014), 187.
[134] Başaran, *Selim III, Social Control and Policing*; Tuğ, *Politics of Honor in Ottoman Anatolia*.

procedural questions.[135] Having heard of the case, Bayezid II turned it to the Imperial Council, where a conclusive decision was not reached. Repp speculates on the chief justices' reluctance or inability to resolve the case in the Council and highlights that it is not clear whether they found the case difficult or whether the decision to execute a scholar was too daunting a responsibility to take on. It turns out that the decision was reached in a second gathering of the Council, but that this time it was corroborated with the legal opinion of the chief jurisconsult (it is again not clear if the legal opinion was issued before or after the decision was made) and then confirmed by the viziers and finally presented to and approved by the sultan. Although Repp's primary concern is to examine the emergence of the chief jurisconsult's office with an institutional capacity in the Ottoman legal system, he still emphasizes the quite comprehensive consultation exercised between "offices" and the involvement of the chief justices, the grand vizier, and the sultan along with the chief jurisconsult in Mollā Luṭfī's case. He argues that the political authority consulted with the chief jurisconsult and the dignitary scholars about public policies on numerous occasions already before Ebū's-Suʿūd Efendi's tenure as chief jurisconsult. Similarly, before the military campaigns in the east that were already planned by Selim I, a consensus of dignitary scholars was sought in declaring war against the Safavids and the Mamluks to be lawful.[136] On the question of considering Prince Bayezid (d. 1561) a rebel, fifteen dignitary scholars, including the chief jurisconsult, the incumbent chief justices, three former chief justices, the judge of Istanbul, a former judge of Egypt, and several professors of law in Istanbul, were asked to

[135] Repp, *The Müfti of Istanbul*, 182-186.
[136] Repp, *The Müfti of Istanbul*, 212-215. For the use of the chief jurisconsult's legal opinions in the Ottoman-Safavid confrontation, see Abdurrahman Atçıl, "The Safavid Threat and Juristic Authority In The Ottoman Empire During The 16th Century," *International Journal of Middle East Studies* 49, no. 2 (2017): 295–314.

issue their legal opinion.[137] Such examples attest that consensus on public policies among dignitary scholars was consistently sought after.[138]

The same kind of consultation with several offices and multiple dignitary scholar-bureaucrats can be seen in a case of apostasy in the late sixteenth century. A petition written by the provincial governor in Caffa explicitly asked the *collective* opinion of dignitary scholar-bureaucrats (*mevālī-i ʿiẓām*) about how to treat the head of the provincial treasury named Mustafa the Apostate (*mülḥid*).[139] The petition informed the center that, preoccupied with the perusal (*muṭālaʿa*)[140] of *Vāridāt,* a theological epistle attributed to Şeyh Bedreddīn (d. 1420), a religious scholar who led a popular millenarian uprising against the Ottomans in 1416,[141] Mustafa was disseminating blasphemous and heretical ideas, such as the idea that the universe is eternal, that the Day of Judgment is the individual death of every human being beyond which there is no Day of Resurrection, and that what is meant by Dajjāl, a false messianic figure to appear before the end of time according to Islamic eschatology, is the appearance of a misguiding Dajjāl in every era.[142] In response to the complaint, a petition

[137] Repp, *The Müfti of Istanbul*, 284-5
[138] Madeline Zilfi, "Sultan Suleyman and the Ottoman Religious Establishment," in *Süleymân The Second [i.e. the First] and His Time*, ed. Halil İnalcık and Cemal Kafadar (Beylerbeyi, İstanbul: Isis Press, 1993), 116.
[139] The petition calls the Crimean Khan Islam Giray Han deceased, who died in 1588. Given that Koca Sinan Paşa, among whose letters to the sultan this petition from Caffa was recorded, died in 1596, the consultation with the imperial center must have happened between 1588-1596. Sinan Paşa, *Koca Sinan Paşa'nın telhisleri*, 137-139.
[140] Since this text would not have been expected to be read in an institutional setting, as in a madrasa, it is unsurprising that Mustafa would read it on his own. However, for a study on the emergence of private, deep reading of texts as a practice in general, see Khaled El-Rouayheb, "The Rise of 'Deep Reading' in Early Modern Ottoman Scholarly Culture," in *World Philology*, ed. Sheldon Pollock, Benjamin A. Elman, and Ku-ming Kevin Chang (Harvard University Press, 2015), 201–24.
[141] Dimitri Kastritsis, ""The Revolt of Şeyh Bedreddin in the Context of the Ottoman Civil War of 1402–13," in *Political Initiatives 'From the Bottom Up' in the Ottoman Empire: Halcyon Days in Crete*, ed. Antonis Anastasopoulos (University of Crete Press, 2012), 221–38. For an overview of scholarly literature Şeyh Bedreddīn, see Saygın Salgırlı, "The Rebellion of 1416: Recontextualizing an Ottoman Social Movement," *Journal of the Economic and Social History of the Orient* 55, no. 1 (2012): 32–73. For the enduring legacy of Bedreddin's thoughts and activism, see Ahmet Yaşar Ocak, *Osmanlı Toplumunda Zındıklar ve Mülhidler: 15.-17. Yüzyıllar* (Beşiktaş, İstanbul: Türkiye Ekonomik ve Toplumsal Tarih Vakfı Yayınıdır, 1998).
[142] These exact same statements were the charges brought against Şeyh Bedreddīn by Ottoman scholars and Sufis in the sixteenth and seventeenth centuries. See Derin Terzioğlu, "Sufi and Dissident in the Ottoman Empire: Niyāzī-i Mişri, 1618-1694" (Ph.D. Dissertation, Harvard University, 1999), 365-66.

(*maḥżar*) was collectively written and signed by dignitary judges and presented to the sultan, along with a legal opinion of the chief jurisconsult, ascertaining the claims against Mustafa and authorizing the death penalty. This case is the best illustration of a matter of public concern resolved with concerted endorsement expected of dignitary judges who, while outlining a public legal decision, nonetheless left its enforcement and execution to the discretion of the political authority.

The controversy over cash endowments in the mid-sixteenth century was finalized with a similar collective decision. After cash endowments were prohibited with the initiative of the chief justice of Rumelia Çivizāde, the imperial order of 1548, which overturned the prohibition, expressly referred not only to the chief jurisconsult Ebū's-Suʿūd's legal opinion in support of cash endowments, but also to the endorsement for his opinion by the then incumbent chief justices, a former chief justice, and other dignitary judges.[143] Repp aptly underlines the fact that the support from the high-ranking dignitary judges for the legality of cash endowments was crucial to the empire-wide enforcement of the opinion with the imperial sanction and to the final resolution of the legal controversy over the permissibility of cash endowments.[144]

The chief jurisconsult acting as a sole participant in policy decisions to the exclusion of other high-ranking dignitary scholars based in Istanbul was an exception rather than the rule, even after the office of the chief jurisconsult acquired its fully-fledged distinct character. In another incident where corporate approval of dignitary scholar-bureaucrats was demanded, in 1595 during the early phase of what would be called the Long War, there was an ongoing

[143] Jon E. Mandaville, "Usurious Piety: The Cash Waqf Controversy in the Ottoman Empire," *International Journal of Middle East Studies* 10, no. 3 (August 1979): 289–308.
[144] Repp, *The Müfti of Istanbul*, 255-256. The criticism against the legalization of cash endowments nonetheless continued thereafter through Birgili Meḥmed (d. 1573) and the Ḳādīzādelis of the seventeenth century. Yet, those criticisms were never able to change the policy ever again.

public debate that was primarily initiated by the Janissaries, who demanded that the sultan join them in the military campaign against the Habsburgs. Favoring the Janissaries' opinion, the grand vizier Koca Sinān Paşa (d. 1596) organized a gathering to consult with the dignitary judges and professors of law.[145] As noted by Hakan Karateke, the issue must have turned into a public concern requiring this type of involvement of scholar-bureaucrats.[146] The dignitary scholar-bureaucrats expressed their disapproval of the necessity of the sultan accompanying the army to the battlefront by highlighting practical considerations such as raising provisions and the necessary mass of soldiers for a campaign worthy of the participation of the sultan. It is striking that the disapproval of the dignitary scholar-bureaucrats was framed with reference to material and economic conditions, not to legal or moral concerns. At the end of the meeting, the grand vizier managed to extract a favorable opinion from the scholars for the sultan's presence on the battleground.

The involvement of several dignitary scholar-bureaucrats in decision-making over public policy considerations seems to have been a persistent trend. To this end, Repp's provisional speculations identifying consultation with a body of leading scholars as a potentially continuing trend into the eighteenth century were on mark. Repp's speculations rest upon the comments of d'Ohsson, an eighteenth-century observer, who stated that disputes among dignitary scholars undermined public confidence and jeopardized garnering a favorable public opinion for a policy decision.[147] It was important to rally support from a body of dignitary scholars for a matter of public policy, not only for purposes of legitimacy but also for curbing any potential disagreement that would have fed into factional politics,

[145] Selânikî Mustafa Efendi, *Tarih-i Selânikî*, vol. 2, 548-549.
[146] Hakan Karateke, "'On the Tranquillity and Repose of the Sultan': The Construction of a Topos," in *The Ottoman World*, ed. Christine Woodhead (Milton Park, Abingdon, Oxon ; New York: Routledge, 2012), 120.
[147] Repp, *The Müfti of Istanbul*, 215. Also see the quotation from Paul Rycaut (d. 1700), an English consul based in the Ottoman Empire in the mid-seventeenth century, who mentions how the sultan sought the advice and support of the chief jurisconsult on what Rycaut calls "matters of state." Repp, *The Müfti of Istanbul*, 283.

especially on divisive issues.[148] The cooperation of the leading dignitary scholars with the chief jurisconsult was desired because the broad consensus among dignitary scholars over highly controversial policies constituted a restraining measure, leaving little to no room for maneuvering for different political factions. On the other hand, the lack of consensus among dignitary scholar-bureaucrats easily bred growing tensions and the risk of an oppositional coalition springing up.

To illustrate the impact of even slight hesitation among dignitary scholar-bureaucrats at a time of political crisis and public outrage, one can look at the aftermath of the murder of Ibrāhīm I (d. 1648). Capitalizing on the growing indignation among the public that leaned toward the opinion that the sultan had been killed while sinless, the cavalry corps gathered in an inn in Eminönü. They asked for the killing of those high-ranking bureaucrats involved in the sultan's execution. To quell the disruptive actions of those in Eminönü, the viziers, the dignitary scholar-bureaucrats, and the Janissary commanders convened in what Kātib Çelebi calls a consultative gathering (*meşveret*).[149] The legal opinion that was formulated jointly to justify the agreement reached among dignitary scholar-bureaucrats to permit the killing of the rebels was undersigned by the chief jurisconsult, the two incumbent chief justices, two former chief justices of Rumelia, the incumbent judge of Istanbul, and a former judge of Istanbul. Kātib Çelebi notes that all but one signed the document with a short answer, as in "Yes, this is permissible," in response to the formulated question. The former chief justice of Rumelia

[148] One example is the efforts of the deputy grand vizier (Ḳāʾim-maḳām) Güzelce Maḥmūd Paşa in Istanbul in 1603 to depose the incumbent grand vizier Yemişçi Ḥasan Paşa, who was in the military campaign against the Habsburgs. Maḥmūd Paşa, with the support of the cavalry corps, got a legal opinion from the chief jurisconult Sunullah Efendi approving the execution of Yemişçi Hasan for his failings on the battlefield. The written document of the opinion was then given to the two chief justices for them to sign and approve it. Nev'îzâde Atâyî, *Hadâ'iku'l-Hakâ'ik Fî Tekmileti'ş-Şakâ'ik*, vol. 2, 1277; Kātib Çelebi, *Fezleke*, vol. 1, 248-249. Kātib Çelebi specifies that the legal opinion of the chief jurisconsult was brought to the chief justices for the purpose of enforcement (*tenfīẕ*). Güzelce Maḥmūd Paşa then sent the opinion with the signature and approval of the chief justices to the sultan in a vizierial petition (*telḫīṣ*) by recommending the execution of the decision.
[149] Kātib Çelebi, *Fezleke*, vol. 2, 995-996.

Ebū'l Fażl Maḥmūd Efendi (d. 1653) was about to write, “This is permissible if the matter is established beyond doubt,” holding a reserved position with some explicit scruple. Insisting that there was no reason for any hesitation as implied in Maḥmūd Efendi's conditional support, the rest of the dignitary scholar-bureaucrats got him to repeat the short answer in the document instead. Kātib Çelebi adds that Maḥmūd Efendi's remark, albeit not conveyed in the written text, was perceived as a hint of opposition. The discomfort felt by other dignitary scholar-bureaucrats in this slight hesitation of one of their ilk was due to possible oppositional fronts such a disagreement would have nourished. It was necessary to stifle any hint of dissent before that dissent reached a broader group of those disillusioned with the decision.

The fact that the chief jurisconsult or dignitary judges handled these issues should not lead to the deceptive assumption that the state-affiliated legal scholars became empowered and, in turn, purged administrative regulations imposed by the political authority from the legal sphere. The first half of this assumption is true: the chief jurisconsult and dignitary judges, beyond their regular juristic and judicial roles, were well integrated into the Ottoman administration. Their integration meant a greater sphere of influence within their reach . However, their involvement in administrative decisions was not simply a matter of charging those decisions with legitimacy or them exclusively deciding on matters of public law at the expense of the political authority. As the product of the institutional demands of the Ottoman legal system, the higher echelons of the learned hierarchy participated in negotiations in the use of power. The chief jurisconsult and the hierarchy of dignitary judges, as government functionaries, dealt with ethical and moral difficulties presented by practical concerns of governance. Their politicization compromised the representation of moral legitimacy and rectitude in the body of state-affiliated legal scholars. In balancing the absolute power of the sultan, dignitary scholar-bureaucrats were part of the changing political alliances made across

the imperial household, palace officials, the Janissaries (from the mid-fifteenth century onwards), the grand vizier, viziers aspirant to the grand vizierate, vizierial households, their patronage networks, urban dwellers, and provincial powerholders, with shifting weight of influence of each in a given period.[150]

In Tezcan's analysis, the political empowerment of dignitary scholar-bureaucrats created conditions for "the lifting of the barriers between public and private law" in response to the socioeconomic changes in the sixteenth century, primarily with the development of a monetized market economy.[151] Tezcan asserts that the strict distinction between public and private law disappeared for two reasons. On the one hand, the political authority made interventions in private law which were previously under the exclusive authority of jurists. On the other hand, the jurists made interventions into the sphere of public and administrative law that were typically left to the discretion of the political authority in such issues as succession and fratricide. To illustrate the sultan's intervention in private law, Tezcan provides the example of the final resolution of the legal controversy over cash endowments with the imperial decree of Süleymān (r. 1520-1566). Qualifying the controversy of cash endowments, as he does, as belonging to the domain of private law is somewhat puzzling. Conversely, the same controversy is characterized by Repp as a public policy consideration.[152] One should note here that the discussion itself was among the scholars at the time (Çivizāde against the

[150] The literature on the emergence and role of different loci of political power is too numerous to cite here. See Rifaat Ali Abou-El-Haj, "The Ottoman Vezir and Paşa Households 1683-1703: A Preliminary Report," *Journal of the American Oriental Society* 94, no. 4 (1974): 438–47; Carter V. Findley, "Patrimonial Household Organization and Factional Activity in the Ottoman Ruling Class," in *Türkiye'nin sosyal ve ekonomik tarihi (1071-1920): birinci Uluslararası Türkiye'nin Sosyal ve Ekonomik Tarihi Kongresi Tebliğleri = Social and economic history of Turkey (1071-1920): papers presented to the first International Congress on the Social and Economic History of Turkey,* ed. Osman Okyar and Halil İnalcık (International Congress on the Social and Economic History of Turkey, Ankara, 1980), 227–35; Fodor, "Sultan, Imperial Council, Grand Vizier: Changes in the Ottoman Ruling Elite and the Formation of the Grand Vizieral 'Telhis'"; Eunjeong Yi, *Guild Dynamics in Seventeenth-Century Istanbul: Fluidity and Leverage*, The Ottoman Empire and Its Heritage, v. 27 (Leiden; Boston: Brill, 2004); Kafadar, "Janissaries and Other Riffraff of Ottoman İstanbul: Rebels without a Cause."
[151] Tezcan, *The Second Ottoman Empire*, 30-43.
[152] Repp, *The Müfti of Istanbul*, 254.

legality of cash endowments and Ebū's-Suʿūd and the majority of dignitary scholars resident in Istanbul, supporting such endowments' legality). However, the sultan's sanctions, first banning cash endowments and later lifting the ban, were not a source of contention among the scholars. That is to say, the political authority was considered to have made its legitimate fiat, requesting its legal practitioners to enforce a standardized practice in courts. From this perspective, Repp's characterization of the imperial sanction of cash endowments as a policy decision seems fitting.

In articulating the jurists' administration of public law, Tezcan relies on the assumption of twentieth-century Ottomanist historiography — traceable in the works of Barkan, Heyd, Repp, and İnalcık — that Ottoman administrative regulations (*ḳānūn* in singular) lost their relevance to the functioning of the Ottoman legal system beginning in the seventeenth century.[153] By equaling *ḳānūn* to "secular law" in binary opposition to "religious law," these historians point to religious conservatism dominating the administrative structure in the seventeenth century. Muṣṭafā II's (d. 1703) imperial decree of 1696 prohibiting the juxtaposition of the terms *sharīʿa* and *ḳānūn* in imperial decrees has become the most quoted example of the declining influence of Ottoman administrative regulations. Baki Tezcan successfully breaks away from the ideological dichotomy that Heyd, Repp, and İnalcık assumed between *ḳānūn*, defined as secular law, and religious conservatism that they associated with Islamic law; yet he, too, argues for the rise of jurists' law at the expense of *ḳānūn*, beginning in the mid-to late-sixteenth century.[154]

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[153] Ömer Lûtfi Barkan, *XV. ve XVI. Asırlarda Osmanlı Imparatorluğunda Ziraî Ekonominin Hukukî ve Malî Esasları* (İstanbul: Bürhaneddin Matbaası, 1943), xix-xx; Uriel Heyd and V. L. Ménage, *Studies in Old Ottoman Criminal Law* (Oxford: Clarendon Press, 1973), 152-157; Richard Cooper Repp, "Qanun and Shari'a in the Ottoman Context," in *Islamic Law: Social and Historical Contexts*, ed. ʿAzīz ʿAẓmah (London ; New York: Routledge, 1988), 131-132; Halil İnalcık, "Ḳānūn," in *Encyclopaedia of Islam, Second Edition* (Brill, 2012); Tezcan, *The Second Ottoman Empire*, 23-25.

[154] Baki Tezcan also rightly emphasizes the somewhat rhetorical use of *sharīʿa* in the imperial order of 1696.

The dearth of general law books in the seventeenth and eighteenth centuries has been considered evidence of the triumph of Islamic jurisprudence over the legislative power of political authority. These law books (*ḳānūnnāme*) were collections of *ḳānūn*, often translated as "Ottoman dynastic law," which I opt to convey as Ottoman administrative regulations. For the most part, Ottoman law books dealt with fiscal and criminal policies and ceremonial protocols.[155] The nature and emergence of these regulations have been discussed concerning the relation between local customs and the ruler's legislative authority amending or augmenting administrative rules, especially in the realm of taxation inherited from pre-Ottoman political regimes.[156] Islamic legal tradition recognizes the scope of sultanic authority to limit his officials' discretion, primarily in penal and fiscal matters, precisely the issues addressed in Ottoman law books (*ḳānūnnāme*).[157] Theoretical legitimacy defined for sultanic

[155] For an overview of the development of historiography on Ottoman administrative regulations, see Douglas A. Howard, "Historical Scholarship and the Classical Ottoman Kânûnnâmes," *Archivum Ottomanicum* 14 (96 1995): 79–109; Linda T. Darling, "Kanun and Kanunname in Ottoman Historiography," *Journal of the Ottoman and Turkish Studies Association* 9, no. 1 (2022): 151–77. *ḳānūn* is often also translated as "state law," "secular law," or "imperial law." Baki Tezcan translates it as "feudal law." I have preferred to avoid the implications of these terms and decided to opt for the somewhat cumbersome term "administrative regulations." I later noticed that this was also how Abou-El-Haj renders *ḳānūn*. I guess that, at least by appeal to authority, the unwieldy nature of using "administrative regulations" as a term should be considered justified. Rifa'at Ali Abou-El-Haj, "Power and Social Order: The Uses of the Kanun," in *The Ottoman City and Its Parts: Urban Structure and Social Order*, ed. Irene A. Bierman, Rifa'at Ali Abou-El-Haj, and Donald Preziosi, Subsidia Balcanica, Islamica & Turcica 3 (New Rochelle, N.Y: A.D. Caratzas, 1991), 77–99.

[156] I will not cover these discussions here. A lot has been said and debated about several precedents from Byzantine, Mongol, Seljuk, and Balkan legal traditions. Typically, authors have often emphasized one or the other legal regime that they considered most influential on Ottoman administrative regulations. For those emphasizing the Turco-Mongol origins of Ottoman *ḳānūn*, see Uriel Heyd, "Kânûn and Sharî'a in Old Ottoman Criminal Justice," Proceedings of the Israel Academy of Sciences and Humanities 3 (1967): 1–18; Halil İnalcık, "Suleiman the Lawgiver and Ottoman Law," Archivum Ottomanicum 1 (1969): 105–38. For an argument for slightly Byzantine influences, see Speros Vryonis, "The Byzantine Legacy and Ottoman Forms," *Dumbarton Oaks Papers* 23/24 (1969), 279. For the role of Ottoman law books in establishing a common framework of governance and administrative structure in the fifteenth through seventeenth centuries, Leslie Peirce, *Morality Tales: Law and Gender in the Ottoman Court of Aintab* (Berkeley: University of California Press, 2003), 117-118; Heather L. Ferguson, *The Proper Order of Things: Language, Power, and Law in Ottoman Administrative Discourses* (Stanford, California: Stanford University Press, 2018), 16-17.

[157] Baber Johansen, "Secular and Religious Elements in Hanafite Law: Function and Limits of the Absolute Character of Government Authority," in *Contingency in a Sacred Law: Legal and Ethical Norms in the Muslim Fiqh* (Leiden; Boston: Brill, 1999), 215-216; Mathieu Tillier, "Qadis and the Political Use of the Mazalim Jurisdiction under the Abbasids," in *Public Violence in Islamic Societies: Power, Discipline, and the Construction of the Public Sphere, 7th-19th Centuries C.E*, ed. Christian Lange and Ma Isabel Fierro (Edinburgh: Edinburgh University Press, 2009), 42–66; Nimrod Hurvitz, "The Contribution of Early Islamic Rulers to Adjudication and Legislation: The Case of the Mazalim Tribunals," in *Law and Empire: Ideas,*

will, however, did not mean an absence of tensions in practice, as most clearly shown in the aftermath of the conquest of Arab lands by the Ottomans.[158] Even then, the objections and discontent expressed by Arab jurists due to the introduction of Ottoman administrative practices to the local administration of justice rarely concerned a broader discussion of the legitimacy of Ottoman rulership but rather its specific policies, the most disputed of which was judicial fees imposed on marriage registrations in the immediate aftermath of the conquest.[159]

The assumptions on the encroachment of Islamic legal doctrines into areas of Ottoman administrative regulations in the seventeenth century have effectively been revised in scholarship. The earliest and most helpful perspective offered on this is by Abou-El-Haj, who refuses to limit the scope of *ḳānūn* to a corpus of administrative regulations. Going beyond their façade, these administrative regulations, he argues, permeated the Ottoman political culture and continued to circulate as a recurring concept charged with concerns of different political realignments. Abou-El-Haj suggests that the imperial decree of 1696 prohibiting the juxtaposition of the terms *sharīʿa* and *ḳānūn* was instead an attempt by the sultan to challenge

Practices, Actors, ed. Jeroen Duindam et al. (Brill, 2013), 133–56; Mathieu Tillier, "The Mazalim in Historiography," in *The Oxford Handbook of Islamic Law*, ed. Anver M. Emon and Rumee Ahmed (Oxford University Press, 2015), 356–80. The nature of the ruler's legal authority, its discursive tools, and institutional structures have been the focus of Mamluk legal studies. For an early work reproducing bifurcation between maẓālim courts and qāḍī courts, see Jørgen S. Nielsen, *Secular Justice in an Islamic State: Maẓālim under the Baḥrī Mamlūks, 662/1264-789/1387* (Leiden, Nederland: Nederlands Historisch-Archaeologisch Instituut te Istanbul, 1985). For the increasing authority of Mamluk sultans in revising judicial decisions for the sake of the public order, see Yossef Rapoport, ed., "Royal Justice and Religious Law: Siyasah and Shari'ah under the Mamluks," *Mamlūk Studies Review* 16 (2012): 71–102.

[158] Abdul-Karim Rafeq, "The Syrian 'Ulamā', Ottoman Law and Islamic Sharī'a," *Turcica* 26 (1994): 9–32; Reem Meshal, "Antagonistic Sharī'as and the Construction of Orthodoxy in Sixteenth-Century Ottoman Cairo," *Journal of Islamic Studies* 21, no. 2 (2010): 183–212; Guy Burak, "Between the Ḳānūn of Qāytbāy and Ottoman Yasaq: A Note on the. Ottomans' Dynastic Law," *Journal of Islamic Studies* 26, no. 1 (2015): 1–23.

[159] For other criticisms extended by Arab jurists to specific Ottoman administrative practices concerning land ownership, see Sabrina Joseph, *Islamic Law on Peasant Usufruct in Ottoman Syria: 17th to Early 19th Century* (Leiden; Boston: Brill, 2012). One recurring criticism is raised against the Ottoman administration's efforts to tie peasants to the land for tax purposes, a regulation that, in the eyes of Arab jurists, limited peasants' freedom of movement. Ibid., 144-152.

the dominant political power of the grand vizier.[160] In a similar vein, Haim Gerber shows that the dearth of general law books from the seventeenth century onwards was not a result of the declining role of Ottoman administrative regulations but rather of its already diffused and integrated character in the Ottoman legal culture.[161] Stretching Gerber's observations into the eighteenth century, Başak Tuğ adds that administrative regulations in the form of imperial decrees were still in force.[162] The continuation of administrative regulations through imperial decrees was congruent with the mutability of those regulations.[163] In fact, the alleged waning of Ottoman administrative regulations in the seventeenth century is often discussed with a skewed focus on fiscal matters, a historiographical tendency ending with the conclusion that the fate of *ḳānūn* was linked with that of the early fiscal structure and that the former fell out of use due to changes in the latter within the empire. However, this tendency reduces administrative regulations to fiscal matters only. Both Gerber and Tuğ factor in the continuities in penal law, which are often neglected in the previous discussions.[164]

This revisionist scholarship readdresses the increasing use of the legal opinions of the chief jurisconsults in the law books of the seventeenth century when such law books were already few in number. A closer look into the content of the seventeenth-century law books reveals the role played by legal opinions. A case in point here is the provincial law book of Crete from the late seventeenth century. This law book has previously been considered to display an Islamic character, unlike those law books of the previous century. However, as demonstrated by Kermeli, the legal opinions of the chief jurisconsult on the issues of land and

[160] Abou-El-Haj, "Power and Social Order: The Uses of the Kanun."
[161] Gerber, *State, Society, and Law in Islam*, 61-66.
[162] Tuğ, *Politics of Honor,* 55-61, 67-70, and 212-242. It is necessary to note here that, at the time of the circulation of general and provincial lawbooks, imperial decrees were still a source of *ḳānūn*-making. In this sense, İnalcık calls these imperial decrees ḳānūn-ḥükm and states that such specific decrees could be in the form of berāt and fermān. See İnalcık, "Suleiman the Lawgiver and Ottoman Law," 112-117.
[163] For mutability of and amendments and revisions in administrative regulations, see Fleischer, *Bureaucrat and Intellectual in the Ottoman Empire*, 198.
[164] Gerber, *State, Society, and Law in Islam*, 72-74; Tuğ, *Politics of Honor in Ottoman Anatolia*, 34.

tax on Crete kept sustaining the sultan's will and justifying interventions through imperial orders.[165] That is to say, far from making interventions at the expense of the political authority in land and taxation issues, the legal opinions of the chief jurisconsults acted in accordance with the will of the political authority in response to the changing fiscal structure of the empire. The seventeenth-century jurists oversaw the public treasury's granting of usufruct rights of the state lands on Crete and incorporated imperial orders for changes in tax rates into their opinions. Samy Ayoub has recently shown that non-state-appointed Ḥanafī jurists in the Arab provinces in the seventeenth and eighteenth centuries also referred to imperial decrees and edicts in their legal reasoning. They recognized policies set forth by the political authority and highlighted the authoritative nature of the sultanic orders.[166] Such jurists as Khayr ad-Dīn al-Ramlī (d. 1670) and Ibn ʻĀbidīn (d. 1836), while issuing legal opinions on interest-based loans, continued to explicitly recognize sultanic edicts capping the interest rate at ten to fifteen percent range as the legal norm of the polity.[167] This is also a corrective to the earlier scholarship, which fails to factor in the enduring presence of *ḳānūn* in the new fiscal structure.

At the same time, equating *ḳānūn* to the sultan's will flattens various political configurations. That equation should not be mistaken for evidence of the absolute power of the sultan, either. On the contrary, as shown so far, over the sixteenth century, the sultanic will or sultanic order turned into an abstraction embodying political authority in its totality

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[165] Evgenia Kermeli, "Caught in between Faith and Cash: The Ottoman Land System of Crete, 1645-1670," in *The Eastern Mediterranean under Ottoman Rule: Crete 1645-1840*, ed. Antonis Anastasopoulos (Rethymno: Crete University Press, 2008), 17–48. Kermeli and Greene agree that what was considered the more Islamic nature of the law book of Crete resulted from changing fiscal practices in the empire. See Molly Greene, "An Islamic Experiment? Ottoman Land Policy on Crete," *Mediterranean Historical Review* 11, no. 1 (1996): 60–78; Molly Greene, *A Shared World: Christians and Muslims in the Early Modern Mediterranean* (Princeton, N.J: Princeton University Press, 2000), 24-32.

[166] Ayoub, "'The Sulṭān Says': State Authority in the Late Ḥanafī Tradition."

[167] Al-Sabbagh, "Before Banks," 135-138. Of course, in practice, the interest rates often exceeded the prescribed rate, reaching somewhere between twenty to twenty-five percent, as seen in examples from the late sixteenth and the seventeenth century provided by Al-Sabbagh. See for an elaboration of *ḳānūn* and *siyāsa* by a late eighteenth century Damascene jurist, Burak, "Between the Ḳānūn of Qāytbāy and Ottoman Yasaq: A Note on the. Ottomans' Dynastic Law," 22.

that was increasingly detached from the persona of the sultan. In this respect, Ottoman administrative regulations (*ḳānūn*) in the seventeenth century were a tangible source of legal practices administered by the Imperial Council through imperial decrees. The chief jurisconsult's role, and by extension that of other dignitary scholar-bureaucrats, in matters of public law should be seen in conjunction with their administrative capacities and against this backdrop of the functioning and division of labor of Ottoman governance. I suggest that imperial ratification that was handled by the chief jurisconsult, as observed in the four cases presented earlier in this chapter, should be read, not with the assumption that Islamic legal tradition overcame administrative regulations (*ḳānūn*), but by considering this bureaucratized and hierarchical application of the state's authority and legal practice to administer the public legal arena. In this sense, the evolution of Ottoman administrative regulations accompanied the evolution of the learned hierarchy.

The endurance of administrative regulations notwithstanding, those few seventeenth-century law books, which were increasingly blended with legal opinions from the chief jurisconsult, overlapped with a change in rhetoric in Ottoman political theory. As asserted by Derin Terzioğlu, Ottoman scholars from the mid-sixteenth century onwards discussed the legitimacy and sources of administrative justice. Terzioğlu's broader intervention is on the Ottoman reception of Taymiyyan ideas on sharʿī governance (*al-siyāsa al-sharʿiyya*) in the context of buttressing an imperial ideology. Ottoman scholars shifted the rhetorical emphasis from dynastic precedence to sharʿī governance (*al-siyāsa al-sharʿiyya)*. As a notion, sharʿī governance (*al-siyāsa al-sharʿiyya)* was conceptualized in the eleventh to twelfth centuries in the context of the rivalry between the *de facto* ruler and the caliph to define the scope of the

ruler's law in service of the Islamic law and the public order.[168] The formulations of *al-siyāsa al-sharʿiyya* relied on a notion that defined the public duty of commanding good and forbidding wrong as the scholars' lot in Islamic juristic literature and political theory. It was through scholars' cooperation that a ruler could succeed in political authority.[169] With this rhetorical shift away from the emphasis on dynastic legitimacy, one could claim that the Ottoman understanding of *ḳānūn* / *siyāsa* approximated Mamluk's *ḳānūn*, which, albeit lacking a written legal corpus to follow, solely meant political-administrative practice and not a dynastic law.[170] On the practical side of these theoretical formulations, several scholarly studies on Mamluk history have noted that Mamluk rulers and jurists developed a symbiotic relationship for political stability.[171] One could extend these conclusions to the Ottoman context and argue that dignitary scholar-bureaucrats became more entrenched in the Ottoman bureaucratic structure to advance this symbiotic relationship. As shown in this chapter, the very same bureaucratic structure, in turn, created room not only for dignitary scholar-

[168] Derin Terzioğlu, "Ibn Taymiyya, al-Siyāsa al-Sharʿiyya, and the Early Modern Ottomans," in *Historicizing Sunni Islam in the Ottoman Empire, c. 1450-c. 1750*, ed. Tijana Krstić and Derin Terzioğlu (Brill, 2020), 101–54. Concurrently with the production of the corpus that is studied by Terzioğlu, the seventeenth-century political treatises and advice literature lamented that *ḳānūn*, with the meaning of dynastic and ancestral regulations, was disregarded. The authors of those texts acutely promoted idealized *ḳānūn* as a remedy for problems of decline that they identified in Ottoman administration and society. For Muṣṭafā Āli, Fleischer, *Bureaucrat and Intellectual in the Ottoman Empire*, 139. For the long-lasting impact of these observers on historical scholarship, see Douglas A. Howard, "Ottoman Historiography and the Literature of 'Decline' of the Sixteenth and Seventeenth Centuries," *Journal of Asian History* 22, no. 1 (1988): 52–77. Gerber also points to the ideological crisis of *ḳānūn* in the seventeenth century. Gerber, *State, Society, and Law in Islam*, 66. For the emergence of al-siyasa al-shariyya as a concept, Johansen, "Secular and Religious Elements in Hanafite Law: Function and Limits of the Absolute Character of Government Authority," 215-217. See also Baber Johansen, "A Perfect Law in an Imperfect Society: Ibn Taymiyya's Concept of 'Governance in the Name of the Sacred Law,'" in *The Law Applied: Contextualizing the Islamic Shari'a: A Volume in Honor of Frank E. Vogel*, ed. Frank E. Vogel et al. (London; New York: I.B. Tauris, 2008), 259–94.

[169] See Michael Cook, *Commanding Right and Forbidding Wrong in Islamic Thought* (Cambridge; New York: Cambridge University Press, 2000), 318-334.

[170] For the differences between Mamluk concept of ruler's legislation and early Ottoman legitimation of administrative justice on the basis of dynastic legacy, see Burak, "Between the Ḳānūn of Qāytbāy and Ottoman Yasaq: A Note on the. Ottomans' Dynastic Law."

[171] Yossef Rapoport, "Legal Diversity in the Age of Taqlīd: The Four Chief Qāḍīs under the Mamluks," *Islamic Law and Society* 10, no. 2 (2003): 210–28; Yaacov Lev, ed., "Symbiotic Relations: Ulama and the Mamluk Sultans," *Mamlūk Studies Review* 13, no. 1 (2009): 1–26.

bureaucrats' increasing participation in decision-making in public matters in the Ottoman context but also turned them into useful allies to be sought after by different political agents.

In his analysis of the emergence of *al-siyāsa al-sharʿiyya*, Baber Johansen defines it as a middle ground to frame government action without the state disturbing the sphere of private legal relations and to increase the otherwise restricted sphere of action defined for the political authority. The framework of the claims of God (*ḥuqūq Allāh*) and personal claims (*ḥuqūq al-ʿibād*) were already translated into distinctions between public and private interests, respectively, in the writings of classical Muslim jurists. Johansen claims that, through this distinction, while classical Muslim jurists safeguarded the rights of the individual (*ḥuqūq al-ʿibād*) against infringements from the political authority, post-classical jurists transferred the absolute character of the claims of God (*ḥuqūq Allāh*) to the political authority for the sake of deterring government impingement on the rights of the individual.[172] Finally, Johansen concludes that in both cases, namely in the classical and post-classical articulation of public and private interests, there was no institutional mediation to uphold and represent the shared interest of the individual legal persons. I will not drastically negate Johansen's conclusions.

Even so, I suggest that imperial ratification in the form of a signature from the central Ottoman authorities served an unexpected role in the administration of public issues that I have presented so far. One cannot deny that the authority to make and oversee such public policy decisions increasingly resided in an institutional process. Through that signature, the chief jurisconsult acted not only in an advisory capacity but also in a supervisory one. Ratification needed for certain decisions to come into effect or to get enforced inevitably gave the high-ranking legal authorities political leverage. The general applicability, predictability, and standardization dictated by early Ottoman administrative regulations enacted by the

[172] Johansen, "Secular and Religious Elements in Hanafite Law," 217-218.

sultan's will, perhaps almost paradoxically, led to the limitation of the sultan's discretionary power and created administrative structures that came to be governed by the bureaucracy. That bureaucracy increasingly became engulfed by shifting political factions and alliances. Internal disagreements and tensions inevitably arose from dignitary scholar-bureaucrats' different interpretations of public policies and sultanic will. These scholar-bureaucrats individually joined and endorsed competing interest groups. The conclusion of court hearings and decisions awaiting their approval was nowhere swift,[173] thanks to the involvement of the judicial hierarchy in monitoring public policies and the process of ratification for policy decisions. Since the diverse legal venues, albeit not strictly hierarchically organized, were complementary in this manner, a natural grace period was built into this ratification process which allowed negotiations over disputes while final decisions were waiting to get approved.

Conclusion

Zilfi dates the limitation of the sultan's discretionary power vis-à-vis the religious institution to the eighteenth century when an aristocracy of scholar-bureaucrats emerged with such privileges as the exclusive grip of dignitary scholar-bureaucrats in distributing registered novitiates (*mülāzemet*) for candidates of dignitary status to compete for the teaching (*ruʾūs*) license (the qualification required for the posts of the official hierarchy of dignitary status), the Istanbulization of scholar-bureaucrats through the predominance of the graduates of the madrasas of Istanbul, and the monopolization of highest ranking posts by the offspring of dignitary scholar-bureaucrats.[174] In this chapter, I have offered an alternative reading of the

[173] Compare with the commonplace idea that "Islamic public law proceeds on the assumption that justice, in order to be effective, must be swift and that justice delayed can often mean justice denied." Muhammad Hashim Kamali, "Appellate Review and Judicial Independence in Islamic Law," *Islamic Studies* 29, no. 3 (1990): 227. Kamali also adds a qualifying statement: this swiftness should not be "over-emphasized at the expense of judicial review."
[174] Zilfi, *The Politics of Piety*, 43-80.

relationship between the state and scholar-bureaucrats. Rather than solely focus on the privileges of dignitary scholar-bureaucrats with respect to their educational journeys, appointments, and hereditary privileges, I have argued that their roles should also be studied within a bureaucratized legal practice and legal centralization. Managing issues that fell under the rubric of public law in practice, such as taxation, foreign policy, inter-communal matters, and regulations for non-Muslim communal affairs, enhanced the role of dignitary scholar-bureaucrats.

The signature requirement in the Yeniköy debate (Chapter 2) was not anomalous. In the sixteenth and early seventeenth centuries, the chief jurisconsult was in charge of issuing imperial ratification through his signature, often in cooperation with the grand vizier, for judicial decisions in Ottoman public law. This procedure allowed him to overturn those decisions on substantive grounds and procedural norms. It seems that this procedure was more of a pro forma submission of a document to the chief jurisconsult for approval. This bureaucratic step would occasionally result in a reversal or review of a decision.

The conclusions of this chapter, of course, need to be tested in different periods and other localities. For example, the instances of the requirement of legal certification in places like Damascus have been interpreted as a legal school-based competition.[175] True, Ottoman dignitary judges were always of the Ḥanafī breed, and in places like Damascus, these Hanafi dignitary judges often supervised Shāfiʿī deputy judges working under them. Worthy of attention, however, is the fact that the requirement of legal certification by way of a signature of a dignitary judge in urban centers, where many courts were serving urban dwellers at the same time, may have been an issue more of a legal standardization and centralized

[175] Brigitte Marino, "Les correspondances (murāsalāt) adressées par le juge de Damas à ses substituts (1750-1860)," in *Études sur les villes du Proche-Orient XVIe-XIXe siècles: Hommage à André Raymond*, Études arabes, médiévales et modernes (Damas: Presses de l'Ifpo, 2001), 91–111.

administration than of competition between legal schools. As shown earlier, in legal matters specified in this chapter, not only the documents issued by a Shāfiʿī deputy judge but also those issued by a Ḥanafī deputy judge would be certified by a dignitary judge.

The state-affiliated scholarly class in the Ottoman Empire has often been considered to be harmoniously cooperating with the state. This view, however, tends to level off disagreements between scholars themselves. Their disagreements created conditions for negotiations over policy matters which incorporated different interest groups. Moreover, competition among scholar-bureaucrats of dignitary status led to rampant defamation and additional professional scrutiny.

In the next chapter, I will focus on a years-long legal conundrum over the Jewish cemetery of Kasımpaşa in the late sixteenth century, a case through which we will test some of the assumptions made here and observe how the higher judicial authorities endorsed competing views on public issues and how their hesitations and legal deliberation legitimized differing public policies. That discussion will also present how non-Muslim communal bodies used all the legal mechanisms available to calibrate their position according to political contingency. Whereas the primary attention in this chapter has been given to the highest levels of government operation, the next chapter will readjust this view from the perspective of local individual and communal initiatives.

Chapter 4: Unsettling Disputes and Unsettled Cemeteries in Kasımpaşa and Yeniköy

In this chapter, I will first introduce a protracted legal case concerning the Jewish cemetery of Kasımpaşa in the late sixteenth century. This case will display both the progression of legal arguments on the cemetery as an urban public space and the involvement of dignitary scholar-bureaucrats in processing an inter-communal dispute. It will also serve to illustrate the changing dynamics in the process of handling public law.

Then, we will go back to Yeniköy, where another dispute emerged concerning a cemetery adjacent to the demolished church in the aftermath of the Yeniköy debate. While discussing this, I will highlight the impact of local initiatives and the somewhat elusive nature of sultanic permissions concerning urban land use for non-Muslim communal spaces in greater Istanbul.

In underlining the role of sultanic authorizations for the legality of non-Muslim religious spaces, I will revisit the scholarship on the fabrication of the peaceful conquest narrative for Constantinople during the early sixteenth century, contrary to the conquest by force that the city endured. This discussion will show that, already in the process of its fabrication, the peaceful conquest narrative cast a wider net beyond *intra muros* Constantinople and turned into a conquest story of a greater Istanbul that came into existence under Ottoman rule. The forged version of the conquest narrative encompassed a city that had already spread out.

Finally, I will draw attention to both imperial and local initiatives that either triggered or framed legal disputes concerning non-Muslim communal property.

A Protracted Lawsuit over the Jewish Cemetery of Kasımpaşa in the late sixteenth century

I will present a years-long judicial issue over the Jewish cemetery of Kasımpaşa — a case for which the documentation allows us to follow the escalation, the problems that arose, how the authorities dealt with them, and how the various administrative branches and dignitary scholar-bureaucrats exhibited different stances towards the case in question.

The judicial case can be followed through eleven imperial orders issued between 1583 and 1587, revealing recurring issues in the expropriation of the Jewish cemetery of Kasımpaşa and the designation of a new plot for burial in Hasköy for the Jewish community. Twentieth-century popular historian Ahmet Refik previously published some of these documents.[1] Relying on those documents, Minna Rozen concludes that the burial ground in the Jewish cemetery of Kasımpaşa was increasingly encroached upon by the neighboring Muslim households due to urban growth in the late sixteenth century and that the sultan granted the Jewish community a new burial site in Hasköy to ease the tensions between the Muslim and Jewish communities in Kasımpaşa.[2] Rozen underlines the benevolence of the sultan in handling this dispute.

By identifying additional documents on the same issue, Nicolas Vatin discusses detailed procedural aspects of the Ottoman administrative response to the judicial case and

[1]Ahmet Refik, *On Altıncı Asırda İstanbul Hayatı: 1553-1591* (İstanbul: Devlet Basımevi, 1935), 53-57. The documents presented by Ahmet Refik were translated into French: Abraham Galanté, *Histoire Des Juifs de Turquie* (Istanbul: Isis, 1984), vol. 5, 52-56.

[2] Minna Rozen, "A Survey of Jewish Cemeteries in Western Turkey," *The Jewish Quarterly Review* 83, no. 1/2 (1992), 85. In this article, Rozen explains the inventory of Jewish gravestones she created for a project titled "A World Beyond: Jewish Cemeteries in Turkey 1583-1990." The database is available at https://jewishturkstones.tau.ac.il/#/ and covers gravestones from several locations across Turkey from 1583 to 1990. See also eadem, "Metropolis and Necropolis: The Cultivation Of Social Status Among The Jews Of Istanbul In The 17th And 18th Centuries," in *Living in the Ottoman Ecumenical Community: Essays in Honour of Suraiya Faroqhi*, ed. Markus Koller and Vera Costantini (Brill, 2008), 89–114.

reaches slightly different conclusions.[3] His most important contribution is in pointing to the resurrection of the imperial naval arsenal on the shores of Kasımpaşa in the aftermath of the Battle of Lepanto. The imperious presence of the arsenal would explain the involvement of the Ottoman fleet's grand admiral (Ḳapudān Paşa) in the adjudication administered for the dispute over the Jewish cemetery overlooking the arsenal.[4] The grand admiral was addressed explicitly in two imperial orders issued for the cemetery. Despite recognizing the impact of competition over urban space in greater Istanbul, Vatin instead puts greater emphasis on the inter-communal conflict between the Jewish community and the Muslim community of Kasımpaşa, and it is through this dynamic that he explains the supervision of the highest political and legal authorities. I will now turn to the imperial orders that dealt with this judicial case.

In 1582, via an imperial order, a new plot of land belonging to the endowment of Bāyezīd II in Hasköy was designated as a Jewish cemetery. Simultaneously, the Jewish community was dispossessed of their existing cemetery in Kasımpaşa.[5] The imperial orders instructing the ban on the use of the Jewish cemetery of Kasımpaşa as a burial ground, however, reassured the preservation of the existing graves there. At first glance, it is unclear how and when the authorities envisioned repurposing the gravesite of Kasımpaşa.

The two contiguous towns, Hasköy and Kasımpaşa, belonged to the jurisdiction of two different judgeships: Hasköy being part of the judgeship of Eyüb, Kasımpaşa being part of that of Galata. Minna Rozen associates this relocation of the Jewish cemetery from

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[3] Nicolas Vatin, "Comment Disparut Le Cimetiere de Kasımpaşa (1582-1592): Un Difficile Arbitrage Du Sultan Entre Ses Sujets Juifs et Musulmans.," in *Political Initiatives "from the Bottom Up" in the Ottoman Empire*, ed. Antonis Anastasopoulos (Rethymno: Crete University Press, 2012), 119–34.
[4] For the emergence of the Ottoman fleet and various aspects of its maritime power, see Elizabeth A. Zachariadou, ed., *The Kapudan Pasha, His Office and His Domain: Halcyon Days in Crete IV: A Symposium Held in Rethymnon 7-9 January 2000* (Halcyon Days in Crete, Rethymnon: Crete University Press, 2002).
[5] BOA, A.{DVNSMHM.d. 48: 415. Also see Ahmet Refik, *On Altıncı Asırda İstanbul Hayatı*, 80; Rozen, "A Survey of Jewish Cemeteries in Western Turkey," 85.

Kasımpaşa to a neighboring district with a desire on the part of the Ottoman administration to differentiate residential and burial areas. Moving the Jewish cemetery closer to Eyüb's Muslim burial sites, the Ottoman administration was opening up space in the direction of bridging Kasımpaşa and Galata as residential zones. Kasımpaşa, which may have been considered an outlying district beyond Galata by the mid-sixteenth century, was increasingly engulfed by the growing demand for housing. This demand can be seen embodied in the Muslim households that came to surround the Jewish cemetery of Kasımpaşa.

After the designation of the Hasköy cemetery, the first extant imperial order dating to April 1583 and dealing with the situation in the abandoned Jewish cemetery of Kasımpaşa addressed the grand admiral.[6] This order summarized an investigation conducted earlier in situ after the Jewish community communicated their grievances directly to the sultan. Evidently, many Jewish gravestones were stolen from the cemetery, and certain neighboring houses violated the cemetery's property line and added land from the cemetery to their courtyards. The order instructed that the stolen gravestones be returned to their place in the cemetery and that the existing graves of the Jewish community not be damaged. It is clear from this order that the earlier decision to disuse the Jewish cemetery of Kasımpaşa created incentives and conditions for the surrounding households to consider the cemetery land ready to be repurposed.

About two weeks after this order to the grand admiral, another imperial order was dispatched to the judge of Eyüb in response to the latter's petition informing the central administration about the complaint of the Jewish community that they were being obstructed in the dock and the public road while carrying their dead to the new cemetery of Hasköy.[7] The

[6] BOA, A.{DVNSMHM.d 49: 60.
[7] BOA, A.{DVNSMHM.d 49: 61.

order instructed the judge to suppress any intervention in the Jewish community's access to the cemetery. Vatin mentions this particular order only in passing and does not discuss its significance. The emphasis in the order on the fact that the Jewish community was harassed on their way to the new cemetery highlights explicitly that the community carrying their dead would pass through the *public* road. In a similar case from seventeenth-century Cairo, the Jews had to take their dead to their cemetery through a longer path; they were occasionally not allowed to cross the shortest and most convenient road because it passed by a Muslim cemetery near the shrine of al-Shāfiʿī. In one such complaint in the seventeenth century, when the Muslims wanted to block the shortest road, the Jewish community was able to receive a favorable judgment from the court by presenting legal opinions from several jurists, as well as orders from the previous sultans, that they were entitled to use public roads.[8] Both in Cairo and in Istanbul's Hasköy, the Jewish community's unimpeded access to cemeteries via public roads was endorsed despite a negative sentiment among the neighboring Muslim residents. In a letter written in the first decade of the seventeenth century, Solomon Shlomel Meinstral of Dreznitz, a Moravian Jewish immigrant to Safed, referred to "the processions carried out around a recently deceased person's body (*haqafot*) and other customs relating to death, burial, and graves"[9] in Safed. However, it is unclear how much of this would be performed publicly.

In an anecdotal note on an imperial shield-maker-turned-scholar named Muṣṭafā Efendi (1626), the biographer Nevʿīzāde Atāyi recounts how Muṣṭafā Efendi came to be

[8] Galal H. El-Nahal, *The Judicial Administration of Ottoman Egypt in the Seventeenth Century* (Minneapolis: Bibliotheca Islamica, 1979), 57. While quoting el-Nahal, Michael Winter also adds Evliya Çelebi's approving statements that in Cairo the Jews were not allowed to hold their funeral processions in daylight. Michael Winter, *Egyptian Society under Ottoman Rule, 1517-1798* (London; New York: Routledge, 1992), 211.
[9] Carsten Wilke, "Kabbalistic Fraternities of Ottoman Galilee and Their Central European Members, Funders, and Successors," in *Entangled Confessionalizations? Dialogic Perspectives on the Politics of Piety and Community Building in the Ottoman Empire, 15th-18th Centuries*, ed. Tijana Krstić and Derin Terzioğlu (Gorgias Press, 2022), 266.

known as “the Jews' Imām” (*Cehūd İmāmı*) because he used to wait in the Hasköy dock for a Jewish funeral to arrive by boat and claimed to have been a witness to the deceased person being honored by Islam at his last breath. Intimidating and arousing panic among mourners with his pretensions to divert the funeral to a mosque, he would retract his insistences only in return for several *akçe*.[10] Nevʿīzāde Atāyi does not narrate Muṣṭafā Efendi's tyrannizing attitude as a humorous digression in his account. Instead, he disdains Muṣṭafā Efendi's behavior and his upstart career as a minor scholar and marks him with ignorance and idiocy. The anecdote, however, is important in showing both the centrality of the Hasköy dock and the inevitable public procession accompanying a Jewish funeral from the dock to the new cemetery uphill.

As implied in their complaint during the cemetery dispute, the Jewish community faced similar reactions from their neighbors in Hasköy and needed an imperial sanction to access public roads leading to the cemetery, or at least to have their right to access the cemetery confirmed. The timing of this complaint is striking because, as we shall see, the problems in the disused cemetery of Kasımpaşa were still ongoing. Unfortunately, neither Atāyi's account nor the imperial orders about the cemetery dispute described any aspect of Jewish funeral processions in depth.

Another imperial order was addressed in July 1583 to the judge of Galata, who earlier established the fact that, indeed, some lands from the cemetery were encroached upon and that certain gravestones with Hebrew letters on them were found in the courtyard of several local Muslims. The individuals in question were one sea captain, two cavalrymen, and one

[10] Nev’îzâde Atâyî, *Hadâ’iku’l-Hakâ’ik Fî Tekmileti’ş-Şakâ’ik* (Türkiye Yazma Eserler Kurumu Başkanlığı, 2017), vol. 2, 1738.

person named with the epithet "Ḥācı" (pilgrim).[11] As underlined by Vatin, all the culprits identified in this order were of a somewhat honorable status among the locals.[12]

One year later, from another order that was addressed to the judge of Galata in November 1584, we learn that the Jewish community of Kasımpaşa sent another petition to the sultan. It argued that the burial ground in Kasımpaşa was given to them by Meḥmed II at the time of the conquest when there were not any houses or Muslim residents in the surrounding area. This latter insistence on the uninhabited surrounding of the Kasımpaşa cemetery is crucial to the claim that at the time of the institution of the cemetery, it was a suburban burial ground not yet surrounded by a growing urban population and urban dwellings. The Jewish community also claimed to have a document granting their right to the land since the time of the conquest. It is upon this claim that, it turns out, the reigning sultan ordered a special commission to investigate the claim. The commission, comprising the governor of Rumelia Mehmed Paşa, the former chief justice of Anatolia Mehmed Efendi, and the judge of Istanbul Bāki Efendi, invited Jewish and Muslim representatives to the local court of law. The representatives of the Jewish community showed to the commission the encroachment over the cemetery's land as well as a previous court document establishing their complaint. While until then, the litigants were the Jews themselves trying to preserve the cemetery as it was, albeit to remain disused, the Muslims put forward their counter-complaint which turned the whole case into a matter of public security. The large gravestones that were used in the cemetery, the Muslims claimed in the court, sheltered thieves at night, made the area unsafe to pass by, and were a detriment to the religion (i.e., Islam). This latter point implied that the use of large gravestones may have also been perceived as an ostentatious

[11] BOA, A.{DVNSMHM.d 49: 461.
[12] Vatin, "Comment Disparut Le Cimetiere de Kasımpaşa (1582-1592): Un Difficile Arbitrage Du Sultan Entre Ses Sujets Juifs et Musulmans," 122.

demonstration of wealth and status, flouting the reserved public image non-Muslims were expected to maintain.[13] The Muslims requested that the gravestones be either removed or buried under the soil, with only a tiny part of them to be left above the ground to mark the burials.[14]

The Jewish community, in turn, expressed their objection to the suggested ways of modifying large tombstones, and they did so by appealing to none other than the precepts of Islamic law. They claimed that they would not accept anything beyond the bounds of what was already prescribed in Islamic law, which, they stated, allowed them to observe their religion according to their tradition, which necessitated the kind of tombstones they used. This argument aligned Jewish funerary customs with the Ottoman conceptualization of respect for ancient practice (after all, the tombstones had not been erected yesteryear) and with the sharīʿa-based rights of non-Muslims due to their subjecthood to an Islamic state. In the end, the imperial order of 1584 acknowledged the investigatory commission's conclusion that it would be against the law to hinder the Jews from accessing the cemetery, likely for bereavement and memorial needs, and to impose restrictions on them concerning tombstones. To justify this conclusion, an axiomatic saying was given in Arabic without its source being mentioned: "They have the rights we have and are subject to the same liabilities" (*Lahum mā lanā [wa] ʻālayhim mā ʻālaynā*).[15] This legal maxim was used to invoke a general principle of

[13] For this particular point, see Minna Rozen, *A History of the Jewish Community in Istanbul: The Formative Years, 1453-1566* (Boston, MA: Brill, 2002), 22.
[14] BOA, A.{DVNSMHM.d 55: 66. Also published by Ahmet Refik, *On Altıncı Asırda İstanbul Hayatı*.
[15] This saying is not named as a prophetic tradition in the document. A version of the expression, being called a hadith, appears in the section on sale in al-Marghīnānī's *al-Hidāya*, establishing the legal standing of non-Muslims in commercial transactions and acknowledging the legality of their transactions for wine and pork: Marghīnānī, *Al-Hidāya Fī Sharḥ Bidāya al-Mubtadī* (Karachi: Idāra al-Qur'ān wa al-ʾulūm al-Islāmiyya, 1417 [hijrī]), vol. 5, 260-261. Quoted in Muhammad Khalid Masud, "Teaching of Islamic Law and Sharī'ah: A Critical Evaluation of the Present and Prospects for the Future," *Islamic Studies* 44, no. 2 (2005), 182. There are many modern references to this maxim from the early twentieth century that recycle this principle to explicate modern notions of citizenship across religious divides. See for the example of its use by Hassan al-Banna, founder of the Muslim Brotherhood, to emphasize the understanding that Muslims and non-Muslims share the

the lack of compulsion in religion as well as the existence of mutual liabilities between Muslims and non-Muslims. Although the tombstones were temporarily saved, the ban on new burials was still in effect. However, a softened stance on the part of the authorities can be gleaned from this document.

About six months later, in May 1585, the issue was still unresolved. A new imperial order addressed the judge of Galata along with the unnamed supervisor of the endowment of Bāyezīd II, as well as Sunʿullāh Efendi, a madrasa teacher at the time in the juridical college complex of Meḥmed II (*ṣaḥn-ı semān*), with concrete instructions based on another hearing conducted on-site[16] by the chief jurisconsult, the viziers, and the chief justices.[17] In this court hearing, the Jewish and Muslim communities of Kasımpaşa were each represented by four men to voice the concerns of their respective communities. This time, the Muslim representatives raised another issue that, in addition to the aforementioned concerns of public security, accused the Jews of gathering in the cemetery and openly and loudly performing "their void rites," in the language of the order, to the detriment of the local Muslims. At this stage, the issue of audibility and manifestation of non-Muslim religious practices in public was added to the earlier complaint about the disruption of public safety due to large tombstones. While the Jewish community earlier emphasized that the cemetery was constituted before the settlement in the area, the Muslim community pointed to the circumstances of the time with the cemetery being a public urban space. Previously, the Jewish cemetery had been pushed to the city's margins in the cityscape's early configuration in

same rights and duties: Khalil Al-Anani, "The Muslim Brotherhood's Conception of Citizenship Rights in Egypt," *Contemporary Arab Affairs* 11, no. 3 (2018), 30.

[16] "mevzi'-i mezburda müşarün-ileyhüm ile akd-i meclis olundukta"

[17] BOA, A.{DVNSMHM.d.58: 303. Sunʿullāh Efendi (d. 1612) held the office of the chief jurisconsult from 1599, after the death of Ḫoca Saʿdeddīn, until 1601, and served in that position three more times. Nev'îzâde Atâyî, *Hadâ'iku'l-Hakâ'ik Fî Tekmileti'ş-Şakâ'ik*, vol. 2, 1425-1435.

the fifteenth century. The expansion of the urban core throughout the sixteenth century destabilized the communal structures that emerged in the meantime.

The order reiterated that the Jewish community was prohibited from burying their dead in the cemetery of Kasımpaşa and from gathering to manifest their unbelief (*merāsim-i küfri iẓhār eylemekten men'*). The reiteration of the ban on new burials in the cemetery is striking: did the Jews recently inter any dead in the cemetery? It is plausible, especially after the previous decision that was concluded recognizing the lack of any reason on legal grounds for prohibiting the Jews from erecting large tombstones — a conclusion that, sounding affirmative, may have been stretched a little too far by the community. Another indication for new burials in the cemetery after the ban is that the Jewish representatives repeated that they were granted the cemetery's land as communal property after the conquest. At this stage, their claim to the rightful possession of the land was questioned for the first time. The Jewish community was required to present evidence for their claim and to prove their ownership claim to the land of the cemetery. They were unable to show an original document, which they claimed had been burned and lost in a fire.[18] Instead, they presented a deed of property demarcation (*ḥudūd-nāme*), which was purportedly issued earlier at one of the stages of the current conflict to prove the Muslim neighbors' encroachment over the cemetery land.

The hearing led by the chief jurisconsult ended with a repetition of the prohibition on new burials and adding the ban on the public manifestation of religious rites. More importantly, unlike the previous decision that recognized the Jewish community's claim to the ancient practice of having large tombstones, this final decision instructed that the high tombstones be buried so as not to be a public security concern, that the empty parts of the

[18] In the grander scheme of things, the Jewish cemetery of Kasımpaşa, in fact, may have been in place already in the Byzantine period. For this possibility, see David Jacoby, "Les Quartiers Juifs de Constantinople À L'époque Byzantine," *Byzantion* 37 (1967): 177.

cemetery be sold to Muslims, and that the surrounding houses of the Jews be sold to Muslims with the market values of the houses to be paid to the Jewish tenants.

Following these instructions, two imperial orders dating from December 1587 — one addressing the grand admiral and the judge of Galata,[19] and another addressing the Janissary Agha and the madrasa professor Sunʿullāh Efendi[20] — demonstrated that, in accordance with the previous orders, the stones in the cemetery were buried and empty plots in and around the cemetery were allocated to Muslims. However, the two orders added, the Muslim residents of Kasımpaşa continued digging tombstones out and stealing them to use as construction material or just tore them down to seize the burial ground. This continued interference with the cemetery was once more documented in the presence of the judge of Galata and Sunʿullāh Efendi. The two orders again instructed its addressees to bring an end to such illegal activities. Strikingly, these final decisions underlined the fact that there was no legal ground for removing the dead from the cemetery (*mürdeleri ihrāc olunmağa şerʿan maḥal olmayub*). Although this possibility was not mentioned in the earlier decisions, the idea of transferring the already buried, mostly likely to the new cemetery of Hasköy, may have been voiced in the face of the escalation of the issue. Did the Muslim community of Kasımpaşa perhaps suggest it? This is unclear from the documents, yet one can wonder how realistic the idea of transfering the buried instead of preserving them in situ was. According to a legal opinion of Ebū's-Suʿūd Efendi, once corpses in a graveyard decompose (*remīm olduktan sonra*), the land can be used as a garden and become susceptible to land tax. According to the same opinion, this is not permissible if the graveyard has been for Muslim corpses — a crucial limitation in which case the land must be restored to its original function as a graveyard.[21] That is to say,

[19] BOA, A.{DVNSMHM.d 62: 347. Nicolas Vatin did not identify this version.
[20] BOA, A.{DVNSMHM.d 62: 358.
[21] Abū al-Saʻūd Muḥammad ibn Muḥammad, *Şeyhülislâm Ebussuud Efendi Fetvaları Işığında 16. Asır Türk Hayatı*, ed. M. Ertuğrul Düzdağ (Beyazıt, İstanbul: Enderun Kitabevi, 1972), 174. Vatin also quotes the legal

the principle of inviolability of the graveyard applied to Muslim burials, not to non-Muslim ones. This implies that if a non-Muslim cemetery was hindered from new burials for long enough and the buried corpses were left to decompose, the land might potentially be repurposed. Needless to say, this interpretation legitimizes the repurposing of non-Muslim urban cemeteries by ceasing new burials — an interpretation that would ultimately transform those cemeteries that were engulfed by the urban space. This scenario is precisely what informed the chief jurisconsult Ibn Kemāl's response to the following question:

> If Zeyd bought a vineyard and endowed it for [the salvation of] his soul so that the land could be used for non-Muslims to bury their dead, and if Muslims wrapped it around with houses and populated the area, and if, consequently, the endowed vineyard remained in the midst of Muslims' houses, and if Muslims petitioned the sultan: "The infidels bury their dead in the middle of a Muslim neighborhood," and if the sultan banned this, and then if twenty years passed by after this [ban], and if there remained no trace of the vineyard and the burials, and if Amr asked for permission from the sultan to build a masjid and a local primary school (*muʿallim-ḫāne*) and got permitted to do so, and if Zeyd litigated this to defend the endowment, would his case be heard in court? The response: If the vineyard's land is not private property, its being endowed is invalid; hence, interring in that land is not permissible.[22]

The framing of the question in this legal opinion makes it sound that a time period of twenty years would be enough to repurpose a disused cemetery. This reasoning could explain why a decision to prevent new burials in Kasımpaşa might be wished for, with the long-term consequence that the land might be regained for the expanding cityscape of greater Istanbul to make room for construction projects and residential space. Removing the dead from the cemetery may have been inconceivable and outright illegal from the perspective of the dignitary scholar-bureaucrats and administrators involved in the case. Yet, the documentation

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opinion. This opinion refutes Laqueur's assumption that Ottoman society "did not allow the digging out of tombs or their re-use; burial places had to remain forever." At least theoretically, there was room for re-use under certain circumstances. S. K. Ory et al., "Maḳbara," in Encyclopaedia of Islam, Second Edition.

[22] Ibn Kemal, *Şeyhülislâm Ibn Kemal'in Fetvaları Işığında Kanûnî Devrinde Osmanlı'da Hukukî Hayat: Mes'eleler ve Çözümleri (Fetâvâ-Yı Ibn Kemal)*, ed. Ahmet İnanır (İstanbul: Osmanlı Araştırmaları Vakfı, 2011), 188.

on the Kasımpaşa cemetery implies that the idea was at least pronounced at some point, perhaps by the Muslim commoners.

One thing is clear, though: as observed by Rozen in the Jewish cemeteries of Istanbul in general, vertically built tombstones mainly were used until the early seventeenth century and fell out of fashion. Instead, horizontal tombstones that were placed directly on the ground or coffin-shaped ones were preferred in the later periods.[23] One can only speculate here that the bluster during the legal dispute over the large tombstones of the Kasımpaşa cemetery may have induced the Jewish communities of Istanbul to refrain from using vertical stones and adopt different styles of ornamenting the resting places of their loved ones.[24]

Political expediency and the opposing views endorsed by dignitary judges in handling the Kasımpaşa cemetery dragged on the case of the Jewish cemetery for over five years.[25] The presence of the chief jurisconsult in the actual court proceedings of the Jewish cemetery of Kasımpaşa should be read within the framework offered in the previous chapter on the involvement of dignitary scholar-bureaucrats and especially of the chief jurisconsult in administering issues of public law. The decision in 1584 to respect the Jewish community's

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[23] Rozen, "A Survey of Jewish Cemeteries in Western Turkey," 86.

[24] Rozen makes the same speculation but only for the use of plain "tombstones devoid of ornamentation" from the end of the sixteenth century, yet she adds that the question requires further research. "Rozen, "A Survey of Jewish Cemeteries in Western Turkey," 91-92. In another article that she wrote, likely after fully processing the inventory of the existing tombstones from Istanbul's Jewish cemeteries, Rozen observes the consistent willingness of families to communicate their social status or their aspirations to a better social capital via tombstones: "the material investment in the culture of death in the capital city was above and beyond anything that I know of among the Jews of the Ottoman Empire, and it successfully measures up against the investments of the Muslims and the Christians in the city. It is perhaps equal to the expenditures of the Jews in places such as Livorno, or Curacao." Rozen, "Metropolis And Necropolis," 111. Thus, one could compare this observation, alongside the one on the increasingly elaborate epitaphs in the Jewish tombstones of the seventeenth and eighteenth centuries, to the parallel development observed by Edhem Eldem in the case of the increasing elaboration of Muslim epitaphs. Edhem Eldem, "Urban Voices from beyond: Identity, Status and Social Strategies in Ottoman Muslim Funerary Epitaphs of Istanbul (1700-1850)," in *The Early Modern Ottomans: Remapping the Empire*, ed. Virginia H. Aksan and Daniel Goffman (Cambridge: Cambridge University Press, 2007), 233–55.

[25] For lawsuits lasting decades with the presentation of new evidence or with litigation over a new aspect of the dispute, see Baber Johansen, "Le Jugement Comme Preuve: Preuve Juridique et Vérité Religieuse Dans Le Droit Islamique Hanéfite," *Studia Islamica*, no. 72 (1990): 5–17. For a century-long dispute over the control of endowment revenues between the descendants of an endower, see David S. Powers, "A Court Case from Fourteenth-Century North Africa," *Journal of the American Oriental Society* 110, no. 2 (1990): 229–54.

practice of large and high tombstones was gradually reversed at the insistence of the Muslim community of Kasımpaşa over public security concerns. Nicolas Vatin argues that the extension of the prohibition of erecting large gravestones resulted from the nagging insistence of the Muslim neighbors and that these neighbors initiated the abandonment of the cemetery in Kasımpaşa and the assignment of a new burial ground in Hasköy. Without downgrading the importance of the Muslim residents' constant interference in violating the cemetery's existing burial sites, I would suggest that the lingering indeterminacy that dragged the case on might also be attributed to conflicting interpretations among various officials involved, most notably among dignitary scholar-bureaucrats. Apart from the intricacies of bureaucratic and judicial processing, the case of the Jewish cemetery of Kasımpaşa should also be framed within frequent micro-interventions at street and neighborhood levels in greater Istanbul, interventions made by the central authorities to shuffle non-Muslim communities away from an emerging Muslim settlement or from an area around a mosque.[26]

Late sixteenth-century greater Istanbul witnessed numerous other interventions in urban space. These interventions were not only at the expense of non-Muslim communities. In two exceptional articles, Nicolas Vatin and Stefanos Yerasimos detect what they call a "funeral industry" in both Istanbul proper and Eyüb. The authors first look at imperial orders about Muslim burial grounds in Istanbul *intra muros* and Eyüb between 1565 and 1601 and later discuss practical issues concerning Muslim cemeteries in Eyüb between 1565 and

[26] Kafadar aptly calls these minor demographic changes "micro-interventions," which I agree fairly marks the scale of these policies. Cemal Kafadar, "The City Opens Your Eyes Because It Wants to Be Seen: The Conspicuity and Lure of Early Modern Istanbul," in *A Companion to Early Modern Istanbul*, ed. Shirine Hamadeh and Çiğdem Kafescioğlu (Brill, 2021), 48. Eldem qualifies similar processes as political and social engineering. Edhem Eldem, Daniel Goffman, and Bruce Alan Masters, *The Ottoman City between East and West: Aleppo, Izmir, and Istanbul* (Cambridge, U.K.; New York, NY: Cambridge University Press, 1999), 140. In an example of such a case in Yeniköy, three taverns were subject to a complaint of Muslim villagers in 1612 for the reason that the taverns were on a *public* road leading to a bathhouse, and near a mosque and Muslim households: YK 29: 34.

1585.[27] In the walled city, burial grounds were a privilege, the acquisition of which would require authorization from the sultan, even for a family graveyard. One of the examples Vatin and Yerasimos give to this end is a petition written by Kemāleddīn Efendi, whom we have met in the Yeniköy debate, for permission for the burying of his mother, who was on her deathbed, next to his deceased father, Taşköprüzāde Aḥmed.[28] In Eyüb, increasing competition for prestigious burial sites led to the new allocation of parts of the land of the endowment of Abū Ayyūb al-Anṣārī for burial purposes. Vatin and Yerasimos attribute the development of the cemeteries around the shrine of Abū Ayyūb al-Anṣārī to the financial and lucrative ventures of the endowment that, within the watchful eyes of the central government, approved burial grounds that prominent individuals sought after and were willing to exchange with land or property elsewhere that, then, became a source of income for the endowment. The authors claim that the backbone of the cemeteries around Eyüb emerged between the 1530s and the 1620s.[29] Their discussion of gravediggers, the illegal use of endowed lands and cemetery grounds for other purposes (gardens, shops, Sufi lodges, inns, stables, slaughterhouses, or simply housing), marble masonry, and cemeteries as sites of beggars, provides greater insight into both the demographic growth of Istanbul at the end of the sixteenth century and the urban development it triggered.[30]

Since Vatin and Yerasimos are mainly interested in the development of Muslim cemeteries, they mention the Jewish cemetery of Kasımpaşa only in passing.[31] It was another endowment, that of Bāyezīd II, which was in charge of the Kasımpaşa cemetery and many

[27] Nicolas Vatin and Stefanos Yerasimos, "Documents Sur Les Cimetières Ottomans, I: Autorisations d'inhumation et d'ouverture de Cimetières à Istanbul Intra-Muros et à Eyüp (1565-1601)," *Turcica* 25 (1993): 165–87; Nicolas Vatin and Stefanos Yerasimos, "Documents Sur Les Cimétières Ottomans, II: Statut, Police et Pratiques Quotidiennes (1565-1585)," *Turcica* 26 (1994): 169–210.
[28] Vatin and Yerasimos, "Documents Sur Les Cimetières Ottomans, I."
[29] Vatin and Yerasimos, "Documents Sur Les Cimetières Ottomans, I."
[30] Vatin and Yerasimos, "Documents Sur Les Cimetières Ottomans, II."
[31] Vatin and Yerasimos, "Documents Sur Les Cimetières Ottomans, II."

other large cemeteries outside the walled city.[32] Indeed, in the disputes over the Jewish cemetery of Kasımpaşa, the supervisor of the pious endowment of Bāyezīd II was also involved and addressed in one of the imperial orders discussed above. However, it is not explicitly stated in the documents concerning the Kasımpaşa cemetery that the land of the cemetery belonged to the pious endowment of Bāyezīd II. The presence and involvement of the supervisor of that endowment might be interpreted as an official recognition of the endowment's ownership of the cemetery's land. However, it seems that the option of leasing the land already in use as a cemetery, i.e., letting the Jewish community continue using the land as a cemetery, was not negotiated during the dispute. If somehow negotiated, this was not reflected in official documentation. Leasing a non-Muslim cemetery's land from a Muslim endowment was precisely the kind of compromise reached in a case about a Jewish cemetery in Jerusalem in 1531-33. There, the cemetery land belonged to a pious endowment dedicated to the maintenance of the juridical college founded in the name of Ṣalāḥ al-Dīn al-Ayyūbī (d. 1193).[33] Shortly after the Ottoman conquest of Jerusalem, the Jewish community was granted a thirty-year lease of the land of the cemetery in question.

The dispute over the Jewish cemetery of Kasımpaşa also effectively illustrates the two legitimate grounds at play for organizing urban space: the sultanic will allocating a new cemetery to the Jewish community in Hasköy and the lack of documentation proving the ownership of the cemetery land of Kasımpaşa since the time of the conquest.

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[32] Vatin and Yerasimos, "Documents Sur Les Cimetières Ottomans, II"; Nicolas Vatin and Stefanos Yerasimos, *Les Cimetières Dans La Ville: Statut, Choix et Organisation Des Lieux d'inhumation Dans Istanbul Intra Muros* (Istanbul : Paris, France: Institut français d'études anatoliennes Georges Dumézil ; Diffusion, Librarie d'amérique et d'orient Adrien Maisonneuve, Jean Maisonneuve successeur, 2001), 1-5.

[33] Amnon Cohen, "Communal Legal Entities in a Muslim Setting Theory and Practice the Jewish Community in sixteenth-century Jerusalem," *Islamic Law and Society* 3, no. 1 (1996), 78-79.

The Yeniköy Case Flaring up from the Church to the Cemetery

As we have seen, the Yeniköy debate between the judge of Galata Taşköprüzāde Kemāleddīn and the chief jurisconsult Ḫōcazāde Meḥmed sparked off the demolition of the church around which a religious procession was held. The chief jurisconsult's conviction seemed to remain impervious to objections raised by the judge of Galata on procedural and evidentiary grounds. The conclusion of the debate does not reveal much about its aftermath; it evoked the usual image of an illegally (or allegedly newly) constructed church doomed to be destroyed if its alleged or real existence dating to the pre-conquest times was not corroborated with acceptable evidence.

The upsetting implications of a church that was lost as such concerned its parishioners, who needed to fill the absence of a church to conduct their interrupted religious services. What is more, the parishioners in Yeniköy faced another problem shortly afterward. In 1611, apparently after the church demolition, the villagers of Yeniköy appealed to the sultan with a complaint that a certain Ibrāhīm, a court summoner (*muḥżir*),[34] stirred up trouble when they wanted to bury their dead in a graveyard next to the church that had been declared to be a recent construction (the one that was subsequently demolished). After a previous order (clearly issued after the Yeniköy debate we have discussed) stating that the churches of the village were not historical, Ibrāhīm hindered the villagers from accessing the graveyard and appropriated its land to cultivate it.[35] Upon this complaint of the villagers, a new imperial

[34] *Muḥżir* is an official in charge of summoning people to the court. On the function of *muḥżirs*, Ronald C. Jennings, "Kadi, Court, and Legal Procedure in 17th C. Ottoman Kayseri: The Kadi and the Legal System," *Studia Islamica*, no. 48 (1978), 150-153.
[35] YK 27: 131. The order was followed up later with the same instructions as well as with a dispatch sent by the judge of Galata to the deputy judge of Istinye: YK 27: 156.

order was dispatched to the judge of Galata, alerting him of the injustices accrued by Ibrāhīm's actions. The order underlines that the land that had been in use as a cemetery for more than one hundred years under the usufruct of the Christians of the village was given to them via a legal document issued by the former sultans (*selāṭīn-i māżiyye temessükiyle*) authorizing them to bury their dead there. Since the land had been designated as their cemetery for that long (*ol-miḳdār zamāndan*), the order stated, Ibrāhīm should be prevented from his encroachment over the villagers' recognized rights. Did the Christian community have a legal document testifying to their claim? The recorded order in the register does not specify it.

This new dispute between the Christians of the village and Ibrāhīm impairs the legal basis of the decision made about the status of the village's church in the legal debate we have discussed. The renewed authorization given to the Christians for the cemetery of Yeniköy creates a duality between the two adjacent spaces, i.e., the church and the cemetery. The burial ground within the churchyard escaped the same verdict that befell the church — the cemetery was secured thanks to the previous orders of the sultans. However, this very duality spurred Ibrāhīm to seize the opportunity to claim some power for himself by appropriating the land of the graveyard of a demolished church in the first place. The decision to demolish the church destabilized the overall status of the Christian religious property in the village, at least in the eyes of bystanders. The imperial order of 1611 for the cemetery pointed to a new status quo attained in Yeniköy after the unsettling church dispute.

The notion of preserving the existing texture of the built environment was prevalent in the Ottoman understanding of reconstruction after natural disasters and during renovations and repairs. The same idea (*üslūb-i sābıḳ* or *vaż ʿ-i ḳadīm*) also applies to land and property

disputes and concerned non-religious spaces as it did religious ones.[36] After the Great Fire of 1660 in Istanbul, residential buildings' boundaries and reconstruction processes were negotiated based on the same concept. The new additions to and changes in the reconstructions of houses (*müceddeden bināʾ ve iḥdāṯ*) could easily be challenged by individuals who strongly disagreed with their neighbors' building activities that contrived novelties.[37] Therefore, apart from the legitimacy provided by the former sultans, the order regarding the cemetery in Yeniköy took into account the very same concern about preserving the built environment as was. The imperial authorization proving the cemetery's long-standing use was both an authorization for its future use and the basis for the settlement of the dispute vis-à-vis Ibrāhīm the court summoner.[38] This resolution did not specify the status of land (*mīrī*, waqf, or *mülk*) or whether its current use dated to the times of the conquest.

In a seventeenth-century collection of legal opinions, the following question was raised concerning new additions to the existing building of a church:

> If unbelievers of a town built a new part as a pavilion and a canopy in [the courtyard of] an old church and a wall adjacent to the church on the outside, would the judge be able to demolish the newly constructed parts? The answer: Yes, he would.[39]

A similar question was asked about some newly constructed rooms within a church (again arguably in its courtyard) for monks to stay in. This time, the answer specified that those rooms should be demolished if they were adjacent to the church.[40] These opinions

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[36] Kenan Yıldız, *1660 İstanbul Yangını ve Etkileri: Vakıflar, Toplum ve Ekonomi* (Ankara: Türk Tarih Kurumu, 2017), 60-3.
[37] Ibid., 62.
[38] Non-Muslim communal institutions were well aware of the importance of keeping such documents in case of the emergence of future disputes. Phokion Kotzageorgis, "The Multiple Certifications in Ottoman Judicial Documents (Hüccets) from Monastic Archives," *Archivum Ottomanicum* 31 (2014): 117–27.
[39] Quoted from *Fetâvâ-yı Ali Efendi* (Çatalcalı Ali Efendi, 1631/2-1692) in Pehlul Düzenli, *Gayrimüslimlere Dair Fetvâlar: Osmanlı Şeyhülislâmlık Kurumu* (İstanbul: Klasik, 2015), 75.
[40] Abū al-Saʿūd Muḥammad ibn Muḥammad, *Şeyhülislâm Ebussuud Efendi Fetvaları Işığında 16. Asır Türk Hayatı*, 106.

suggest that any new additions to a church, regardless of their purpose and function, were considered an illegal extension. Such opinions could have played a role in support of Ibrāhīm, who was hoping to take advantage of the situation in Yeniköy. If the church was considered new, the cemetery next to it, too, could have lost its legitimacy. Yet the unavoidable need for a cemetery for the Christians of Yeniköy must have outweighed any further questioning regarding the cemetery's location and characterization as the church's dependency. The graveyard in Yeniköy was secured with a sultanic order that granted a certain degree of flexibility to redraw and clarify communal life and appease local tensions. After all, it was sultanic discretion that could take away and sometimes bestow.

Benevolence of the Sultan, Vicissitudes of Conflicting Interests

It is important to emphasize here the elusive character of sultanic permissions for the maintenance of non-Muslim communal spaces. For the Yeniköy cemetery, an allusion to a former sultanic permission served political and social expediency. Yet the fact that a future sultan might rescind that permission loomed large in the attitudes of Jewish and Christian communal authorities. They were aware of the revocable nature of such permissions.

Numerous examples from narrative sources may be given to show how the ruler could dispose of the land as he wished. Mevlānā ʿĪsā (d. after 1543), a little-known deputy judge and author of an eschatological text declaring Süleymān to be the universal sovereign of the apocalypse, praised the sultan for his generosity in giving back one of the churches to the Christians in Esztergom.[41] Perhaps the most conspicuous example is Meḥmed II's policy in

[41] Barbara Flemming, "Public Opinion under Sultan Süleymân," in *Süleymân The Second [i.e., the First] and His Time*, ed. Cemal Kafadar and Halil İnalcık (Beylerbeyi, İstanbul: Isis Press, 1993), 57. For Mevlānā ʿĪsā showering apocalyptic imagery on Süleymān, Cornell H. Fleischer, "The Lawgiver as Messiah: The Making of the Imperial Image in the Reign of Süleyman," in *Soliman Le Magnifique et Son Temps: Actes Du Colloque de Paris, Galeries Nationales Du Grand Palais, 7-10 Mars 1990 = Süleymân the Magnificent and His Time: Acts of the Parisian Conference, Galeries Nationales Du Grand Palais, 7-10 March 1990*, ed. Gilles Veinstein (Paris, 1992), 164-166.

the aftermath of the conquest of Constantinople, where he restricted the plunder of the city and was motivated to repopulate it. The discretion of the sultan in such matters noticeably did not figure in the legal opinions of the Ottoman chief jurisconsults. On the contrary, the opinions maintained the preponderant opinion of their legal school concerning the prohibition of the construction of new places of worship in mixed settlements, including the countryside, and the ban on preserving non-Muslim places of worship in areas conquered by force.[42] The definition of "mixed settlement" was linked by Ebū's-Suʿūd Efendi to the observance of Friday prayers in the case of castles and towns and to the existence of a masjid in villages.[43]

An epistle of Ḥüsām Çelebi (d. 1520) with the title "Epistle Produced for the exposition of the conditions of churches in compliance with the sharia" (*Risāla maʿmūla li-bayān ʾahwāl al-kanāʾis sharʿan*) granted to the sultan the utmost authority over decisions even for churches in cities forcibly conquered by Muslims. As a response to what seems to have been an ongoing discussion on the churches of the walled city of Istanbul in the early sixteenth century, as historians also rightly detect, the epistle claimed that churches may be left in possession of their communities by sultanic discretion even in a city conquered by force, to implement the law of subjecthood of non-Muslims under a Muslim rule. The sultan would decide to permit churches in a forcibly conquered place to not only remain in the hands of its community but also to function as a place of worship for them. In a marginal note in the epistle, this situation was openly expressed with an additional qualification: "The practice of banning [non-Muslims] from worshiping [in churches of the forcibly conquered lands] is abandoned in the lands of Rūm."[44] This vast jurisdiction delegated to the sultanic authority

[42] Pehlul Düzenli, *Gayrimüslimlere Dair Fetvâlar: Osmanlı Şeyhülislâmlık Kurumu* (İstanbul: Klasik, 2015), 72-89.
[43] Abū al-Saʿūd Muḥammad ibn Muḥammad, *Şeyhülislâm Ebussuud Efendi Fetvaları Işığında 16. Asır Türk Hayatı*, 105.
[44] Levent Öztürk, "Hüsâm Çelebi'nin (ö.926/1520) Risâle Ma'mûle li-Beyâni Ahvâli'l-Kenâisi Şer'an Adlı Eseri," *İslam Araştırmaları Dergisi*, no. 5 (2001), 155.

created a sweeping power of enforcement. Sweeping though it may have been, sultanic discretion either was not factored into the assessment of the situation of the Yeniköy church, where there was even more dubious proof for the illegality of the church as opposed to the churches of the walled city, or the sultan's authority was balanced or limited by the other powers that be.

Ḥüsām Çelebi's epistle was written, as argued by Feridun Emecen, in response to a debate eliciting a reassessment of the status of the Greek Orthodox churches in the walled city.[45] Although the Ottomans conquered Constantinople after a long strenuous siege,[46] as established by contemporary sources and eyewitness accounts, its forcible conquest was revised gradually, traceable already in the early sixteenth century. By then, the church conversions reached a certain heightened level in Istanbul proper. Consequently, a legal opinion justifying the appropriation of non-Muslim places of worship in a city conquered by force (i.e., Constantinople) gained support among certain scholarly circles. Based on that legal opinion, an early sixteenth-century attempt to confiscate all the Greek Orthodox churches in Istanbul triggered public debate to which Ḥüsām Çelebi was responding in his epistle.

By the early sixteenth century, the walled city of former Byzantine Constantinople witnessed the conversion of many Byzantine edifices into mosques under Ottoman rule. This process was not an overnight development but was gradually realized over a century. But where was the end to this? That is to say, why not convert all the Greek Orthodox churches in the walled city at once, given that the city was taken by force? The sustained encouragement of conversions of space in early modern Ottoman Istanbul predictably bordered on an

[45] Feridun M. Emecen, "Hukuki Bir Tartışmanın Tarihi Zemini : İstanbul Nasıl Alındı?," in *Osmanlı İstanbulu, I : I. Uluslararası Osmanlı İstanbulu Sempozyumu Bildirileri*, ed. Feridun Emecen and Emrah Safa Gürkan (İstanbul, 2013), 39.
[46] Halil İnalcık, "The Policy of Mehmed II toward the Greek Population of Istanbul and the Byzantine Buildings of the City," *Dumbarton Oaks Papers* 23/24 (1969): 229–49.

unwanted attempt at a whole-scale takeover of all non-Muslim places once and for all. It was this discomforting and bold question in the face of which Ḥüsām Çelebi was trying to uphold that the sultanic discretion would opt for leaving non-Muslim places of worship in forcibly conquered areas in the hands of their communities in the lands of Rūm. Sultanic discretion over public matters could set up policies to be followed and instruct judges to abide by those policies.

A detailed description of this early sixteenth-century debate comes from a Greek source titled *Political and Patriarchal History of Constantinople* (*Historia politica et patriarchica Constantinopoleos),* attributed to Manuel Malaxos, completed after the middle of the sixteenth century, and published in 1584 alongside a Latin translation by Martinus Crusius, a professor of Greek at Tübingen.[47] According to this late sixteenth-century source, when the status of the Greek Orthodox churches functioning in Istanbul was disputed in the early sixteenth century on the ground that they should have been confiscated in the aftermath of a forcible conquest, the then Patriarch put forward the claim that Meḥmed II had granted privileges to the Greek Orthodox community and recognized their possession of the church properties in the newly conquered city. The Patriarch was asked to prove his claims with a written document showing an agreement between Meḥmed II and Patriarch Gennadios in 1453.[48] Unable to produce such a document, the Patriarch was approached by a vizier who suggested that the Patriarch bring two elderly janissaries as witnesses for the claim that the city was handed over to Meḥmed II by the Byzantine emperor himself; hence a peaceful

[47] For the relevant section of the debate, Martin Crusius and Immanuel Bekker, eds., *Historia politica et patriarchica Constantinopoleos* (Bonnae: Impensis Ed. Weberi, 1849), 158–69. For the circumstances in which this work was composed, see Marios Philippides, "Patriarchal Chronicles of the Sixteenth Century," *Greek, Roman and Byzantine Studies* 25 (1984): 87–94.

[48] For other similar legendary encounters between the sultan and Gennadios, see Dean Sakel, "Three Tales for a Sultan? Three Tales on Mehmed the Conqueror and Patriarch Gennadius," *British Journal of Middle Eastern Studies* 35, no. 2 (2008): 227–38. For an overview of a number of the sixteenth-century historical accounts, see Marios Philippides, "Patriarchal Chronicles of the Sixteenth Century," *Greek, Roman and Byzantine Studies* 25 (1984): 87–94.

takeover of the city presumably occurred. Following the vizier's suggestion, the Patriarch was able to buttress his claim with the testimony of two elderly janissaries, and the remaining churches of Istanbul were saved from confiscation. The section in *Political and Patriarchal History of Constantinople* recognizes dubious grounds on which the Patriarch managed to save the day: the vizier's complicity in inventing a peaceful conquest story and the ostensibly false testimonies of the two janissaries who were, in turn, offered a handsome reward by the Patriarchate.

Historians have compared this account with other sources to trace the emergence of the narrative of the peaceful surrender of Constantinople. Establishing the genealogy of the narrative of the peaceful surrender and its circulation through other historical sources, Ottomanist historiography has been primarily occupied with factual matters such as the dating of the dispute and the identification of the individuals involved. Who was the reigning sultan, Selīm I or Süleymān?[49] Who was the Greek Orthodox patriarch or the grand vizier helping the Patriarch at the time? For the purposes of this dissertation, these questions are of little importance and will not be treated here.

I argue that one legal opinion of Ebū's-Suʿūd Efendi — an opinion that has also been rightly seen as a trace of the aforementioned revision of the conquest narrative of

[49] Johannes Heinrich Mordtmann, "Die Kapitulation von Konstantinopel Im Jahre 1453," *Byzantinische Zeitschrift* 21 (1912): 129–44; Christos Patrinelis, "The Exact Time of the First Attempt of the Turks to Seize the Churches and Convert the Christian People of Constantinople to Islam," in *Actes Du Premier Congrès International Des Études Balkaniques et Sud-Est Européennes*, vol. 3 (Sofia, 1969), 567–72; Gilles Veinstein, "Les conditions de la prise de Constantinople en 1453: un sujet d'intérêt commun pour le patriarche et le grand mufti," in *Le patriarcat œcuménique de Constantinople aux XIVe-XVIe siècles: rupture et continuité: actes du colloque international, Rome, 5-6-7 décembre 2005*, ed. Augustine Casiday and École des hautes études en sciences sociales (Paris, 2007), 275–87; Hasan Çolak, "Sulhen Mi Anveten Mi? İstanbul'un Fethi'yle Ilgili Bir Hikayenin Gelişimi (16.-19. Yüzyıllar)," in *İmparatorluk Başkentinden Kültür Başkentine: İstanbul*, ed. Feridun M. Emecen (İstanbul: Kitabevi, 2010), 205–13; Feridun M. Emecen, "Hukuki Bir Tartışmanın Tarihi Zemini: İstanbul Nasıl Alındı?," in *Osmanlı İstanbulu, I : I. Uluslararası Osmanlı İstanbulu Sempozyumu Bildirileri*, ed. Feridun M. Emecen and Emrah Safa Gürkan (İstanbul, 2013), 35–41. Patrinelis dates the debate to 1521, during the reign of Süleymān. Veinstein believes the event should be dated to 1538-39, again during the reign of Süleymān. By highlighting Ḥüsām Çelebi's epistle, Emecen states that the debate likely continued for about two decades, from the reign of Bāyezīd II through Süleymān, and ended with Ebūʾs-Suʿūd's legal opinion.

Constantinople — has not drawn sufficient attention from historians. The question seeking the esteemed chief jurisconsult's opinion, likely in the 1540s, about the method of the conquest of Constantinople also mentioned the villages as part of the inquiry: "Did the deceased Sultan Meḥmed conquer the protected Istanbul and *the villages around it* by force?"[50] Ebū's-Suʿūd Efendi gave his opinion in a relatively long response. Whereas acknowledging that Istanbul was known to have been conquered by force, he pointed to the existence of some old churches *intra muros* that remained in the hands of Christians, and considered this to be evidence of conquest by surrender. He also referred to an earlier investigation where two elderly janissaries gave testimonies to Constantinople's capitulation to Meḥmed II. Already in the first modern scholarly publication on the topic by Mordtmann in 1912, the connection between this particular legal opinion and the dispute in question was established.[51] However, the significance of including the villages in this legal question has not been given adequate consideration.

One cannot overlook the importance of this slight addition of the allusion to the villages surrounding Constantinople in a legal opinion that was crucial to the reconstruction of the conquest account of that city. This reference to the villages in the environs of Istanbul proper already in the mid-sixteenth century shows that the city's geographic expansion prompted, in turn, the expansion of its all-encompassing conquest story from one concerning the walled city alone to the fabricated narrative of a whole-scale peaceful surrender of greater Istanbul. As a result, the past was curated with legal reasoning adjusted to the circumstances contemporary to the debate on the conquest of Constantinople.

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[50] Abū al-Saʿūd Muḥammad ibn Muḥammad, *Şeyhülislâm Ebussuud Efendi Fetvaları Işığında 16. Asır Türk Hayatı*, 104. Emphasis added.

[51] Mordtmann establishes this link between the legal opinion and the broader debate. Mordtmann, "Die Kapitulation von Konstantinopel Im Jahre 1453," 136.

This historical and legal revision stands in stark contrast to historical sources contemporaneous to the conquest of Constantinople that did not explicitly categorize villages in the city's hinterland as peaceful or forcible conquests, as shown in Chapter 1. Those villages, at least some of them, may indeed have been conquered by force. Zachariadou notes that during the early Ottoman conquests, the surrounding countryside of an urban center may have been taken by force even when a peace deal was achieved for that urban center.[52] The factual lacuna that we, historians, face concerning the actual circumstances in the hinterland of Constantinople at the time of the conquest was equally experienced in the early sixteenth century when Ebūʾs-Suʿūd Efendi's legal opinion expressed a view of Constantinople whose conquest narrative came to comprise the villages around it.

A similar interpretation was echoed in the late sixteenth-century Greek chronicle, *Political and Patriarchal History of Constantinople*, which shared the same comprehensive gaze at the city and its surroundings. In describing the celebration of the joyful Christians upon hearing the news that the confiscation threat to the churches in the walled city was eventually repealed, the text also cleverly stated: "[T]he universal great Church and all the other churches of the city and *Galata* were liberated" (*ελευθερώθη η καθολική μεγάλη εκκλησία και αι επίλοπαι όλαι εκκλησίαι της πόλης και του Γαλατά*).[53] Salvation from a threat to the churches of the walled city was quickly extended to cover those in Galata, the town known to have surrendered to the Ottomans at the time of the conquest.[54] As articulated by Sakel, this late sixteenth-century narrative, similar to other Greek chronicles at the time,

[52] Elizabeth A. Zachariadou, "Pacts and Some Facts," in *Studies in Islamic Law: A Festschrift for Colin Imber*, ed. Andreas Christmann, R. Gleave, and Colin Imber (Oxford, 2007), 319.
[53] Crusius and Bekker, *Historia politica et patriarchica Constantinopoleos*, 169. A translation into English of the relevant section can be found in Hasan Çolak, "Co-Existence and Conflict Between Muslims and Non-Muslims in the 16th Century Ottoman Istanbul" (MA thesis, Ankara, Bilkent University, 2008), 133.
[54] For the surrender of Galata and its consequences, see Halil İnalcık, "Ottoman Galata, 1453–1553," in *Essays in Ottoman History* (Eren Yayıncılık, 1998), 271–374.

recast both the encounter between Meḥmed II and Patriarch Gennadios in 1453 and the early sixteenth-century debate over the churches in the walled city and promoted contemporaneous interests by circulating its version of the past blended with historical distortions.[55]

The various sixteenth-century claims (as in Ebū's-Suʿūd's legal opinion, which refers to the villages around Istanbul, and in *Political and Patriarchal History of Constantinople)* reflect both the inevitable expansion of the cityscape and a desire to create a legal paradigm to approach the remaining non-Muslim places of worship in the context of changes in the religious topography of the wider city. The extension of the peaceful conquest narrative to the churches in Galata directly resulted from Ottoman policies of managing urban space in greater Istanbul with expulsions, relocations, and expropriations. Instability felt by non-Muslims in the face of sultanic orders shuffling communities around the city, allocating them to new neighborhoods, and converting churches to mosques contributed to forging narratives that would help compose counterarguments in similar attempts at confiscations of places of worship in the future.

In the refashioned narrative of the conquest of Constantinople, an interplay of religious normativity and political expediency can be seen. Historians have already noticed that categories of conquest by surrender or by force do not have to be well-established or contemporary with the conquests themselves; instead, they may be applied depending on the circumstances of subsequent periods and revisited accordingly.[56] As also noted by Gilles Veinstein, for instance, the same remedy of partial surrender was applied in the case of Damascus' conquest story in the early Islamic era.[57] Baber Johansen demonstrates how the

[55] Sakel, "Three Tales for a Sultan?," 228-229.
[56] Walter Emil Kaegi, *Byzantium and the Early Islamic Conquests* (Cambridge ; New York: Cambridge University Press, 1992), 84-85; Noëmie Lucas, "Landowners in Lower Iraq during the 8th Century: Types and Interplays," in *Landowners in Lower Iraq during the 8th Century: Types and Interplays* (De Gruyter, 2020), 92.
[57] Gilles Veinstein, "Les Conditions de La Prise de Constantinople En 1453: Un Sujet d'intérêt Commun Pour Le Patriarche et Le Grand Mufti." In Le Patriarcat Oecumenique de Constantinople Aux XIVe - XVIe Siècles,

nature of the Islamic conquest of Egypt challenged Maliki jurists who considered Egypt to be conquered by force and who interpreted its lands to be the collective property of Muslims in the form of an endowment. This particular categorization did not allow private ownership over such lands. By the ninth century, with the conversion of masses into Islam in Egypt, this initial interpretation serving the interests of a minority group of Muslim rulers over a non-Muslim subject population necessitated a reevaluation of the nature of the conquest for land tenure.[58] One of the solutions these jurists came up with was to undermine the application of the general categories of conquest (by force or through contract) to individual towns, villages, or tax districts — a legal position that, in turn, brought about a reconstruction of local history.[59]

A conceptual shift from a wholesale understanding of greater Istanbul to a tendency to approach Istanbul's hinterland in a piecemeal fashion occurred over about a hundred years during the time between Ebū's-Suʿūd's legal opinion and the Yeniköy debate, which has been treated in Chapter 2. Ebū's-Suʿūd's response likely concluded the debate in the early sixteenth century. It helped contain sharp swings against efforts of massive confiscation of the churches in the walled city and beyond in the early sixteenth century. However, this legal opinion of the esteemed chief jurisconsult Ebū's-Suʿūd Efendi lost its relevance by the time of the early seventeenth-century Yeniköy debate. It did not make a lasting impression, was perhaps forgotten or considered irrelevant to the Yeniköy case.[60] At the time of the Yeniköy debate in

275–87, 2007. See also Fattal, Antoine. Le Statut Légal Des Non-musulmans En Pays D'Islam. [Beyrouth]: Impr. catholique, 1958, 41.

[58] Baber Johansen, "Can the Law Decide That Egypt Is Conquered by Force? A Thirteenth-Century Debate on History as an Object of Law," in *Studies in Islamic Law: A Festschrift for Colin Imber*, ed. Andreas Christmann and Robert Gleave (Oxford: Oxford University Press, 2007), 143-146.

[59] Ibid., 146.

[60] It is important to note here that sometimes the legal opinions of the former chief jurisconsults were put in circulation when seen relevant. For instance, in the mid-seventeenth century, the Ḳāḍīzādelis, while seeking the support of the incumbent jurisconsult Bahai Mehmed Efendi for their objections to Sufis' whirlings and use of music, brought up epistles and legal opinions by Kemalpaşazade and Ebūʾs-Suʿūd denouncing the Sufi rituals. See, Zilfi, *The Politics of Piety*, 142-143.

the early seventeenth century, the then chief jurisconsult Ḫocazāde Meḥmed Efendi was much more distant from the times of conquest than Ebūʾs-Suʿūd Efendi was. As Taşköprüzāde Kemāleddīn Efendi tried to show in his arguments, there was a greater lapse of memory regarding the exact circumstances of the conquest of Yeniköy. Eventually, non-Muslim communal spaces in greater Istanbul's specific neighborhoods and districts occasionally went through similar inspections, with the conquest narrative being reassessed again each time.

While Ebū's-Suʿūd Efendi's legal opinion did not have a lasting impact among legal scholars, it seems that *Political and Patriarchal History of Constantinople*'s narrative succeeded in infiltrating many narrative accounts. In another version of Constantinople's conquest narrative, the idea that half of the city was conquered by force and the other half by surrender also emerged. Feridun Emecen asserts that Cenābī Muṣṭafā Efendi (d. 1590) was the first Ottoman chronicler who made the particular claim that Constantinople was conquered by force through the sea walls but by peaceful surrender along the land walls in Edirnekapı.[61] Once in circulation, this particular claim, with several slight iterations, was also attested in subsequent periods in the writings of Hezārfen Ḥüseyin Efendi (d. 1691)[62] and Dimitri Cantemir (d. 1723),[63] and, finally, much later, in western sources — as in James Dallaway, Robert Walsh, Joseph von Hammer, and Alphonse de Lamartine.[64]

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[61] Emecen, "Hukuki Bir Tartışmanın Tarihi Zemini: İstanbul Nasıl Alındı?," 36.
[62] Ahmet Nas, "Hezârfen Hüseyin Efendi'nin Tenkîhü't-Tevârîh-i Mülûk İsimli Eserinin Tahlili ve Metin Tenkidi" (MA thesis, Erzincan Binali Yıldırım Üniversitesi, 2019), 381.
[63] Dimitrie Cantemir and N. Tindal, *The History of the Growth and Decay of the Othman Empire* (London: J.J., and P. Knapton, 1734), 101-102. Cantemir's account notably combines the version in *Historia* with the partial surrender narrative. However, as suggested both by Mordtmann and Veinstein, it is uncertain if Cantemir directly consulted with *Historia*. For Cantemir's sources in Turkish and in general, see Cristina Bîrsan, Dimitrie Cantemir and the Islamic World, trans. Scott Tinney (Istanbul: The Isis Press, 2004), 45. In addition to Hezarfen, Veinstein also refers to Müneccimbaşı as an Ottoman writer mentioning a peaceful surrender of Constantinople. Veinstein, "Les conditions de la prise de Constantinople en 1453: un sujet d'intérêt commun pour le patriarche et le grand mufti."
[64] Çolak provides a chronological overview of the appearance of (partial) surrender narratives in historiography: Çolak, "Co-Existence and Conflict Between Muslims and Non-Muslims in the 16th Century Ottoman Istanbul," 55-64.

Another thread worthy of attention in the emergence of the peaceful conquest of Constantinople in the early sixteenth century is the juxtaposition between the classical Islamic distinction of lands (as exemplified in Ebū's-Suʿūd Efendi's legal opinion) and the recognition of the sultan's authority in determining the status of non-Muslim places of worship (as voiced by Ḥüsām Çelebi). In this juxtaposition, Emecen states, the latter best illustrates Ottoman practice in reality.[65] By highlighting the idea of public political discretion, Ḥüsām Çelebi pointed to a particular policy that prevailed in the Ottoman realm and that determined the fate of non-Muslim communal spaces. Despite this, the legal opinions of the Ottoman chief jurisconsults, including those that came after Ebū's-Suʿūd Efendi, continued to stick to the idea that non-Muslim places of worship would not be allowed to function if the land in question was conquered by force.[66] As suggested earlier, unlike Ḥüsām Çelebi, the chief jurisconsults refrained in their legal opinions from justifying the standing churches in Istanbul by pointing to sultanic discretion. Instead, they clung to the idea that the Greek Orthodox churches in Istanbul must have been legitimate due to a peaceful surrender of Constantinople to the Ottomans, but not because the conquering sultan wished it so. It is essential to recognize this step of forging a partial surrender story in narrating the conquest of the City as a critical tool to balance both the explicit requirements of a forcible conquest as well as the absolute sultanic discretion that was otherwise recognized to guarantee privileges even under the conditions of conquest by a military force. Sultanic discretion was retractable and hence contingent upon changing social circumstances.

[65] Emecen, "Hukuki Bir Tartışmanın Tarihi Zemini: İstanbul Nasıl Alındı?" 41. For the sultan's legally sanctioned authority determining the status of lands conquered by force, see also Ahmet Akgündüz, ed., *Osmanlı kânûnnâmeleri ve hukûkî tahlilleri* (İstanbul, Turkey, 1990), vol. 8, 425.
[66] See for instance Abū al-Saʿūd Muḥammad ibn Muḥammad, *Şeyhülislâm Ebussuud Efendi Fetvaları Işığında 16. Asır Türk Hayatı*, 106.

Securing the Local and Imperial Support

The contingency of imperial support was well-known to different religious groups. In the mid-eighteenth century, a friar named Marijan Bogdanović from a Catholic monastery in a small settlement near Sarajevo narrated the complex judicial steps he and the friars followed to receive permission from the Ottoman authorities to reconstruct a church within the precincts of the monastery after a devastating fire.[67] Frazzled from the onerous and taxing rigmarole completed for permission, Bogdanović explained his goal in writing his account as passing on to the coming generations of friars of the monastery the pitfalls to avoid and the measures to take to secure a favorable decision. It seems that the friars first consulted with local Muslims, who suggested bringing the judge from a nearby town to document the extent of the damage after the fire. With an official document at hand, the friars went to Sarajevo to acquire a permit from the governor of Bosnia for the reconstruction of the church. However, it turns out that the governor informed them of the requirement of an imperial order from Istanbul for their request. Bogdanović noted here the shock the friars felt in the face of the governor's treatment, different from another governor who, years ago, had permitted the reconstruction of a church in return for a handsome payment from the monastery. The friars then got assistance from a local Muslim scribe to compose a petition to the sultan. In the petition, too, the friars followed the advice of local Muslims, as elucidated by Bogdanović. The emphasis was put on the monastery's existence at the time of the conquest and on the potential loss of imperial revenues if the friars left their places and possessions in case the sultan did not grant the permission they were requesting. This latter menacing tone spoke

[67] Maximilian Hartmuth, "The Challenge of Rebuilding a Catholic Monastery in Bosnia in 1767," in *Christian Art under Muslim Rule: Proceedings of a Workshop Held in Istanbul on May 11/12, 2012*, ed. Ayşe Dilsiz et al. (Leiden: Nederlands Instituut voor het Nabije Oosten, 2016). In the rest of my description of this church's reconstruction process, I rely entirely on Hartmuth's article.

from a place of privilege as the monastery contributed to the imperial administration by mining rich mineral resources in the area.

Bogdanović states that, after failing to commission a local Muslim to deliver the petition to the imperial center, the friars sent three Bosnian Catholics for the mission, with substantial money to expend for the imperial order. Upon their arrival in Istanbul, the three envoys learned about the reigning sultan's stringent policies towards such demands as the reconstruction of churches. Empty-handed, the mission went back to Bosnia. Bogdanović narrated that the friars relaunched their reconstruction plans only upon the enthronement of a new sultan. Again, after acquiring a judicial document from a judge and, this time, a legal opinion from a local jurist for the legality of their request, they managed to receive permission for the reconstruction from the governor of Bosnia — the same governor who earlier had declined to give permission and asked for imperial authorization.

Bogdanović's account is fascinating for many reasons. First, the acquisition of such permission was expensive, sometimes more costly than the actual reconstruction. This was due to the sum of money paid in each step of approaching someone of an official or semi-official capacity — the judge, the scribe who wrote the petition, the jurist, and the central authorities in Istanbul.[68] Second, acquiring permits to restore places of worship was an essential source for various communities to learn about the Ottoman political and legal system.[69] Often, the process was circuitous and required an in-depth understanding of the

[68] In Gradeva's examples from the seventeenth and eighteenth centuries, the cost of acquiring a permit was about one-fifth of the sum spent for reconstruction. Rossitsa Gradeva, "From the Bottom Up and Back Again until Who Knows When: Church Restoration Procedures in the Ottoman Empire, Seventeenth-Eighteenth Centuries (Preliminary Notes)," in *Political Initiatives "From the Bottom Up" In the Ottoman Empire*, ed. Antonis Anastasopoulos (Crete University Press, 2012), 143.

[69] For this particular point, see Gradeva, "From the Bottom Up and Back Again until Who Knows When: Church Restoration Procedures in the Ottoman Empire, Seventeenth-Eighteenth Centuries (Preliminary Notes)." In contrast, both Vatin and Kolovos observe that the local judges and deputy judges in several Aegean islands could give authorizations for church restorations. This might be due to those islands' specific demographic composition and local conditions. See Nicolas Vatin, "Les Nâ'ib Du Ḳaẓâ de Cos Au XVIe-XVIIe Siècle à La Lumière Du Fonds Ottoman Des Archives Du Monastère de Saint-Jean à Patmos," *Turcica* 51 (2020): 332; Elias Kolovos,

legal structure and political climate. Finally, and most importantly, this account indicates how the governor of Bosnia shifted his position according to how the reigning sultan handled such cases of restoring non-Muslim places of worship; that is to say, depending on his interpretation of the reigning sultan's will and policies. As noted by Maximilian Hartmuth, "individual officeholders' interpretation of the kind of permissions that they were authorized to give" at any point in time was dramatically varied and politically contingent, leading the frustrated Bogdanović to write about the experiences of the friars in the ordeal of achieving the acquisition of the necessary reconstruction permit. In documenting this legal ordeal, Bogdanović provided his brothers with advice on navigating local and imperial bureaucratic and judicial structures.

Going down from the hills around Sarajevo to the environs of Istanbul, we can direct our attention to another illuminating case in which we can observe interactions between the local and the ecumenical. In 1705, Neilos Mentrinos, the bishop of Metrai (Çatalca) and Athyra (Büyükçekmece) between 1697 and 1711,[70] notes in the codex of the bishopric that he had to sell off all the vineyards of the bishopric to certain commoners from the Greek Orthodox community, under the pressure of the chief of police (*subaşı)* who wanted to acquire them all for himself (διατὶ ἤθελεν νὰ τοὺς ἐπάρη ὁ σούμπασης).[71] Neilos then listed what parts of the fields he passed on to whom and mentioned the amount he received in return for those sales. The same document, however, ended on a surprising note: Neilos added that,

"Müvellas and Naibs on the Islands of Andros and Syros, Sixteenth to Eighteenth Centuries," *Turcica* 51 (2020): 356.

[70] Miltiades Stamoules, "Αρχιερατικοί Κατάλογοι Των Επαρχιών Της Θράκης Από Χριστού (Archieratikoi Katalogoi Ton Eparchion Tes Thrakes Apo Christou)," *Θρακικά (Thrakika)* 14 (1940), 142. For the biographical information on Neilos, see Demetrios Paschales, "Τρεις Εν Θράκη Από Του ΙΖ΄ Μέχρι Του ΙΘ΄ Αιώνος Ιεράρχαι (Treis en Thrake apo tou iz mechri tou ith Aionos Ierarchai)," *Θρακικά (Thrakika)* 3 (1932): 3–16.

[71] Kyriake Mamone, "Τρεις Κώδικες Της Επισκοπής Μετρών Και Αθύρα: ο υπ'αριθ. 182, 1579-1803, ο υπ'αριθ. 185, 1762-1865 Και ο υπ'αριθ. 184, 1822-1887 (Treis Kodikes tes Episkopes Metron kai Atyra: O yp'arith. 182, 1579-1803, o yp'arith. 185, 1762-1865 kai o yp'arith. 184, 1822-1887)," *Εταιρεία Θρακικών Μελετών (Etaireia Thrakikon Meleton)* 52 (1956), 152.

with the money acquired out of the sale of the vineyards, he bought a house from a community member, demolished it, and added the plot of land to the precinct of the bishopric. It is not clear how Neilos managed to avoid the watchful eyes of the chief of police who would have easily found legal ground for reversing the extension of the precincts of the bishopric. [72] Perhaps the church was a proper enclave surrounded by Christian households. It is also interesting that upon Neilos' resignation from office, his successor Metrophanes (in office 1712-1722)[73] made another entry in the codex in 1712 in which, after enumerating the belongings of the bishopric as he found them upon his arrival, he mentioned that after his ordination, the two priests of the town informed him about the sale of the bishopric's vineyards for 120 *kuruş* by his predecessor Neilos with a cunning trick (μέ τέχνη πονηρά). The new bishop, Metrophanes, ended his note by saying that he could not do anything to reverse what had happened seven years before his arrival.[74]

What is striking here is that Neilos took these steps in selling the vineyards of the bishopric and extending its plot of land without any explicit communication with the Greek Orthodox Patriarchate.[75] The fact that Neilos acted on an individual initiative can be derived

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[72] To the question: "Would the Christians in a town be able to expand the small courtyard of their church by buying a small plot of land for this reason?" Ebussuud Efendi responds: "Since the courtyard has sufficed until now, they can be content with it from now on as well." Abū al-Sa'ūd Muḥammad ibn Muḥammad, *Şeyhülislâm Ebussuud Efendi Fetvaları Işığında 16. Asır Türk Hayatı*, 106.

[73] Stamoules, "Archieratikoi Katalogoi Ton Eparchion Tes Thrakes Apo Christou," 142.

[74] Miltiades Sarantes, "Κώδικες Της Επισκοπής Μετρών Και Αθύρα (Kodikes Tes Episkopes Metron Kai Athyra)," *Θρακικά (Thrakika)* 5 (1934), 174-175.

[75] This lack of communication is also an appropriate occasion to note the failures of the paradigm called "the millet system." Starting from the nineteenth century, this paradigm served very conveniently the purposes of nationalist historiographies that imagined a self-isolated, autonomous, hence unaltered, core of group identity of different religious communities, a national core that would realize itself in the age of nations. The non-Muslim communities' religious and administrative autonomy was considered empire-wide and read as proto-nationalistic preservation of national essence. In this sense, the institution of the Greek Orthodox Patriarchate, its rights, privileges, and obligations within the Ottoman realm were understood with the projection of this paradigm back into the pre-modern period. The patriarchate was imagined to be acting as a centralized decision-making institution. Since I consider the millet-system paradigm to have been successfully debunked by now, I do not extensively engage with it in this dissertation. For the traditional view in support of the millet system, see 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* (London, New York, Toronto: Oxford University Press, 1950), vol. 1, Part 2, 212-261; Theodoros Papadopoullos, *Studies and Documents Relating to the History of the Greek Church and People under Turkish Domination* (Brussels, 1952). The criticisms on this paradigm are too numerous to cite

from his successor Metrophanes' reactions and disapproval. Neilos' stated motivation in selling the vineyards was to dodge the shady attitudes of a local Muslim powerholder, namely the chief of police, under whose pressures Neilos had to devise the solution he thought was appropriate. Interestingly, as suggested earlier, Neilos nonetheless managed to acquire a different plot of land on behalf of the bishopric.

Local Powerholders

The involvement and menacing attitude of the chief of police (*subaşı*) in challenging Neilos, the bishop of Metrai (Çatalca) and Athyra (Büyükçekmece), should be analyzed within the broader framework of how local authorities often acted out of their own accord, at times cooperating with their non-Muslim neighbors in advancing their communal requests (as we have seen in the friars of the Bosnian monastery), at other times taking advantage of an already stringent and intense political climate.[76] In an example of local initiatives and power networks, the conversion of the Rotunda of Thessaloniki into a mosque in 1589-1590 was triggered by a local Sufi sheikh who composed a petition addressing the sultan for the need to

here; the most influential piece that questioned the paradigm is Benjamin Braude, "Foundation Myths of Millet System," in *Christians and Jews in the Ottoman Empire: The Functioning of a Plural Society*, ed. Benjamin Braude and Bernard Lewis, vol. 1 (New York: Holmes & Meier Publishers, 1982), 69–88. Also see Amnon Cohen, "On the Realities of the Millet System: Jerusalem in the Sixteenth Century," in Christians and Jews in the Ottoman Empire: The Functioning of a Plural Society, ed. Benjamin Braude and Bernard Lewis, vol. 2 (New York: Holmes & Meier Publishers, 1982), 7–18; Daniel Goffman, "Ottoman Millets in the Early Seventeenth Century," *New Perspectives on Turkey* 11 (October 1994): 135–58; Paraskevas Konortas, "From Ta'ife to Millet: Ottoman Terms for the Ottoman Greek Orthodox Community," in *Ottoman Greeks in the Age of Nationalism: Politics, Economy, and Society in the Nineteenth Century*, ed. Dimitri Gondicas and Charles Philip Issawi (Princeton, N.J: Darwin Press, 1999), 135–58. After the initial backlash to the millet system paradigm, another viewpoint is offered as an alternative that eventually has reduced the organization of the Greek Orthodox Patriarchate to its fiscal liabilities. For this perspective, see Halil İnalcık, "The Status of the Greek Orthodox Patriarch under the Ottomans," *Turcica* 23 (1991): 407–36; Macit Kenanoğlu, *Osmanlı Millet Sistemi: Mit ve Gerçek*, (İstanbul: Klasik, 2004); Tom Papademetriou, *Render unto the Sultan: Power, Authority, and the Greek Orthodox Church in the Early Ottoman Centuries* (Oxford: Oxford University Press, 2015). For a critique of this fiscalized conception of the role and status of the Patriarchate, despite its religious character, in the preservation of social order, Elif Bayraktar Tellan, "The Patriarch and the Sultan: The Struggle for Authority and the Quest for Order in the eighteenth-century Ottoman Empire" (Ph.D. Dissertation, Bilkent University, 2011).

[76] Gradeva presents numerous examples of local Muslims obstructing the already authorized reconstruction or restoration of non-Muslim places of worship. Gradeva, "From the Bottom Up and Back Again until Who Knows When: Church Restoration Procedures in the Ottoman Empire, Seventeenth-Eighteenth Centuries (Preliminary Notes)."

convert this church and received endorsement from the judge of Thessaloniki for his petition. The sultanic order granted the wish.[77]

Illustrative of the web of information across different provincial centers as well as between the imperial center and provinces, an imperial order of 1587 was dispatched to the judges and governors of Aleppo, Damascus, Van, Amid, Tripoli, Nikopolis, and Ahyolu after the conversion of yet another church into a mosque in Istanbul. The decree forbade the conversion of churches into mosques in these cities and ordered that "churches retained by the Christians at the time of each city's conquest be left untouched."[78] Necipoğlu assumes that, given the year of the dispatch, the converted church under discussion must be *Fethiye*, the imperial mosque converted from the Orthodox patriarchal church in Istanbul. It is no coincidence that any top-level incident in Istanbul may have had repercussions in other major urban centers. The travel account of Simeon of Poland, an Armenian traveler in the 1610s in the Ottoman Empire, demonstrates the powerful influence of a certain jurist named Esʿad Efendi, who happened to be in Jerusalem in 1616. Simeon states that Esʿad Efendi seized a church in town, had a mosque built next to it, and attributes Esʿad Efendi's unquestioned authority to his being "of noble birth and a close advisor of the sultan."[79] There is no doubt that this jurist was none other than Ḫocazāde Esʿad Efendi, son of Ḫoca Saʿdeddīn and the judge of Istanbul at the time of the destruction of the church in the Eminönü case treated in Chapter 3.[80] In this example, it was a powerful outsider who changed a local dynamic,

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[77] Nenad Filipović, "Grand Vizier Koca Sinan Pasha and the Ottoman Non-Muslims," in *Entangled Confessionalizations? Dialogic Perspectives on the Politics of Piety and Community Building in the Ottoman Empire, 15th-18th Centuries*, ed. Tijana Krstić and Derin Terzioğlu (Gorgias Press, 2022), 625–72, 646-648.
[78] Gülru Necipoğlu, *The Age of Sinan: Architectural Culture in the Ottoman Empire* (Princeton: Princeton University Press, 2005), 59.
[79] Simēon, *The Travel Accounts of Simēon of Poland*, trans. George A. Bournoutian (Mazda Publishers, 2007), 242.
[80] As his biographical data confirms, Esʿad Efendi went on a pilgrimage to Mecca in 1023/1614-5 and stayed for a while in Jerusalem. He would become the chief jurisconsult upon his return from pilgrimage, succeeding his brother Ḫocazāde Meḥmed after the latter's death. Nev'îzâde Atâyî, *Hadâ'iku'l-Hakâ'ik Fî Tekmileti'ş-Şakâ'ik*, 1639.

perhaps at the request of locals. Another case illustrates the role of the Janissaries in spearheading ideas in vogue. In his visit to Bitlis in 1655, Evliya Çelebi disapprovingly narrated that a Janissary claiming to be affiliated with the Ḳāḍīzādelis bought an illustrated copy of the Persian epic poem Shāhnāme at an auction and, considering the figural representation of animate objects to be forbidden in Islam, damaged its illustrations.[81] Such cases created ripples of consecutive reactions and legal issues near and far. It is equally crucial to note, however, the extent and dissemination of such information through any imperial agent (judges themselves, governors, Janissaries, etc.) who embraced and channeled the flow of political and legal trends and who got emboldened to take the initiative to stretch further what could be considered a new political climate.

The court case for the Yeniköy church can also be read through the officials involved. The case was initiated by an imperial gatekeeper (*bevvāb-ı sulṭānī*) performing the task of monitoring public morality (*ʿalā zaʿmihi bi-ṭarīḳi'l-ḥisba*) in the original complaint made about the public procession of the Christians in Yeniköy.[82] The cemetery next to the Yeniköy church briefly fell to the hands of a court summoner (*muḥżir*). Strikingly, these two cases were not initiated by "villagers" or "Muslims of the village," expressions that otherwise exhibit nothing more than a generic and monolithic mass in most legal cases.[83] This demonstrates how political and legal structures were experienced, modified, and appropriated by agents of the empire.

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[81] Evliya Çelebi, *Evliya Çelebi Seyahatnâmesi*, ed. Orhan Şaik Gökyay et al. (İstanbul: Yapı Kredi Yayınları, 1996), vol. 4, 145-46. Ironically, the Janissary spared one male figure and left it unaltered due to its resemblance to a male beauty the Janissary met in another city.

[82] Although the epistles written for the Yeniköy debate does not state that the imperial gatekeeper was in fact working as supervisor of public morality, a court entry confirms this for the year of 1609. In fact, the entry clarifies that the imperial gatekeeper named Osman Bey was the supervisor of public morality in Istinye and that he was appointing another person to take up the task on his behalf. YK 26: 123. In another example, the appointed supervisor of public morality in Yeniköy farmed out the tasks for regulation of public morality to a court summoner: YK 26: 115.

[83] Eleni Gara, "In Search of Communities in Seventeenth Century Ottoman Sources: The Case of the Kara Ferye District," *Turcica* 30 (1998): 135–62, 141-142.

In the case of the Christian cemetery of Yeniköy, it was İbrāhīm, the court summoner, who was willing to seize the cemetery in Yeniköy. Very little information is available about the backgrounds of the persons who filled the office of court summoner (*muḥżir*). İbrāhīm's name is attested to often in the court registers of Yeniköy as performing his duties as court summoner, as being present among notarial witnesses of the court (*şuhūdü'l-ḥāl*), as a legal guardian appointed by the court for orphans, as a legal agent (*vekīl*) designated by different individuals to represent them in legal cases, and as an actual witness to many legal disputes in the village.[84] With the frequent change of deputy judges in Yeniköy, İbrāhīm was one of the staples of Yeniköy's legal culture over the years he served as a court summoner. He was not an ordinary person simply seeking small gains and advantages at the expense of the cemetery land in Yeniköy. One could argue that he may have been much more cognizant of the legal consequences of his behavior while interfering with the Christians of Yeniköy over the use of the cemetery. His prominent role in the village as a man of *ehl-i örf* with an official capacity, obviously well-known among the villagers, would have made his actions all the more intimidating, at least from the perspective of the Christian residents of the village.

It is important to note here the long-lasting presence of court summoners vis-à-vis deputy judges in Yeniköy. As observable through the Yeniköy court registers, because the dignitary judgeship of Galata changed hands often in the seventeenth century, scribes and deputy judges whose appointments were linked to the judge himself also changed. This situation finds its expression in a legal maxim of Ebūʾs-Suʿūd: "The appointment and dismissal of deputy judges are delegated to judges."[85] In the biographical sketch of Ġanī-zāde

[84] For the appointment of Ibrāhīm bin Durmuş by the court as legal guardian for orphans, YK 24, 36; for his acting as a witness for an appointment of a legal agent in a court case, see YK 27: 53 and YK 29: 15; for his appearance as witness to a court hearing, see YK 24: 18 for a case in 1605 and YK 30: 121 in 1618.
[85] Abū al-Saʿūd Muḥammad ibn Muḥammad, *Maʿrûzât Şeyhülislâm Ebussuûd Efendi*, ed. Pehlül Düzenli (Istanbul: Klasik, 2013), 228; Karaçelebizade Abdülaziz, *Ravzatü'l-ebrâr zeyli: tahlîl ve metin, 1732*, ed. Nevzat Kaya (Ankara: Türk Tarih Kurumu, 2003), 157: "Within three days after becoming the judge of Istanbul, Şeyh-

Meḥmed Nādirī (d. 1612), Nevʿīzāde notes that when Nādirī replaced Kemāleddīn Efendi as the judge of Galata, "he, together with his corps of exultant deputy judges, cheered up."[86] From such references, it is safe to assume that dignitary judges could recruit their subordinates, perhaps from among their protégés. Appointment deeds in court records of Istanbul, as well as the notes of deputy judges themselves upon their assumption of a position, recognized personal links between the dignitary judge as the patron and the deputy judges as clients working for him.[87] When a dignitary judge moved from a position to a new place, his corps of deputies followed him. Consequently, deputy judges working for a dignitary judge also frequently moved from place to place.[88]

Court summoners, however, were a lot more stable in the social and legal culture of the Bosphorus villages.[89] They were the disguised mainstay of this legal culture. As for the compensation for the work of court summoners, we only have some general tidbits from narrative and biographical sources., Uzunçarşılı notes that court summoners working for the chief justices did not have a salary and that they relied on perquisites (*baḫşiş*) that they

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oğlu appointed scribes and deputy judges to the courts and initiated the office of the services of market inspection" (*Şeyh-oğlu kādı-i İstanbul olup üç gün mehâkime taʿyin-i küttâb u nüvvâb ve mübâşeret-i mukātaʿ-ı hizmet-i ihtisâb etdükden sonra*). For the judge of Cairo who was instructed to appoint the deputy judges to work under his supervision, see Muhammed es-Seyyid Mahmud, *XVI. asırda Mısır eyâleti*, (İstanbul: Edebiyat Fakültesi Basımevi, 1990), 241. Another example of dignitary judges working closely with their deputies was when a dignitary judge, upon appointment to a new judgeship, would send his deputy right away to the location to seize the position and govern its revenues. When Taşköprüzāde Kemāleddīn Efendi was appointed to Thessaloniki, he arrived in the city several days after the deputy judge he had sent earlier. Nev'îzâde Atâyî, *Hadâ'iku'l-Hakâ'ik Fî Tekmileti'ş-Şakâ'ik*, vol. 2, 1304.

[86] "*ḥükūmet-i nevvāb-ı kām-yābları ile revnaḳ buldı*" Nev'îzâde Atâyî, *Hadâ'iku'l-Hakâ'ik Fî Tekmileti'ş-Şakâ'ik* (Türkiye Yazma Eserler Kurumu Başkanlığı, 2017), vol. 2, 1731.

[87] For example, see YK 29: 2.

[88] However, the frequent change of deputy judges was not the case everywhere. In provinces, deputy judges were typically appointed from among the local population. Engin Deniz Akarlı, "The Ruler and Law Making in the Ottoman Empire," in *Law and Empire: Ideas, Practices, Actors*, ed. Jeroen Duindam et al. (Brill, 2013), 93; Boğaç A. Ergene, *Local Court, Provincial Society and Justice in the Ottoman Empire: Legal Practice and Dispute Resolution in Çankırı and Kastamonu (1652-1744)* (Leiden; Boston: Brill, 2003), 25-26.

[89] The same could be speculated for other major cities. For Andros and Syros, Kolovos makes the same observation that certain court personnel, including court summoners, were part of the local community and often served longer than the deputy judge: Elias Kolovos, "Müvellas and Naibs on the Islands of Andros and Syros, Sixteenth to Eighteenth Centuries," *Turcica* 51 (2020): 354. In Cairo, court summoners even joined the judge of Cairo during his sessions in the court of the governor of Cairo. es-Seyyid Mahmud, *XVI. asırda Mısır eyâleti*, 247.

collected as harbingers upon delivering glad tidings (*müjde*).[90] Court summoners working in regular courts were compensated proportionally based on duties they fulfilled, unlike court scribes and deputy judges who received fixed amounts of shares out of document fees.[91] A law book of 1565 issued for the province of Bosnia can be taken to weigh the financial motivation of court summoners. Court summoners were instructed to receive 2% of the total revenues obtained in a court of law. To this end, an extraordinary correspondence, as recorded in the Yeniköy court registers, sheds light on how court summoners were motivated to bring certain news to the deputy judge of Yeniköy:

> Following the greetings, it is communicated to the deputy judges:
>
> The one who happens to be the deputy judge in Istinye arrives at the coffeehouse of Istinye in the morning every day and drinks coffee there. Without dawdling (*eğlenmeyüb*) much, he arrives in Yeniköy and rests in the court of law until the time of the afternoon prayer (*ikindi*). Afterward, he arrives at his place in Istinye and, after resting a bit, again goes to the coffeeshop of Istinye. After performing his prayers at the prayer time, he passes his time joyfully.
> However, his one ordeal is that when His Excellency the *efendi* [the judge], possessor of felicity, asks for judicial fees (*maḥṣūl*) at the end of the month, [?] the remedy is this: the path of unchecked covetousness should not be followed, and two-thirds of all

[90] İsmail Hakkı Uzunçarşılı, *Osmanlı Devletinin Ilmiye Teşkilâtı* (Ankara: Türk Tarih Yurumu Basimevi, 1965), 90. One of the good news the court summoners of chief justices carried was when they informed judges and madrasa teachers about their newly acquired posts. See Hezarfen Hüseyin Efendi, *Telhîsü'l-beyân fî kavânîn-i Âl-i Osmân*, ed. Sevim İllgürel (Ankara: Türk Tarih Kurumu Basımevi, 1998), 202-203. There is a broader tipping culture where, seemingly, it was a tradition to tip the person who brought the good news of an appointment. Selaniki, for instance, mentions that he gave a tip for the good news that he was appointed to an imperial corps called *muteferriḳa*. Selânikî Mustafa Efendi, *Tarih-i Selânikî*, ed. Mehmed Ipsirli (İstanbul, 1989), vol. 1, 265.

[91] A law book from the end of the sixteenth century prescribes a division of shares between the judge, the deputy judge, and the scribe of a court based on the type of document issued or the type of legal issue handled. Süleymaniye Manuscript Library, Esad Efendi 3436, quoted in Uzunçarşılı, *Osmanlı Devletinin Ilmiye Teşkilâtı*, 85. For example, the eight *akçe* of the court fee of a case registration (*sicil resmi*) would be divided as 6 *akçe* for the judge and one *akçe* each for the deputy judge and the scribe. The fee of a court document (*hüccet resmi*) would cost much more, namely, 26 *akçe*, out of which the judge would receive 20 *akçe*, the deputy judge four *akçe*, and the scribe two *akçe*. Undoubtedly, the fee of a document being higher than a case registration would discourage the parties in a court case from demanding a copy for themselves. There is another category given in the same law-book as "a copy of the court entry" (*sicil sureti*), which is a lot cheaper than the fee of a document and closer to the cost of the initial fee of a case registration. A copy of a registered case costs 14 *akçe*, of which 11 *akçe* went to the judge, 2 to the deputy judge, and 1 to the scribe. The fee of inheritance divisions handled by the court was defined proportionally to the overall value of the estates in question, which meant the bigger the estate, the higher the share for the court personnel. The ratio was fixed as 25 *akçe* out of 1000 *akçe*, where 20 *akçe* was for the judge, 3 *akçe* for the deputy judge, and 2 *akçe* for the scribe.

the judicial fees should be given to His Excellency the *efendi*. The rest should be taken as means of livelihood [by the deputy judge]. In general, the judicial fees of Istinye amount to either 4000 or 4500 *akçe*, or at the very least 3000 *akçe*. In moderation, giving 3500 *akçe* [to the judge] is rather graceful.

[…] Following the lead of court summoners is conducive to acquiring judicial fees. Deriding them [the court summoners] would curb their enthusiasm. It is necessary to follow Meḥmed, the court summoner, promptly.

It is necessary not to hide anything from the judicial fees of significant [judicial] matters; nothing remains hidden.

Then, my dear, why would you, deputy judges, need to go to the coffeehouse first thing in the morning? When the deputy judge arrives in Yeniköy, the court summoners meet him, saying, "*Efendi*, good news to you! A sea captain perished; apart from his immovable property, his commercial property filled in a ship cannot be enumerated." The deputy judge walks by, saying, "Let us rejoice, my dear, and drink coffee in Istinye!"

Or when the city's chief of police comes saying, "*Efendi*! An infidel murdered another infidel in the meadows in Istinye," the deputy judge, giving him 20 gold coins as a tip and being joyful, goes to the coffeehouse of Istinye, while what is needed is to go elsewhere!

My soul, you will calculate the judicial fees of Istinye at 4000 or 3000 *akçe* and collect them without delay.

When the court summoners come sometime before the beginning of the month, saying: "*Efendi*, in Tarabya, there was an old infidel named Koromez [?]. He perished. He was a good infidel!"
You [the deputy judge] say, "The final decree belongs to God!"
The court summoners: "Woe! The poor one was a good infidel! Whenever we arrived, he used to bring us many treats from the house. He was not the kind of man to die!"
You: "Alas! Is it permissible for him to be resurrected?"
The court summoners: "Let us go inspect!"
You: "Court summoners, do not hurry, let the day pass. Let us go there tomorrow!"

As a result, the morning comes with many torments and the thought, "When the morning comes, the fellow may be resurrected. He has many beadsmen!"

> Upon arrival, the deputy judge gives 100 coins to the *efendi* and 50 coins to you, and coming from there, he again goes to the court of law and from there to the coffeehouse! End![92]

This is a fascinating glimpse into the interactions between the deputy judge and other administrative officials collaborating with him, namely the court summoners and the chief of police. Although the letter was not signed explicitly, we can speculate that the text is written from the perspective of the office of the dignitary judge of Galata to reprimand the deputy judges working under his jurisdiction across the Bosphorus.[93] The first section of the letter summarizes a complaint previously communicated to the dignitary judge about one particular deputy judge, the one enjoying the coffeehouse of Istinye a little too much. While the dignitary judge is mentioned as a third person in passing, the letter, likely written by a scribe working directly in the court of the dignitary judge, reiterates the division of judicial fees between his patron, i.e., the dignitary judge, and the deputy judge's court. The letter judgmentally disapproves of the deputy judge's nonchalant attitude toward his profession at the expense of damaging the overall revenues attainable at the court of law in Istinye and Yeniköy. In doing so, the letter urges the deputy judge to promptly follow up on the reports of the court summoners and the chief of police when they communicate a legal matter likely to contribute to the court's judicial revenues. The letter also gives us an idea from the mid-seventeenth century about the remunerative capacity of dignitary judgeships. From the text, it can be gathered that 3500 *akçe* was the expected share of the dignitary judge of Galata from

[92] YK 22: 76a and 75b. The text starts in 76a and overflows into 75b. This letter to the deputy judges is genuinely remarkable but not too exceptional. In addition to such exceptionally rich petitions and letters hidden in the court registers, there are also many marginal notes expressing the unexpected: emotions, poems, curses, etc.

[93] It seems that there were at least three deputy judges permanently stationed in Beşiktaş, Rumelihisarı, and Istinye/Yeniköy in the early seventeenth century. For a letter sent by the judge of Galata and addressing these deputy judges in 1610, see YK 26: 159.

the judicial revenues of the deputy judgeship of Istinye and Yeniköy. The amount of 3500 *akçe* seems to be a monthly amount, not daily.[94]

The deputy judge's working hours in the letter are unsurprisingly punctuated by prayer times. His day is divided between the court of law and the coffeehouse in a deliberate juxtaposition in which the time spent at the coffeehouse eats away the time served at the court. His working time is also marked with leisure-seeking rest (*istirāḥat*), alluding to indolence and a lethargic daily schedule.[95] The text itself implies lax discipline concerning taking up work responsibilities promptly. The deputy judge's dawdling (*eğlenmek*) in the coffeehouse fits the meaning that the word *eğlenmek* acquired by the seventeenth century: to have a good time, in the sense of leisure.[96] In fact, our deputy judge is said to pass his time joyfully (*safayla evkat süre*) in the coffeehouse.

The Ottoman collections of legal opinions prescribe particular standards for the professional conduct of judges. Judges, and by implication deputy judges, were expected to carry the weight of their office while socializing. They were discouraged from certain

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[94] In comparison, writing in the late sixteenth century, Mustafa Ali approximates that the chief justice of Rumelia would receive 8000 *akçe* in fees per day and the chief justice of Anatolia 15000 *akçe*. Cited in Richard Repp, *The Müfti of Istanbul: A Study in the Development of the Ottoman Learned Hierarchy* (London; Atlantic Highlands, N.J, 1986), 292. Baki Tezcan notes: "The salary of the grand mufti in 1622 was 750 akçes per day or 22,500 per month." Baki Tezcan, *The Second Ottoman Empire: Political and Social Transformation in the Early Modern World* (New York: Cambridge University Press, 2010), 37.

[95] For a similar association of coffeehouses with lethargy in an imperial order dating to 1578, see A.{DVNSMHM.d. 35: 225.

[96] In his work on the emergence of coffee-drinking culture and its links to leisure in pre-modern Istanbul, Cemal Kafadar locates the meaning of leisure in eğlenmek in the seventeenth century: Kafadar, "How Dark Is the History of the Night, How Black the Story of Coffee, How Bitter the Tale of Love," 249 and 252. For studies of pre-modern Ottoman conceptions of leisure and work, see Marinos Sariyannis, "Time, Work and Pleasure: A Preliminary Approach to Leisure in Ottoman Mentality," in *New Trends in Ottoman Studies: Papers Presented at the 20th CIEPO Symposium, Rethymno, 27 June–1 July 2012* (Rethymno, 2014), 797–811; Hedda Reindl-Kiel, *Leisure, Pleasure — and Duty: The Daily Life of Silahdar Mustafa, Eminence Grise in the Final Years of Murad IV (1635-1640)* (Berlin: EBVerlag, 2016). See also Fikret Yılmaz, "Boş Vaktiniz Var Mı? Veya 16. Yüzyılda Şarap, Suç ve Eğlence," *Tarih ve Toplum* 50, no. 1 (2005): 11–49. For a discussion of time spent by bureaucrats and mercenaries in between appointments, especially from the perspective of the state, see Karen Barkey, "In Different Times: Scheduling and Social Control in the Ottoman Empire, 1550 to 1650," *Comparative Studies in Society and History* 38, no. 3 (1996): 460–83. For a discussion of modernizing discourses over the accusations of laziness in an Ottoman context in the nineteenth century, see Melis Hafez, *Inventing Laziness: The Culture of Productivity in Late Ottoman Society* (Cambridge, United Kingdom; New York, NY: Cambridge University Press, 2021).

behaviors that would damage their credibility and reputation. For instance, in a legal opinion asked of Ebū's-Suʿūd Efendi, a judge was said to have attended a wedding feast that included musical entertainment and to have sat in the company of sinful people (*feseḳa*). When later presented with a legal opinion declaring him unworthy of judgeship, the judge belittled the legal opinion, stating that he was appointed not by a legal opinion but by a sultanic order. The question being multilayered, Ebū's-Suʿūd Efendi approaches it at two levels. First, he is of the opinion that the judge in question would be considered to have already been dismissed due to his attendance at the wedding in those circumstances. As for the judge's contempt for an Islamic ruling, Ebū's-Suʿūd Efendi adds that it would make him an infidel and necessitate renewal of faith.

A specific genre (*adab al-qāḍī*) was dedicated to judges' personal and professional conduct in and out of court, prescribing the kind of social profile they should exhibit. The traces of alertness to the breach of this decorum can be found in the question that appears in the letter advising the deputy judge of Istinye to be watchful for the judicial revenues: "Why would you, deputy judges, need to go to the coffeehouse first thing in the morning?" The overzealous tone of the letter implies that the deputy judge shirked his work due to time spent at the coffeehouse, especially when the court summoners urged him to attend to specific issues. More explicitly, the deputy judge is criticized for delaying his tasks to the detriment of the potential loss of court revenues. Whereas *maḥṣūl* is used to refer to revenues coming from any revenue-generating source in general in Ottoman administrative documents, it also means judicial fees in the context of the letter sent to the deputy judges working for the dignitary judge of Galata.[97] Perhaps it is no coincidence that the same word *maḥṣūl* was twisted already

[97] Repp has already observed the meaning of *maḥṣūl* in the mid-sixteenth century as a fixed sum paid to the judge by its deputy judges: Richard Repp, *The Müfti of Istanbul: A Study in the Development of the Ottoman Learned Hierarchy* (London; Atlantic Highlands, N.J, 1986), 305-306. For *maḥṣūl* meaning waqf revenues, see Timur Kuran, ed., *Mahkeme kayıtları ışığında 17. yüzyıl İstanbul'unda sosyo-ekonomik yaşam* (İstanbul: Türkiye

by the late seventeenth century to subsume its contranym, meaning "bribe collected by the judiciary,"[98] to be used both to criticize judges and to reflect a popularized understanding of the taxing burden of court fees, as exemplified in a treatise on the ethics of buying and selling that treated even the lawfully collected fees for written documentation of sale contracts as bribes.[99] In *Risāle-i Ġarībe*, an anonymous text likely dating to the seventeenth century that unrestrainedly curses one-by-one all those having ill manners in society, court summoners were also implicated for their venality. They were maledicted for their neglect in performing their tasks, as in when the judge or deputy judge they worked for asked them to fetch someone and they would find the person in question but lie to the judge for the person's whereabouts in return for a couple of *akçe*.[100]

The letter on the quotidian conduct of the deputy judge of Istinye offers a rare behind-the-scenes glimpse into the interactions between the deputy judge and the court personnel. It presents three snippets into what made the court summoners or the chief of police rush to inform the deputy judge: the death of a sea captain, a murder, and the death of a villager in Tarabya. In each case, the deceased was a non-Muslim individual. Should one interpret the

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İş Bankası, 2010), vol. 7, 461; es-Seyyid Mahmud, *XVI. asırda Mısır eyâleti*, 251. For its meaning of revenues collected by ecclesiastical authorities in a mid-seventeenth century court entry in Istanbul, see Coşkun Yılmaz, ed., İstanbul Kadı Sicilleri Ahi Çelebi Mahkemesi 1 Numaralı Sicil (H. 1063-1064 / M. 1652-1653) (İstanbul: İstanbul Büyükşehir Belediyesi, Kültür A.Ş Yayınları, 2019), 266, Hüküm no: 375 Orijinal metin no: [55a-3]. By the late sixteenth century, Arab scholars called Ottoman administrative fees, including judicial ones, *yasaq* and *maḥṣūl*. Guy Burak, "Between the Ḳānūn of Qāytbāy and Ottoman Yasaq: A Note on the. Ottomans' Dynastic Law," *Journal of Islamic Studies* 26, no. 1 (2015), 16-17.

[98] Sarı Mehmet Paşa, *Zübde-i vekayiât: tahlil ve metin (1066-1116/1656-1704)*, ed. Abdülkadir Özcan (Ankara: Türk Tarih Kurumu Basımevi, 1995), 59-60: "erbab-ı kudat rüşvetin adını mahsul koyub". For the overlaps between revenue collections and bribery, albeit from the perspective of finance officials, see Halil İnalcik, "Tax Collection, Embezzlement and Bribery in Ottoman Finances," *Turkish Studies Association Bulletin* 15, no. 2 (1991): 327–46.

[99] Jan Schmidt, "Hamza Efendi's Treatise on Buying and Selling of 1678," *Oriente Moderno* 25 (86), no. 1 (2006), 184. The treatise was written by a provincial jurist who, explicitly stating his deference to Birgivi's Vasiyetname, composed his text as a guide to avoiding usury and legal problems in commercial transactions.

[100] Anonymous, *XVIII. yüzyıl İstanbul hayatına dair Risâle-i garîbe*, ed. Hayati Develi (Cağaloğlu, İstanbul: Kitabevi, 1998), 36. Elsewhere in *Risāle-i Ġarībe*, summoners (muḥżir), not specified as working in a court, are listed alongside *ases* and *yasakçı*. They are all named as people who "did not find a profession in this world" and are mentioned in parallel to those who chose to be panderers while they had a reputable specialization in crafts or farming. The anonymous text states that all these officials, as well as panderers, were worthy of capital punishment. Anonymous, *XVIII. yüzyıl İstanbul hayatına dair Risâle-i garîbe*, 25.

mention of a non-Muslim passing away in each instance as a coincidence or an indication of the demographic texture of the Bosphorus villagers? As shown in Chapter 1, by the time this letter was written in the early seventeenth century, the Bosphorus villages hosted many newcomers to greater Istanbul, turning those villages into what the legal debate over Yeniköy's church, as shown in Chapter 2, deemed mixed settlements comprising both Muslims and non-Muslims. The alertness of the deputy judge and the local administrative officials in the face of the death of a commoner, Muslim or non-Muslim alike, could be explained by the potential calling for their involvement in the decedent's inheritance distribution and their benefit from the fees they would collect for their services. In the example of the deceased sea captain, the court summoner was overjoyed with a shipload of merchandise that the sea captain left behind, which would likely require the deputy judge's services in parsing public and personal debts. A minor or a missing person among the heirs would necessitate the deputy judge's supervision over the deceased's estates. Needless to say, the murder would require a public criminal inquiry to be led by the deputy judge. Although not explicitly stated in the letter, there may have also been a desire to force inheritance partitioning through the deputy judge's involvement.[101] The style of the letter emphasizes court personnel's pecuniary concerns as they were hunting for legal issues that would be rewarding to the court's revenues. The letter indicates that it was court summoners and other local administrative officials who closely knew residents of the suburban villages of Yeniköy, Istinye, and Tarabya and reported the instances and causes of death.

[101] For judges' imposing their services for inheritance divisions, see Said Öztürk, *Askeri kassama ait onyedinci asır İstanbul tereke defterleri: sosyo-ekonomik tahlil* (Beyazıd, İstanbul: Osmanlı Araştırmaları Vakfı, 1995), 79-84.

Conclusion

There needs to be more discussion in the existing literature on non-Muslim cemeteries and their contested nature in early modern Istanbul. The existing disregard for their historical conditions might result from either the fact that cemeteries were not always monumental at the time or that they were subsumed by the broader question of the status of places of worship to which cemeteries were most likely attached. This lack of a close look into the matter might also be due to the ease with which (sometimes forcibly) abandoned cemeteries in prominent locations, as in the case of the Jewish cemetery of Kasımpaşa, were repurposed.

There are comparable aspects between the Yeniköy incident and the one concerning Kasımpaşa. Both Kasımpaşa and Yeniköy were adjacent to the city proper. They faced direct implications of the expanding urban space and the arrival of new residents over the sixteenth century. This urban growth, spatially and demographically, found an expression in each case. The Jewish community of Kasımpaşa buttressed the view that the cemetery at its initial delineation was away from settled areas; hence, it was not an urban public space. In the case of Yeniköy, a similar argument was promoted by the judge of Galata, defending the fact that the village may have been inhabited solely by non-Muslims before it turned into a continuous extension of the urban space. Both the Jewish community of Kasımpaşa and the Christian community of Yeniköy resorted to an imperial authorization they claimed was provided by the former sultans. While the Jews of Kasımpaşa failed to substantiate this argument and to prove it with a document, the Christian community of Yeniköy managed to have their claim of the past imperial authorization accepted for the cemetery. At least, the court entry about the Yeniköy cemetery does not question the veracity of the claim of a former imperial approval. However, references to the former sultans and the times of the conquest always remained

elusive. Whereas the practice of ancient customs and the administrative decisions of the former sultans were honored as a source of legitimacy in writing, those decisions were not always impervious binding precedents for decisions to be made by the reigning sultan at the time of the debates. Nevertheless, allusions to imperial authorization at the time of the conquest were the only possible way to resist the mutability of the sultanic will. The Jewish community's reluctance to abandon the Kasımpaşa cemetery did come from an understanding that the new assignment of burial grounds in Hasköy would be even more open to future disputes since the community would lose the faint illusion of legitimacy to be derived from an alleged imperial accommodation going back to the times of the conquest, an accommodation that they could claim in the case of the Kasımpaşa cemetery.

The culmination of these two cases, and likely any other examples, were shaped in a matrix of several parameters: the legal and official ownership of the land on which religious structures existed, the dating of the original construction of such a building before the Ottoman/Islamic conquest of that land, the overriding role of the ruler's disposition, and the proper social standing of a non-Muslim community that would not scandalize the Islamic public. Each of these elements, with varying degrees, played a role in the fate of the non-Muslim communal spaces in the controversial cases presented from early modern greater Istanbul.

Conclusion

This dissertation has argued that the manifold interplay of urbanization and concerns over public space administration affected the fate of Jewish and Christian communal properties, including cemeteries, in greater Istanbul in the early seventeenth century. This argument has been made through analysis of two main instances: the church and cemetery of Yeniköy and the Jewish cemetery of Kasımpaşa. These disputes over the contested use of public spaces in an urbanizing milieu have been used to approach various aspects of social, political, and urban dynamics in greater Istanbul. As a result, four primary conclusions can be derived: greater Istanbul started to emerge already in the early sixteenth century, both as a physical space and a perception; this impacted the emerging fabrications of the Ottoman conquest narratives of Constantinople; the imperial handling of urban public disputes was hierarchically and administratively organized while empowering dignitary scholar-bureaucrats tasked with imperial authorizations; and this administrative management of public law opened room for negotiations in unexpected forms: through the fabrications of the peaceful conquest of Constantinople and through the processing time embedded in imperial authorizations.

The state ownership of land, as it came to be defined in the Ottoman case, would technically have caused the ruler to gain full disposition over land use. And it did. Indeed, in greater Istanbul, non-Muslim places of worship were converted into mosques not overnight after the conquest but gradually over time. Non-Muslim communities were occasionally forcefully relocated into the fringes of the urban zone in the sixteenth and seventeenth centuries. However, despite the well-known authority of the ruler and, by extension, the Ottoman administration in making such decisions, legal disputes over non-Muslim places of worship and cemeteries were conducted on multiple fronts. Non-Muslims recycled claims of a

peaceful surrender narrative of the city or of the authorization of the land use of non-Muslim communal places by Meḥmed II at the time of the conquest. These claims were not consistently successful in winning a legal case but were still crucial in justifying non-Muslim communities' standing in greater Istanbul.

The prohibition on the public display of non-Muslim religious practices had the potential to stretch disputes to the extremes, as in the debate over non-Muslims' access to cemeteries across public roads while carrying their dead for burial. When the transfer of the deceased was framed as a public disturbance by Muslim neighbors, it was necessary to specify non-Muslims' legitimate use of public roads in imperial orders and legal opinions. These were issues of mixed neighborhoods where multiple communal publics came to exist side by side.

Often, court registers and the registers of imperial orders ("Registers of Important Affairs") misleadingly present concise and cursory rendering of such legal cases and gloss over multiple stages of not only adjudication but also lingering negotiations, intense tensions, and financial restraints in the process. In practice, such cases were concluded through juristic considerations and a particular conjunction of political and social developments at the imperial and local levels.

There are many threads throughout this dissertation that could each easily turn into a project on its own. The issue of imperial authorization in certain legal cases of a public nature needs to be tested across time into the eighteenth century and beyond, as well as across places beyond the core regions of the Ottoman Empire. It is safe to assume for now that these kinds of issues had to be authorized by either the dignitary judge serving in a region, the provincial governor, or the sultan himself, depending on the location and the significance of the matter.

In the case of summary executions ordered by the sultan or by provincial governors, especially at times of war or crisis, many procedural steps outlined here were likely put aside.

The legal debate of Yeniköy might be approached solely from the perspective of legal theory and placed within the genealogy of the treatment of the imperative mood in the Hanafi school of law. I have chosen to approach it from the perspectives of social and urban history. Legal justifications presented from both sides of the debate in the Yeniköy incident were insufficient to disentangle underlying assumptions and concerns, nor were they entirely explicable without a grasp of the legal and political climate of the period when the debate occurred. To fill the gaps and better comprehend the arguments presented in the debate, I found myself leafing through the court registers of Yeniköy — a happenstance that helped me to organize this dissertation the way I did.

Another issue I would like to draw attention to is the understudied nature of the Yeniköy court registers. As I examined the court registers of Yeniköy selectively for specific years in the early seventeenth century to build up the backdrop for the legal debate on the religious parade in Yeniköy, it struck me that these court registers, going back to the mid-sixteenth century, have remained primarily untouched despite their potential to illuminate our understanding of the history of greater Istanbul. This is particularly intriguing given that the court registers of Galata have attracted Ottomanists for a long time. Compared to the level of attention poured over the court registers of Galata, those of the Yeniköy court seem so underutilized that this neglect comes as a surprise, both at the initial realization of the fact and in hindsight now that I'm completing this dissertation.

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